



Department of Public Safety

2005 LEGISLATIVE SUMMARY

May 2005

TO: Department of Public Safety Employees

FROM: Legal Services Office

The following provides a list of legislation that became law in the 2005 Session of the Georgia General Assembly which may impact DPS employees. The summaries provided are brief and not intended to provide detailed analysis for specific inquiries. The actual law should be reviewed for detailed applications.

Department Sponsored Legislation:

H.B. 20 (Window Tint)

Amends 40-8-73.1

Effective May 2, 2005

Revives the window tint statute which was recently found unconstitutional by the Georgia Supreme Court with some minor modifications.

Makes it a misdemeanor to violate specified window-tint restrictions

- Applies to both residents & non-residents.
- No window tinting on front windshield.
- On windows to either side of driver or in back of vehicle, the light transmission restriction may not be less than 32%, plus or minus 3% or increase light reflectance more than 20%.
- Labels indicating that tinted windows meet state specifications are no longer required.

Exceptions:

1. Sun visors mounted on front windshields.
2. On front windshields - lower left and right corners in a 5" or 7" square (respectively).
3. On front windshields - Passenger Common Carrier Signs meeting statutory specifications.
4. Upper most 6" on front windshield can have a transparent item which is not red or amber.
5. Any Federal, state or county required stickers may be placed as required

6. Rear windshields & side windows behind the driver of a:
 - a. Multipurpose passenger vehicle
 - b. School bus
 - c. Public transportation bus
 - d. Non-profit bus
 - e. Limousines
 - f. Windows tinted before factory delivery
 - g. Tinting otherwise expressly permitted by federal law
7. Anywhere on law enforcement vehicle.

The DPS (DMVS until July 1) may issue dark tinting permits to persons with special medical needs requiring tinting.

Any GA Installer installing tinting in violation of this Section is guilty of a misdemeanor.

Special Dedication:

SR 304 A Resolution to Honor the memory of Trooper Ronnie O’Neal & Georgia Troopers who have died in the line of duty.
Senate Resolution 304 designates the “**Fallen Trooper Memorial Highway**” as I-95 in Liberty County from Exit 67 to Exit 76 and designates the overpass on I-95 at mile point 70 as the “**Trooper Ronnie O’Neal Overpass.**”

Other Legislation:

House Bills

HB 17 (Private Detectives)

Amends 43-38-7

Effective July 1, 2005

GA Board of Private Detective Security Agencies may require continuing education as a condition of license renewal.

HB 50 (Criminal backgrounds for treatment providers) (See Also SB 6)

Amends 35-3-35.1

Effective May 9, 2005

Establishes procedures for care providers who provide treatment, education &/or supervision to children, elderly or disabled to do state/national criminal backgrounds on employees, volunteers or potential employees.

HB 58 (Working Against Recidivism Act)
Amends 42-1-5, 42-5-120 through 125
Effective July 1, 2005

Permits inmate-work programs for privately owned profit-making employers under limited and specified conditions as specified in the law.

HB 106 (Sex-Offender Registry)
Amends 42-1-12
Effective July 1, 2005

Modifies/clarifies the requirements relating to registration of sex-offenders moving to Georgia (especially, how/when they must register with the sheriff of their county of residence).

HB 170 (Criminal Justice Act)
Amends many sections
Effective July 1, 2005

Makes several amendments to criminal procedure which have been sought by prosecutors for many years. These include equal jury strikes for prosecutors; giving prosecutors an opportunity to open and conclude closing argument; providing prosecutors with some means of discovery; and providing prosecutor favored changes to specified rules of evidence.

HB 216 (Misdemeanor possession/sale of pseudoephedrine)
Amends 16-13-30.3 et seq.
Effective July 1, 2005

Makes it a misdemeanor to sell pseudoephedrine except in blister packages & an individual may not possess more than 3 packages (with specified exceptions).

Adds licensing requirements for the sale of products containing pseudoephedrine.

Permits GBI, Sheriff or PD to request reports regarding the sale of pseudoephedrine under certain circumstances & provides for penalties for failure to keep records on pseudoephedrine sales.

Makes it a felony to knowingly sell/possess pseudoephedrine knowing it will be used for the unlawful manufacture of a controlled substance.

HB 240 (Temporary disability for law enforcement/firefighters)
Amends 45-9-104
Effective May 6, 2005

Law enforcement/firefighters now have 60 days to file for temporary disability (used to have only 30 days).

HB 273 (FlexAuto lanes)
New Section 32-9-4.1 & 40-6-50
Effective May 6, 2005

Authorizes DOT to establish "FlexAuto" lanes of traffic. Some of the characteristics of the FlexAuto lanes may be:

- Converts emergency lanes & hard shoulder areas on the left & right side of Interstate Hwys into useable lane
- Only during rush hour (Signs will established times)
- For automobiles, motorcycles & light trucks

HB 279 (Hauling farm products – weight requirements)

Amends 32-6-26 32-6-27

Effective July 1, 2005

Provides a 5% variance over weight limitations if hauling specified agricultural or farm products within 100 miles of the farm or point of origin. Increases the fines for overweight violations.

