

## 40-1-1.

As used in this title, the term:

- (1) 'Alcohol concentration' means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.
- (2) 'Alley' means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic.
- (3) 'All-terrain vehicle' means any motorized vehicle designed for off-road use which is equipped with three or more low pressure tires and with a seat to be straddled by the operator and with handlebars for steering control.
- (4) 'Arterial street' means any U.S. or state numbered route, controlled-access highway, or other major radial or circumferential street or highway designated by local authorities within their respective jurisdictions as part of a major arterial system of streets or highways.
- (5) 'Authorized emergency vehicle' means a motor vehicle belonging to a public utility corporation or operated by the Department of Transportation and designated as an emergency vehicle by the Department of Public Safety; a motor vehicle belonging to a fire department or a certified private vehicle belonging to a volunteer firefighter or a fire-fighting association, partnership, or corporation; an ambulance; or a motor vehicle belonging to a federal, state, or local law enforcement agency, provided such vehicle is in use as an emergency vehicle by one authorized to use it for that purpose.
- (6) 'Bicycle' means every device propelled by human power upon which any person may ride, having only two wheels which are in tandem and either of which is more than 13 inches in diameter.
  - (6.1) 'Bicycle path' means a right of way under the jurisdiction and control of this state or a local political subdivision thereof designated for use by bicycle riders.
  - (6.2) 'Bicycle trailer' means every device pulled by a bicycle and designed by the manufacturer of such device to carry human passengers.
- (7) 'Bus' means every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.
- (8) 'Business district' means the territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, office buildings, railroad stations, and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway.
- (9) 'Controlled-access highway' means every highway, street, or roadway in respect to

which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except only at such points and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway.

(10) 'Crosswalk' means:

- (A) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or in the absence of curbs, from the edges of the traversable roadway; or
- (B) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(11) 'Dealer' means a person engaged in the business of buying, selling, or exchanging vehicles who has an established place of business in this state.

(12) 'Demonstrator' means any motor vehicle which has not been the subject of a sale at retail to the general public but which has been operated on the roads of this state in the course of a motor vehicle dealer's business.

(13) 'Divided highway' means a highway divided into two or more roadways by leaving an intervening space or by a physical barrier or by a clearly indicated dividing section so constructed as to impede vehicular traffic.

(14) 'Driver' means every person who drives or is in actual physical control of a vehicle.

(15) 'Driver's license' means any license to operate a motor vehicle issued under the laws of this state.

(15.5) 'Electric assisted bicycle' means a device with two or three wheels which has a saddle and fully operative pedals for human propulsion and also has an electric motor. For such a device to be considered an electric assisted bicycle, it shall meet the requirements of the Federal Motor Vehicle Safety Standards, as set forth in 49 C.F.R. Section 571, et seq., and shall operate in such a manner that the electric motor disengages or ceases to function when the brakes are applied. The electric motor in an electric assisted bicycle shall:

- (A) Have a power output of not more than 1,000 watts;
- (B) Be incapable of propelling the device at a speed of more than 20 miles per hour on level ground; and
- (C) Be incapable of further increasing the speed of the device when human power alone is used to propel the device at or more than 20 miles per hour.

(15.6) 'Electric personal assistive mobility device' or 'EPAMD' means a self-balancing, two nontandem wheeled device designed to transport only one person and having an electric propulsion system with average power of 750 watts (1 horsepower) and a

maximum speed of less than 20 miles per hour on a paved level surface when powered solely by such propulsion system and ridden by an operator who weighs 170 pounds.

(16) 'Explosives' means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

(17) 'Flammable liquid' means any liquid which has a flash point of 141 degrees Fahrenheit or less.

(18) 'Gross weight' means the weight of a vehicle without load plus the weight of any load thereon.

(19) 'Highway' means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(20) 'House trailer' means:

(A) A trailer or semitrailer which is designed, constructed, and equipped as a dwelling place or living abode (either permanently or temporarily) and is equipped for use as a conveyance on streets and highways; or

(B) A trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a house trailer, as defined in subparagraph (A) of this paragraph, but which is used instead permanently or temporarily for the advertising, sales, display, or promotion of merchandise or services, or for any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

(21) 'Implement of husbandry' means a vehicle designed and adapted exclusively for agricultural, horticultural, or livestock-raising operations or for lifting or carrying an implement of husbandry and in either case not subject to registration if used upon the highways.

(21.1) 'Infant sling' means every device which is designed by the manufacturer to be worn by a person for the purpose of carrying an infant either on the chest or back of the wearer.

(22)(A) 'Intersection' means the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the

area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(B) Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

(C) The junction of an alley with a street or highway shall not constitute an intersection.

(23) 'Laned roadway' means a roadway which is divided into two or more clearly marked lanes for vehicular traffic.

