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MOTOR VEHICLES AND TRAFFIC

Registration and Licensing of Motor Vehicles: Allow Voluntary Cancellation and Re-Registration of Motor Vehicles; Require Satisfactory Proof of Insurance to Register a Vehicle with the DMV; Define Commercial and Fleet Policies; Add Reporting Requirements for Insurers to the Database; Allow Use of Cards as Proof of Insurance Through December 31, 2003

CODE SECTIONS:	O.C.G.A. §§ 33-34-5 (amended), 40-2-10 (new), -26, -137, 40-5-71, 40-6-10 to -11 (amended)
BILL NUMBER:	HB 191
ACT NUMBER:	44
GEORGIA LAWS:	2003 Ga. Laws 261
SUMMARY:	The Act updates the procedures motorists use for proving possession of insurance, making the Department of Motor Vehicles database an acceptable means of proving insurance coverage beginning January 1, 2004.
EFFECTIVE DATE:	May 28, 2003

History

Georgia law requires all motor vehicle operators to maintain collision insurance.¹ Law enforcement officials, as well as the general public, have become increasingly concerned about uninsured drivers misrepresenting themselves to police officers as having insurance.² While many insurers indicate this fraudulent practice is limited, widespread fear exists that as many as 40% of Georgia drivers either drive completely without insurance or purchase a policy merely to acquire the requisite insurance card to demonstrate proof of insurance.³ Once these drivers receive a card, the drivers abandon

1. See O.C.G.A. § 33-7-11 (Supp. 2002).

2. See Telephone Interview with Jim Taylor, S.E. Regional Manager, National Association of Independent Insurers (May 13, 2003) [hereinafter Taylor Interview].

3. See *id.*

their policy premiums and lapse on the policy but retain the insurance card to fraudulently demonstrate proof of insurance to police officers.⁴ To combat the problem, the Georgia General Assembly introduced the Department of Motor Vehicle Safety (“DMVS”) database.⁵ The database contains a cross-listing of insurance policies with vehicle identification numbers (“VINs”), thus allowing police officers to check for and receive immediate and accurate information about which vehicles are currently insured.⁶ However, transcription errors and the lack of VINs in commercial and “fleet” insurance policies plagued the database.⁷ Representative Jimmy Lord of the 103rd district introduced HB 191 to address those problems.⁸

HB 191

Representative Lord, the Chairman of the House Committee on Insurance, introduced HB 191 to the House on January 29, 2003.⁹ The Speaker assigned the bill to the Insurance Committee, which favorably reported a substitute on February 11, 2003.¹⁰ As the measures within the bill were relatively uncontroversial, the only changes offered in the House Committee were minor adjustments to the bill’s effective dates and minor language clarifications.¹¹ The House passed the bill with a floor substitute on April 7, 2003, by a vote of 167 to 0.¹²

Senator John Bulloch of the 11th district introduced HB 191 in the Senate on April 8, 2003.¹³ The bill was assigned to the Senate Committee on Public Safety and Homeland Security.¹⁴ Just like the

4. *See id.*

5. *See id.*

6. *See id.*

7. *See Taylor Interview, supra note 2.*

8. *See id.*

9. *See State of Georgia Final Composite Status Sheet, HB 191, Apr. 25, 2003; Interview with Rep. Jimmy Lord, House District No. 103 (Apr. 15, 2003).*

10. *See id.*

11. *Compare HB 191, as introduced, 2003 Ga. Gen. Assem., with HB 191 (HCS), 2003 Ga. Gen. Assem.*

12. *See State of Georgia Final Composite Status Sheet, HB 191, Apr. 25, 2003; Georgia House of Representatives Voting Record, HB 191 (Apr. 7, 2003).*

13. *See State of Georgia Final Composite Status Sheet, HB 191, Apr. 25, 2003; see also Audio Recording of Senate Proceedings, Apr. 14, 2003 (remarks by Sen. John Bulloch), at <http://www.ganet.org/services/leg/audio/2003archive.html> [hereinafter Senate Audio].*

14. *See State of Georgia Final Composite Status Sheet, HB 191, Apr. 25, 2003.*

House Committee, the Senate Committee amended an effective date and then favorably reported the bill on April 11, 2003.¹⁵

Because the bill received widespread bipartisan support, one Senator attempted to use HB 191 as a vehicle to pass provisions from a more controversial bill.¹⁶ A significant percentage of Georgia's Hispanic population resides in the United States illegally.¹⁷ Because illegal aliens are not licensed, no identification records are available on them.¹⁸ Additionally, because licenses are required in order to obtain insurance policies, none of those illegal immigrants operating vehicles on Georgia roads are insured.¹⁹ Senator Sam Zamarripa of the 36th district offered an amendment to allow aliens to take the Georgia driving exam without a social security number, making licensing of legal and illegal immigrants possible.²⁰

The Senator believed that providing non-citizens with the opportunity to obtain a driver's license would benefit Georgia in three ways.²¹ First, from an economic standpoint, the legislation would signal to Hispanic nations in the Free Trade Area of the Americas ("FTAA") that Georgia is a Hispanic-friendly state.²² This signal is important because Atlanta hopes to become the host city for the FTAA.²³ Second, the legislation would serve as a public safety device because it would allow immigrants to obtain a drivers license, thus removing the main obstacle preventing immigrants from qualifying for car insurance.²⁴ Finally, Senator Zamarripa believed that everyone in Georgia has the civil right to obtain a driver's license.²⁵ The Senator noted that several of Georgia's economic

15. See State of Georgia Final Composite Status Sheet, HB 191, Apr. 25, 2003. Compare HB 191 (HCS), 2003 Ga. Gen. Assem., with HB 191 (SCS), 2003 Ga. Gen. Assem.

