

1-1-1992

## MOTOR VEHICLES AND TRAFFIC Drivers' Licenses: Provide for Suspension for Misdemeanor Possession, Provide for Delay in Issuance for Conviction of Controlled Substance Related Offenses, and Increase Time of Suspension

Debra D. Green

Follow this and additional works at: <https://readingroom.law.gsu.edu/gsulr>

 Part of the [Law Commons](#)

---

### Recommended Citation

Debra D. Green, *MOTOR VEHICLES AND TRAFFIC Drivers' Licenses: Provide for Suspension for Misdemeanor Possession, Provide for Delay in Issuance for Conviction of Controlled Substance Related Offenses, and Increase Time of Suspension*, 8 GA. ST. U. L. REV. (1992).  
Available at: <https://readingroom.law.gsu.edu/gsulr/vol8/iss1/11>

This Peach Sheet is brought to you for free and open access by the Publications at Reading Room. It has been accepted for inclusion in Georgia State University Law Review by an authorized editor of Reading Room. For more information, please contact [mbutler@gsu.edu](mailto:mbutler@gsu.edu).

## MOTOR VEHICLES AND TRAFFIC

### *Drivers' Licenses: Provide for Suspension for Misdemeanor Possession, Provide for Delay in Issuance for Conviction of Controlled Substance Related Offenses, and Increase Time of Suspension*

CODE SECTION: O.C.G.A. § 40-5-75 (amended)  
BILL NUMBER: HB 123  
ACT NUMBER: 563  
SUMMARY: The Act provides for the suspension of the driver's license of any person convicted of a misdemeanor possession of marijuana. The Act also increases the time of suspension for first offenders from 120 days to not less than 180 days. The Act also provides for a delay in issuing a driver's license to any person who is convicted of possession of a controlled substance or marijuana either if she does not have a license or if her license is suspended.  
EFFECTIVE DATE: April 23, 1991

#### *History*

During the 1990 Legislative Session, the Georgia General Assembly addressed the problem created by an increase in the number of incidents of driving under the influence of alcohol or drugs.<sup>1</sup> As a result, Title 40 of the Code was amended to require the suspension of a driver's license for the conviction of possession of a controlled substance or marijuana.<sup>2</sup> However, some confusion existed as to whether this Code section was to be applicable to the misdemeanor possession of marijuana.<sup>3</sup>

---

1. A discussion of the bills, HB 1185 and 1200, is contained in the Legislative Review, 7 GA. ST. U. L. REV. 337 (1990).

2. O.C.G.A. § 40-5-75 (Supp. 1990). Any violation of O.C.G.A. §§ 16-13-30(a) or (j) will result in the suspension of a person's driver's license. O.C.G.A. § 40-5-75(a) (Supp. 1990).

3. Telephone Interview with Rep. Bill Barnett, House District No. 10 (Apr. 2, 1991) [hereinafter Barnett Interview]. The purpose of HB 123, as submitted, was to clarify the issue of whether the misdemeanor possession of marijuana would result in a suspension of a person's driver's license. *Id.*

In September 1990, the Attorney General issued an unofficial opinion in an attempt to clarify this issue.<sup>4</sup>

*HB 123*

The Act makes the conviction of a misdemeanor possession of marijuana grounds for suspension of a person's driver's license.<sup>5</sup> Although the Code had previously required the suspension for a misdemeanor conviction, legislators believed clarification was needed.<sup>6</sup> The Act now provides that even the first offense may result in suspension of a driver's license.<sup>7</sup> The time of suspension for a first offense is at least 180 days.<sup>8</sup> Following the suspension, the person's driver's license is reinstated only if the person submits proof of completion of the required components of a DUI alcohol or drug use risk reduction program.<sup>9</sup>

The bill, as introduced, did not make any provision for a person convicted of a controlled substance or marijuana offense not possess a driver's license at the time of conviction.<sup>10</sup> The House Motor Vehicles Committee Substitute added language providing for situations where a person is convicted for possession of a controlled substance or marijuana while not in possession of a driver's license.<sup>11</sup> Beginning January 1, 1992, the suspension period of any person convicted of possession of a controlled substance or marijuana who does not have a license at the

4. 1990 Op. Att'y Gen. 21. O.C.G.A. § 40-5-75 provides for the suspension of the driver's license for conviction under O.C.G.A. § 16-13-30(a) or (j); O.C.G.A. § 16-13-30(j) includes misdemeanor offenses found in § 16-13-2.

5. O.C.G.A. § 40-5-75(a) (1991). "The driver's license of any person convicted of possession of a controlled substance or marijuana in violation of subsection (b) of Code section 16-13-2 or subsection (a) or (j) of Code Section 16-13-30 shall by operation of law be suspended. . . ." *Id.* Section 16-13-30(j)(1) provides that it is unlawful to possess any quantity of marijuana. Section 16-13-30(j)(2) provides that such possession constitutes a felony, except as provided for in Code sections 16-13-31(c) and 16-13-2.

6. Barnett Interview, *supra* note 3.

7. O.C.G.A. § 40-5-75(a) (1991). By adding conviction under § 16-13-2(b) as grounds for the suspension of the driver's license, it is now possible that a first offender will lose the right to drive for a period of at least 180 days. Section 16-13-2(b) is applicable to those first offenders whom the court has chosen not to grant a conditional discharge under § 16-13-2(a).

8. O.C.G.A. § 40-5-75(a)(1) (1991) ("the period of suspension shall be for not less than 180 days").

9. O.C.G.A. § 40-5-75(a)(1) (1991). Clarification was needed, as previously the Code required only the "completion of a certified assessment component and the education/intervention component or the intensive intervention component as prescribed by the Department of Human Resources. . . ." 1990 Ga. Laws 1149 (formerly found at O.C.G.A. § 40-5-75(a)(1) (Supp. 1990)). This change reflects the language as originally introduced in the 1990 Legislative Session, before the Senate Judiciary Committee substituted language permitting other approved treatment programs. *See* Legislative Review, 7 GA. ST. U. L. REV. 337, 341 (1990).

10. HB 123, as introduced, 1991 Ga. Gen. Assem.

11. HB 123 (HCS), 1991 Ga. Gen. Assem.

time of conviction will begin at the time application for issuance or reinstatement is made.<sup>12</sup>

*Debra D. Green*

---

12. O.C.G.A. § 40-5-75(b) (1991). This provision was requested by the Georgia Department of Transportation in order to comply with a federal highway funding mandate. Barnett Interview, *supra* note 3.