HB 289 (Pardons & Paroles Board Officers)

Creates new section 42-9-9.1

Effective May 10, 2005

Sworn Officers employed with the Board of Pardons & Paroles may act as law enforcement officers with full powers of arrest for up to 30 days when requested as support for federal, state or local law enforcement agencies and approved by the Board.

HB 347 (GBI Crime Lab Testing)

Amends 35-3-154.1

Effective May 2, 2005

Authorizes the GBI State Crime Laboratory to contract with private laboratories for evidence analysis.

HB 437 (Open Records – public employee personal information protected)

Amends 50-18-72

Effective May 2, 2005

A public employee's home address, home telephone #, SS#, and insurance or medical information are not subject to Open Records. This information should be redacted prior to release pursuant to an Open Records request.

HB 455 (Drive-out tags)

Amends 40-2-8, 40-2-38 & 39, 40-2-153, 43-47-2, 43-47-8.2

Effective July 1, 2005

Temporary plates issued by automobile dealers to new purchasers (drive-out tags) must now have:

- a holographic security image with a write resistant overlay which will show signs of tampering
- Distinct numbers
- Be issued by manufacturers registered with Dept. of Driver Services
- Hand printed on the plate:
 - VIN #
 - Year/Make & Model

Previous requirements for drive out tags still in place. Must have:

- Expiration date in writing ¼" thick & 1&1/2" high
- Expiration date with the month completely written out or with 3 letter abbreviation

HB 458 (Governor's Commercial Transportation Advisory Committee)

Creates new section 40-16-8

Effective May 2, 2005

Establishes the Governor's Commercial Transportation Advisory Committee to advise the Governor regarding motor common carriers. (DPS Commissioner or designee is a member).

HB 470 (Emergency Calling System)

Amends many code sections

Effective July 1, 2005

Officially changes the reference number for emergency calling system from "911" to "9-1-1."

HB 501 (Establishes Department of Driver Services – Transfers many of the functions of the former DMVS to DPS, Dept. of Revenue & DOT)

Amends many code sections.

Effective July 1, 2005

Transfers the following functions to DPS:

- Enforcement of licensing and fuel tax registration requirements.
- Administrative and regulation of "enforcement function" of weights & measures for Motor Vehicles.
- Responsibility for establishment of safety standards of motor vehicles & motor vehicle components.
- Administration of laws relating to hazardous materials carriers.
- Enforcement of state laws on DOT properties (like rest areas & weigh stations).
- HOV lanes.
- Enforcement of 16-7-43 relating to obstructing hwy, sidewalks & littering on all properties connected to public roads.
- Enforcement against interference with government property on roads.

Accident reporting was transferred to DOT. Tag & Title registration was transferred to the Department of Revenue.

HB 521 (Sheriff Qualifications)

Amends 15-16-8

Effective July 1, 2005

Sheriffs must be POST Certified and maintain their certification. If certification is revoked, the office is deemed vacant.

HB 557 (County Police)

Repeals 36-8-6

Effective July 1, 2005

County Police no longer have a duty to inspect county roads & bridges.

HB 577 (Driver's License – Fingerprints)

Amends 40-5-2, 40-5-28, 40-5-100, 40-5-171, creates new section 40-5-21.1

Effective July 1, 2006

Fingerprints are no longer required for driver's license. Requires the destruction of the existing fingerprint records.

HR 214 (All-Terrain Vehicles)

Establishes a joint House & Senate Study Committee to consider possible legislation governing All-Terrain Vehicle Safety.

Senate Bills

SB 6 -- See HB 50 above (identical legislation)

Creates new section 35-3-34.2

Effective May 10, 2005

SB 62 (GA Slam Spam E-mail Act)

Amends 16-9-92 & 16-14-3, creates new section 16-9-100 & 109

Effective July 1, 2005

Provides for criminal prosecution for deceptive/fraudulent practices through the use of commercial electronic mail (e-mail).

SB 90 (GA Smoke Free Air Act)

Amends 16-12-2 & creates a new Chapter 12(A)

Effective July 1, 2005

Makes it a misdemeanor to violate Act.

Prohibits smoking in:

- I. State/local government buildings
- II. In all enclosed public places
- III. In all employment offices/areas

Exceptions:

1. Hotel/motel rooms
2. Tobacco stores
3. Long-term care facilities (as specified)
4. International Airport
5. Work places of manufacturer/seller of tobacco products
6. Private rooms in health care facilities w/ physician's approval

7. Bars/restaurants (if no person employed or allowed in under 18) or if there is a private room with specified air system
8. Non-government owned convention facility (if no one working or permitted in under 18)
9. Smoking areas designated by employers meeting specifications
10. Meeting room/area or private office in a private employer building but not medical facilities open to the general public by appointment only & not in the public reception area
11. Private clubs & military officer clubs

Under specified circumstances, employers are required to place non-smoking signs & designated smoking area signs if have one.

