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COURTS

Motor Vehicle: Proof of Insurance: Municipal Courts: Jurisdiction

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|----------------|--|
| CODE SECTIONS: | O.C.G.A. §§ 33-34-12 (amended), 33-34-13 (repealed) and 36-32-7 (new) |
| BILL NUMBER: | HB 240 |
| ACT NUMBER: | 589 |
| SUMMARY: | The Act amends the Georgia Motor Vehicle Accident Reparations Act by deleting the prior language of O.C.G.A. § 33-34-12. In order to meet a successful constitutional challenge to prior law, O.C.G.A. § 36-32-7 confers jurisdiction on the recorder's, mayor's or police courts of a municipality for cases involving operations of a motor vehicle without a license. |

History

The Attorney General issued an unofficial opinion in 1980 to the Recorder's Court of Camilla that it did not have jurisdiction to try cases alleging a violation of the Code section which requires a person to carry liability insurance on his automobile.¹ O.C.G.A. § 33-34-12 provides that a person "who knowingly operates or knowingly authorizes another to operate a motor vehicle without effective insurance" or approved self-insurance is guilty of a misdemeanor. Prior to revision O.C.G.A. § 33-34-12(b) provided that any person charged with violation of O.C.G.A. § 33-34-12(a) could be "tried in any recorder's, mayor's, or police court of any municipality if the offense occurred within the corporate limits of that municipality."

Although the recorder's court seemed to have authority to handle these cases, the Attorney General based his conclusion that the court lacked jurisdiction on the Georgia Supreme Court's decision in *State v. Millwood*.² The challenged statute provided: "Notwithstanding any other provision of law to the contrary, any person who is charged with the possession of one ounce or less of marijuana may be tried in any recorder's, mayor's or police courts of any municipality if the offense occurred within

1. 1980 Op. Att'y Gen. No. U80-4.

2. *Id.* See also 242 Ga. 244, 248 S.E.2d 643 (1978).

the corporate limits of such municipality.”³ The court found this statute unconstitutional because it attempted to give the municipal courts jurisdiction to try offenses against the State. The Georgia Supreme Court explained, “[t]his the General Assembly cannot do. ‘That the only courts with authority or jurisdiction under our Constituion to try . . . persons charged with the violation of State laws, are State courts’”⁴ Since the language designating jurisdiction to recorder’s, mayor’s or police courts is virtually identical to the challenged statute in *Millwood*, the Attorney General held that the former Code section would also be unconstitutional.

The Court of Appeals of Georgia agreed with the Attorney General in *Parker v. State*,⁵ which held O.C.G.A. § 33-34-12 unconstitutional. HB 240 was introduced to amend that part of the statute held unconstitutional in the *Parker* decision.

HB 240

O.C.G.A. § 33-34-12 now states only that a person “who knowingly operates or knowingly authorizes another to operate a motor vehicle without effective insurance . . . or without an approved plan of self-insurance . . . is guilty of a misdemeanor.” O.C.G.A. § 33-34-13, which allowed municipalities to adopt the provisions of O.C.G.A. § 33-34-12 by reference in an ordinance, is repealed.

O.C.G.A. § 36-32-7 was enacted in its place to specifically grant recorder’s, mayor’s or police courts of each municipality jurisdiction over cases arising under O.C.G.A. § 33-34-12. The language of this section is virtually identical to that of O.C.G.A. § 36-32-6 which was passed in response to the *Millwood* decision.

O.C.G.A. §§ 36-32-7 (c) and (d) are identical to the provisions of the superseded O.C.G.A. §§ 33-34-12 (c) and (d). The defendant may request a transfer of his case to a court having general misdemeanor jurisdiction. The municipality does not have any right to impose a penalty in excess of the limits set forth in the municipal charter.

3. *State v. Millwood*, 242 Ga. 244, 245, 248 S.E.2d 643, 644 (1978).

4. *Id.* at 246, 248 S.E.2d at 644.

5. 170 Ga. App. 333, 317 S.E.2d 209 (1984).