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## MOTOR VEHICLES AND TRAFFIC Serious Injury by Vehicle: Define Crime

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## MOTOR VEHICLES AND TRAFFIC

### *Serious Injury by Vehicle: Define Crime*

CODE SECTION: O.C.G.A. § 40-6-394 (amended)  
BILL NUMBER: HB 64  
ACT NUMBER: 344  
SUMMARY: The Act creates a new felony offense of serious injury by vehicle resulting from reckless driving. Previously, the Code restricted the felony offense of serious injury by vehicle to reckless driving due to impairment of ability by alcohol or drugs. The Act broadens the statute's scope to include reckless driving without such impairment.  
EFFECTIVE DATE: July 1, 1989

#### *History*

Code section 40-6-394 was first enacted in 1979.<sup>1</sup> The 1979 statute provided for criminal penalties for an individual who caused bodily harm to another by depriving him of the use of "an arm, leg, or eye through the violation of" section 40-6-391, while driving under the influence of alcohol or drugs.<sup>2</sup> A person convicted under section 40-6-394 was guilty of a felony, punishable by "imprisonment for not less than one year or more than five years."<sup>3</sup>

The Code was amended in 1985, broadening the language of the statute to include injuries not only to arms, legs, or eyes, but to any part of the body.<sup>4</sup> The 1985 amendment also extended the application of the statute to include the following: the rendering useless of a part of the body; the serious disfigurement of the body or any part of the body; or the causing of organic brain damage which renders the body or a part of the body useless.<sup>5</sup>

HB 64 was introduced in order to provide a felony penalty for the crime of serious injury by vehicle resulting from reckless driving when the driver was not under the influence of drugs or alcohol.<sup>6</sup> The bill

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1. 1979 Ga. Laws 768.

2. *Id.*

3. *Id.*

4. 1985 Ga. Laws 758.

5. *Id.* at 778-779.

6. HB 64, as introduced, 1989 Ga. Gen. Assem.

was necessary because, under existing statutes, even if a serious injury occurred, the crime was only a misdemeanor if the driver was not under the influence of alcohol or drugs.<sup>7</sup>

HB 64 was prompted by the serious injury of a seventeen year-old Gwinnett County resident by a reckless driver.<sup>8</sup> The resident was stopped at an intersection when her car was hit in the rear by another car traveling in excess of 100 miles per hour.<sup>9</sup> The resident's car immediately burst into flames; she was severely burned over her entire body.<sup>10</sup> Since the driver was not under the influence of alcohol or drugs, the crime could be classified only as a misdemeanor.<sup>11</sup> The Gwinnett County District Attorney's office urged the passage of a statute which would upgrade the crime of reckless driving which causes serious injury to a felony.<sup>12</sup>

### *HB 64*

The Act amends section 40-6-394 to permit a felony charge of serious injury by vehicle when serious bodily injury occurs as a result of reckless driving.<sup>13</sup> The Act broadens the previous section by striking the phrase "relating to drivers with ability impaired by alcohol or drugs," thereby removing the intoxication requirement from the Code section.<sup>14</sup> The Act further broadens the definition of the crime of serious injury by vehicle by including reckless driving and driving under the influence of alcohol or drugs.<sup>15</sup>

Initially, HB 64 also included sections 40-6-271 and 40-6-395 in the definition of the crime of serious injury by vehicle.<sup>16</sup> Section 40-6-271 provides that when a vehicle is involved in an accident resulting in injury or death to any person or damage to any vehicle, the driver must provide police with his or her name, address, vehicle registration

7. Telephone interview with Representative Vinson Wall, House District No. 61 (Mar. 22, 1989) [hereinafter Wall Interview].

8. *Id.*

9. Telephone interview with Tom Lawler, District Attorney, Gwinnett County (Apr. 10, 1989).

10. *Id.*

11. *Id.* Since this particular victim later died, the driver was convicted of vehicular homicide. *Id.*

12. *Id.*

13. O.C.G.A. § 40-6-394 (1989).

14. *Id.*

15. *Id.* O.C.G.A. § 40-5-121, also passed during the 1989 session, is a result of the Legislature's intent to strengthen the penalty for automobile-related crimes and offenses. Wall Interview, *supra* note 7. The maximum penalty for driving while a license is suspended or revoked was increased from imprisonment of six months to one year or increased fines from \$500 to \$1,000 or both. O.C.G.A. § 40-5-121 (1989).

16. HB 64, as introduced, 1989 Ga. Gen. Assem.

number, and driver's license.<sup>17</sup> The driver must also render assistance to any injured person.<sup>18</sup> Section 40-6-395 makes it unlawful for a driver to attempt to elude a police officer.<sup>19</sup> The Judiciary Committee offered a committee substitute which included only sections 40-6-390, relating to reckless driving, and 40-6-391, relating to driving under the influence of alcohol or drugs.<sup>20</sup>

The House Judiciary Committee decided to omit section 40-6-395 from HB 64 because: 1) fleeing or attempting to elude a police officer would be considered a form of reckless driving;<sup>21</sup> and because 2) the section already applied to an accident situation that HB 64 was designed to cover.<sup>22</sup>

As a result of HB 64, reckless driving in and of itself is considered a felony when it results in serious injury to the victim.

*J. Bagwell*

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17. O.C.G.A. § 40-6-271 (1989).

18. *Id.*

19. O.C.G.A. § 40-6-395 (1989).

20. HB 64 (HCS), 1989 Ga. Gen. Assem.

21. Wall Interview, *supra* note 7.

22. *Id.*