SB 93 (Improperly covering tag)

Creates new section 40-2-6.1

Effective July 1, 2005

Makes it a misdemeanor to cover your license plate with any material (including transparent material) or parts of the body in order to prevent a surveillance camera from taking an accurate photograph or making a clear image photo.

SB 133 (Fireworks)

Amends 25-10-1

Effective May 2, 2005

Adds to the list of items which are not considered "fireworks." Now specific types of sparklers, glow worms, noise makers, poppers and snappers are expressly no longer considered fireworks.

SB 175 (Brady Law)

Amends 16-11-170, 172 & 173, 35-3-34

Effective July 1, 2005

GCIC will no longer conduct background checks on gun purchases. This function will be assumed by the FBI. (GCIC will still collect/maintain the data relevant to background check.)

SB 178 (Blue Lights on Vehicles)

Amends 40-8-90

Effective July 1, 2005

Any blue light on a vehicle is illegal.

Exceptions:

1. Vehicles owned by a law enforcement agency
2. Any motor vehicle if receives a permit granted by a state agency
3. Antique, hobby or special interest vehicles if the blue light is on the rear of the vehicle and is up to one inch in diameter.
4. Sheriff's personal vehicles meeting specified limitations

[Note: Antique, hobby, or special interest vehicles are defined in 40-2-77.]

SB 226 (Joshua's Law; Drivers' Licenses)

Amends 15-21-170 et seq. and 40-5-22 & 24

**Section II relating to creation of Commission effective May 10, 2005,
remaining sections effective January 1, 2007**

(Subject to the availability of funds.)

- Creates the Georgia Driver's Education Commission (assigned to the Department of Driver Services)
- Changes the minimum age for eligibility for a Class C license (16 to 17) if fail to complete an approved driver education course.
- For the 2nd 6 months a Class D license may not have more than 1 person in the vehicle under 21 who is not a family member. (for 1st 6 months may only drive immediate family members). [Note: this is still not a basis for an initial stop.]

SB 258 (Specified Military Personnel permitted to drive on expired license)

**Amends 40-5-37, 15-12-1, 27-2-4, 38-2-9, et seq., creates new section 26-4-44.2
Effective July 1, 2005**

A U.S. Military service member is permitted to drive on an expired license for 6 months if:

1. If their license expired while they were assigned on active duty outside of the state.
2. The 6 month grace period is measured from the discharge from active duty or reassignment to the state.

SB 259 (Discharge of a firearm)

Repeals 16-11-105

Effective May 2, 2005

No longer unlawful to discharge a firearm on Sunday.

SB 273 (Class C Vehicle – Approved vehicles for operation)

Amends 40-5-23 & 40-5-150

Effective July 1, 2005

Class C license the vehicle weight may not exceed 26,000 lbs and generally any vehicle towed may not exceed 10,000 lbs. The amendment provides that if the towed vehicle exceeds 10,000 lbs then the total weight may not exceed 26,000. (RVs and personal campers are excluded from the weight limitation.)

General Information

HR 143 (Ronald Reagan Day)

A one time designation of February 6, 2005 as Ronald Reagan Day in honor of the former President's 94th birthday.

HR 240 Designates April 29th of each year as "**Dale Earnhardt Day**" in Georgia.

SB 41 (Green Tree Frog)

Amends 50-3-81

Effective July 1, 2005

4th grade students introduced & lobbied for SB 41 as a project to learn how the legislative system works. They worked for over two years. Although the Bill was killed quickly last session, they did not accept defeat. They came back this session & continued to lobby hard. The Bill passed almost unanimously. Now, thanks to their perseverance, Georgia has an official State Amphibian – the Green Tree Frog. These children provided an example for us all.

SB 168 (Bill Elliot Day) (New specialty tags – Police officers wounded in the line of duty, EMS, NASCAR etc.)

Amends 1-4-15, 40-2-68, 40-2-74 et seq., 40-2-84 & creates new sections 40-2-60.1 & 40-2-86.10 thru 86.15

Effective 01/01/06

Designates October 8th of each year as "Bill Elliot Day" in Georgia. Also calls for special license plates in various forms for race car fans, Georgia Physicians, DNR, EMS, Police Officers wounded in the line of duty, changes veteran tags, supports GOHS and provides for bicyclist plates.

SB 257 & 255 (Special Tags – Military)

Creates a new section 40-2-86.10

Effective July 1, 2005

Two new special tags may be purchased: 1) supporting Georgia Troops; and, 2) indicating a family with a member serving in the military

HB 567 & 578 Retirement Bills (Not yet Passed)

Potential Amendments to 47-2-226 & 47-2-223

Retirement Bills require two years before passage. These two are still alive for next year. Both bills provide for early retirement for troopers at age 55 and/or following 25 years of service. The Bills provide for early retirement with varying requirements for payment into the retirement system and varying payout amounts.

SR 44 A Resolution to Commend & honor all Vietnam Era Veterans

****Budget Approval means: Effective January 1, 2006, 2% salary increase for State Employees.****

You may look up any bill and the activity on the bill at the General Assembly's website www.legis.state.ga.us. Or contact Captain Al Wilson 404/656-4830 or awilson@gsp.net.

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