16. See Telephone Interview with Sen. Sam Zamarripa, Senate District No. 36 (May 6, 2003) [hereinafter Zamarripa Interview]. Because the controversial bill was stuck in the Rules Committee, Senator Zamarripa decided to "go independent of the Rules Committee" and attached the bill's language via amendment to HB 191. He chose HB 191 because it was uncontroversial yet germane to his amendment. See *id.*

17. See *id.*

18. See *id.*

19. See Taylor Interview, *supra* note 2.

20. See Failed Senate Amendment 1 to HB 191, introduced by Sen. Sam Zamarripa, Apr. 7, 2003.

21. See Zamarripa Interview, *supra* note 16.

22. See Senate Audio, *supra* note 13 (remarks by Sen. Sam Zamarripa). "The FTAA is an outgrowth of the Summit of the Americas and includes several trade pacts." When determining a host city, the FTAA Ministers consider a city's infrastructure and history. *Id.*

23. See *id.*

24. See Zamarripa Interview, *supra* note 16.

25. See *id.*

industries depend on immigrant labor and they would face severe recession, if not complete collapse, without immigrant labor.²⁶ Responding to concerns that the measure would encourage illegal immigration, Senator Zamarripa noted, “we do have an immigration problem . . . [t]he U.S. Congress should do something about the problem” as immigration is outside of the Georgia Senate’s perview.²⁷ Senator Zamarripa believed that this was “the most important civil rights issue facing the Hispanic community” at the time the Senate considered this bill.²⁸ The Senator went into the argument “prepared to lose” because of the issue’s controversial nature but was glad to have raised the issue and advanced the debate.²⁹

On April 14, 2003, Senator Zamarripa offered his first amendment to the bill, which the Senate passed by a vote of 32 to 21.³⁰ The Senate passed other minor floor amendments, and HB 191, as amended, passed the Senate on April 14, 2003, by a vote of 37 to 18.³¹ However, Senator Zamarripa believed the bill would ultimately fail in the House because of his controversial amendment, so he subsequently withdrew it.³² The Senate reconsidered HB 191 and passed the bill again on April 17, 2003, without Senator Zamarripa’s controversial amendment.³³ The House formally approved HB 191 on April 22, 2003, by a vote of 144 to 0.³⁴

The Act

Section 1 of the Act allows drivers to cancel vehicle registration when a vehicle will be inoperable for an extended period of time.³⁵ This provision addresses the problem of requiring military servicemen to maintain insurance even when they are on active duty

26. *See id.*

27. *See id.*

28. *See id.*

29. *See Zamarripa Interview, supra* note 16.

30. *See Georgia Senate Voting Record, HB 191 (Apr. 14, 2003); State of Georgia Final Composite Status Sheet, HB 191, Apr. 25, 2003.*

31. *See Georgia Senate Voting Record, HB 191 (Apr. 14, 2003); State of Georgia Final Composite Status Sheet, HB 191, Apr. 25, 2003.*

32. *Zamarripa Interview, supra* note 16.

33. *See State of Georgia Final Composite Status Sheet, HB 191, Apr. 25, 2003; Georgia Senate Voting Record, HB 191 (Apr. 14, 2003).*

34. *See State of Georgia Final Composite Status Sheet, HB 191, Apr. 25, 2003; Georgia Senate Voting Record, HB 191 (Apr. 14, 2003); Zamarripa Interview, supra* note 16.

35. *See O.C.G.A. § 40-2-10 (Supp. 2003).*

overseas and unable to use their vehicles.³⁶ Section 2 of the Act requires those persons renewing vehicle registration to provide tag agents with “satisfactory or sufficient proof of insurance” as defined in this section.³⁷ The Act provides that, beginning January 1, 2004, the DMVS computer database will become the recognized means of proving insurance to police officers.³⁸ Section 3 redefines a “commercial vehicle policy” by striking the language excluding policies issued to natural persons.³⁹ This provision eliminates different reporting requirements that had been in place for policies issued to companies.⁴⁰ Under the new provisions, the vehicle-reporting database will be used for *all* insurance policies and should therefore provide more accurate information.⁴¹ Section 4 establishes the same reporting requirements for issuing insurance as those established in section 3 for terminating insurance.⁴² Importantly, section 5 of the Act provides that insurance cards will remain a satisfactory means of proving insurance for vehicles covered under fleet policies, as well as self-insured commercial vehicles not identified by VINs in their respective policies.⁴³ The Act further defines insurers’ reporting obligations.⁴⁴ Insurers must now report commercial policies to the database, though the Code exempts fleet policies from the reporting requirement.⁴⁵

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36. See Senate Audio, *supra* note 13 (remarks by Sen. John Bulloch).

37. See O.C.G.A. § 40-2-26 (Supp. 2003).

38. See O.C.G.A. § 40-6-10 (Supp. 2003).

39. See O.C.G.A. § 40-2-137 (Supp. 2003).

40. See *id.*

41. See Taylor Interview, *supra* note 2.

42. See O.C.G.A. § 40-5-71 (Supp. 2003).

43. See O.C.G.A. § 40-2-10 (Supp. 2003).

44. See O.C.G.A. § 40-2-137(a) (Supp. 2003).

45. See *id.*