(24) 'License' or 'license to operate a motor vehicle' means any driver's license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this state, including:

(A) Any temporary license or instruction permit;

(B) The privilege of any person to drive a motor vehicle whether or not such person holds a valid license; and

(C) Any nonresident's operating privilege as defined in this Code section.

(25) 'Local authorities' means every county, municipal, and other local board or body having authority to enact laws relating to traffic under the Constitution and laws of this state.

(25.1) 'Low-speed vehicle' means any four-wheeled electric vehicle whose top speed attainable in one mile is greater than 20 miles per hour but not greater than 25 miles per hour on a paved level surface and which is manufactured in compliance with those federal motor vehicle safety standards for low-speed vehicles set forth in 49 C.F.R. Section 571.500 and in effect on January 1, 2001.

(26) 'Manufacturer' means a person engaged in the manufacture of vehicles and who has an established place of business in this state.

(27) 'Metal tire' means every tire of which the surface in contact with the highway is wholly or partly of metal or other hard, nonresilient material. A vehicle shall be considered equipped with metal tires when metal tires are used on two or more wheels.

(28) 'Moped' means a motor driven cycle equipped with two or three wheels, with or without foot pedals to permit muscular propulsion, and an independent power source providing a maximum of two brake horsepower. If a combustion engine is used, the maximum piston or rotor displacement shall be 3.05 cubic inches (50 cubic centimeters) regardless of the number of chambers in such power source. The power

source shall be capable of propelling the vehicle, unassisted, at a speed not to exceed 30 miles per hour (48.28 kilometers per hour) on level road surface and shall be equipped with a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged.

(29) 'Motorcycle' means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor, all-terrain vehicle, and moped.

(30) 'Motor driven cycle' means every motorcycle, including every motor scooter, with a motor which produces not to exceed five brake horsepower, every bicycle with a motor attached, and every moped.

(31) 'Motor home' means every motor vehicle designed, used, or maintained primarily as a mobile dwelling, office, or commercial space.

(32) 'Motorized cart' means every motor vehicle having no less than three wheels and an unladen weight of 1,300 pounds or less and which cannot operate at more than 20 miles per hour.

(33) 'Motor vehicle' means every vehicle which is self-propelled other than an electric personal assistive mobility device (EPAMD).

(34) 'New motor vehicle' means any motor vehicle which is not a demonstrator and has never been the subject of a sale at retail to the general public.

(35) 'Nonresident' means every person who is not a resident of this state.

(36) 'Nonresident's operating privilege' means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by such person of a motor vehicle or the use of a vehicle owned by such person in this state.

(37) 'Official traffic-control devices' means all signs, signals, markings, and devices not inconsistent with this title which are placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic.

(38) 'Operator' means any person who drives or is in actual physical control of a motor vehicle.

(39) 'Owner' means a person, other than a lienholder or security interest holder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in or lien by another person but excludes a lessee under a lease not intended as security except as otherwise specifically provided in this title.

(40) 'Park' or 'parking' means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

- (41) 'Passenger car' means every motor vehicle, except motorcycles, motor driven cycles, and low-speed vehicles, designed for carrying ten passengers or less and used for the transportation of persons.
- (42) 'Pedestrian' means any person afoot.
- (43) 'Person' means every natural person, firm, partnership, association, corporation, or trust.
- (44) 'Pneumatic tire' means every tire in which compressed air is designed to support the load. A vehicle shall be considered equipped with pneumatic tires when pneumatic tires are used on all wheels.
- (45) 'Pole trailer' means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.
- (46) 'Police officer' means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
- (47) 'Private road or driveway' means every way or place in private ownership and used for vehicular traffic by the owner and those having express or implied permission from the owner, but not by other persons.
- (48) 'Railroad' means a carrier of persons or property upon cars operated upon stationary rails.
- (49) 'Railroad sign or signal' means any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.
- (50) 'Railroad train' means a steam engine or electric engine or other motor, with or without cars coupled thereto, operated upon rails.
- (51) 'Residence district' means the territory contiguous to and including a highway not comprising a business district, when the property on such highway for a distance of 300 feet or more is in the main improved with residences or residences and buildings in use for business.
- (52) 'Right of way' means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed, and proximity as to give rise to danger of collision unless one grants precedence to the other.
- (53) 'Roadway' means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway

includes two or more separate roadways, the term 'roadway' shall refer to any such roadway separately, but not to all such roadways collectively.

(54) 'Safety zone' means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(55) 'School bus' means:

(A) A motor vehicle operated for the transportation of school children to and from school or school activities or for the transportation of children to and from church or church activities. Such term shall not include a motor vehicle with a capacity of 15 persons or less operated for the transportation of school children to and from school activities or for the transportation of children to and from church or church activities if such motor vehicle is not being used for the transportation of school children to and from school; or

(B) A motor vehicle operated by a local transit system which meets the equipment and identification requirements of Code Section 40-8-115; provided, however, that such vehicle shall be a school bus only while transporting school children and no other passengers to or from school.

