



The Trooper Legal Update

May 2004

Legal Services 404/624-7423

Volume 3, No. 5

2004 LEGISLATION:

This month's edition of the Trooper Legal Update features an outline of new laws affecting the Georgia State Patrol. The update is intended as a summary only and includes only that legislation which is most relevant to our mission. New Law highlights include:

- Making it easier to charge Felony Eluding of an officer.
- Child Safety seats for children under 6 but not over 40 lbs or 4'9".
- Roadside memorials for DUI victims.
- Golf cart drivers can operate without a license crossing the road or on locally designated streets.
- Failure to move vehicle off the roadway following accident can be a crime.
- New Felony—Manufacture or possession of Methamphetamine or chemicals to manufacture Meth. in the presence of children.

Please see the attached summary and feel free to contact Legal Services or Capt. Al Wilson should you have any questions regarding legislation.

VEHICLE REGISTRATION SUSPENSION

Note that the Ga. Registration Title Information System Report may indicate "Valid Insurance Coverage" and at the same time indicate "Registration Status: Suspended." The report is not in error. There are certain circumstances where the insurance has been reinstated but the registration status remains suspended. Troopers may rely upon the vehicle registration report to make a charge. The proper charge for a registration suspension violation is O.C.G.A. § 40-6-15.

HUMOR WORKS:

Q: What is the difference between the dry cleaner and a Lawyer?

A: The cleaner pays if it loses your suit. A Lawyer can lose your suit and still take you to the cleaners.

MONTHLY MINDER: Showing Driver's License as Bond

Drivers may only be taken into custody on traffic charges alone where the violator is charged with a traffic offense for which a driver's license may be suspended upon first conviction. O.C.G.A. § 17-6-11. Generally, traffic violators willing to sign the traffic citation and show a valid license may not be taken into custody. Drivers may be taken into custody for serious traffic offenses outlined in § 40-5-54 & § 40-6-390 thru 397. These offenses are also listed on the standard UTC. Another offense not listed on the UTC which may result in a custodial arrest, is an arrest for speeding in excess of 24 m.p.h. over the speed limit where the driver is under 18. Other than these designated serious traffic offenses, an officer has no discretion and may not make a custodial arrest based simply on a traffic offense. However, signing the traffic ticket as bond does not apply to out-of-state drivers or drivers utilizing a foreign driver's license unless the state/foreign country has a reciprocal agreement with Georgia. O.C.G.A. § 40-13-2.1. No foreign country has a reciprocal agreement with Georgia and the following states do not have a reciprocal agreement with Georgia: **Alaska, California, Michigan, Montana, Oregon, and Wisconsin.** Therefore, out-of-state drivers from these listed states and out-of-state drivers from foreign countries may be released upon display of a valid license but the release is within the officer's discretion. Drivers with these out-of-state licenses or a foreign license may be taken into custody to make bond for a traffic offense.

CASE LAW UPDATE: Constitutional challenge to the **concealed weapons statute 16-11-126** failed. Court upheld concealed weapons charge where, during search of vehicle, a pistol was found in the pocket of the door on the passenger side and driver had no carrying permit. Placing weapon in open container without a lid/cover violates law.

The Legal Services Office wishes those participating in the G-8 Summit the very best during this demanding time. Our thoughts and prayers are with you.

Published with approval of the Office of the Colonel.
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