(56) 'Semitrailer' means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

(57) 'Sidewalk' means that portion of a street between the curb lines, or the lateral lines of a railway, and the adjacent property lines, intended for use by pedestrians.

(58) 'Solid tires' means tires of rubber or similarly elastic material that do not depend on confined air for the support of the load. A vehicle shall be considered equipped with solid tires when solid tires are used on two or more wheels.

(59) 'Special mobile equipment' means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including but not limited to: ditch-digging apparatus, well-boring apparatus, and road construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth-moving carryalls and scrapers, power shovels and drag lines, and self-propelled cranes and earth-moving equipment. The term does not include house trailers, dump trucks, truck mounted transit mixers, cranes or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

(60) 'Stand' or 'standing' means the halting of a vehicle, whether occupied or not,

otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

(61) 'State' means a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a province of Canada.

(62) 'Stop' or 'stopping':

(A) When required, means complete cessation from movement; or

(B) When prohibited, means any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

(63) 'Street' means the entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(64) 'Through highway' means every highway or portion thereof on which vehicular traffic is given preferential right of way and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right of way to vehicles on such through highway in obedience to a stop sign, yield sign, or other official traffic-control device, when such signs or devices are erected as provided in this title.

(65) 'Tractor' means any self-propelled vehicle designed for use as a traveling power plant or for drawing other vehicles but having no provision for carrying loads independently.

(66) 'Traffic' means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for purposes of travel.

(67) 'Traffic-control signal' means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

(68) 'Trailer' means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

(69) 'Tripper service' means regularly scheduled mass transportation service which is open to the fare-paying public but which is also designed or modified to accommodate the needs of elementary or secondary school students and school personnel.

(70) 'Truck' means every motor vehicle designed, used, or maintained primarily for the transportation of property.

(71) 'Truck camper' means any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space.

(72) 'Truck tractor' means every motor vehicle designed and used primarily for

drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(73) 'Urban district' means the territory contiguous to and including any street which is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than 100 feet for a distance of a quarter of a mile or more.

(74) 'Used motor vehicle' means any motor vehicle which has been the subject of a sale at retail to the general public.

(75) 'Vehicle' means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

## 40-6-16.

(a) The operator of a motor vehicle approaching a stationary authorized emergency vehicle that is displaying flashing yellow, amber, white, red, or blue lights shall approach the authorized emergency vehicle with due caution and shall, absent any other direction by a peace officer, proceed as follows:

(1) Make a lane change into a lane not adjacent to the authorized emergency vehicle if possible in the existing safety and traffic conditions; or

(2) If a lane change under paragraph (1) of this subsection would be impossible, prohibited by law, or unsafe, reduce the speed of the motor vehicle to a reasonable and proper speed for the existing road and traffic conditions, which speed shall be less than the posted speed limit, and be prepared to stop.

(b) The operator of a motor vehicle approaching a stationary towing or recovery vehicle or a stationary highway maintenance vehicle that is displaying flashing yellow, amber, or red lights shall approach the vehicle with due caution and shall, absent any other direction by a peace officer, proceed as follows:

(1) Make a lane change into a lane not adjacent to the towing, recovery, or highway maintenance vehicle if possible in the existing safety and traffic conditions; or

(2) If a lane change under paragraph (1) of this subsection would be impossible, prohibited by law, or unsafe, reduce the speed of the motor vehicle to a reasonable and proper speed for the existing road and traffic conditions, which speed shall be less than the posted speed limit, and be prepared to stop.

(c) Violation of subsection (a) or (b) of this Code section shall be punished by a fine of \$500.00.

## 33-24-45.

(a) This Code section shall apply only to those portions of an automobile policy or a motorcycle policy which relate to bodily injury and property damage liability, personal injury protection, medical payments, physical damage, and uninsured motorists• coverage.

(b) As used in this Code section, the term:

(1) 'Policy' means a policy insuring a natural person as named insured or one or more related individuals resident of the same household and which provides bodily injury coverage and property damage liability coverage, personal injury protection, physical damage coverage, medical payments coverage, or uninsured motorists• protection coverage or any combination of coverages and under which the insured vehicles designated in the policy are of the following types only:

(A) Any motor vehicle of the private passenger, station wagon, or jeep type or a motorcycle that is not used as a public or livery conveyance for passengers nor rented to others; or

(B) Any other four-wheel motor vehicle with a load capacity of 1,500 pounds or less which is not used in the occupation or professional business of the insured; provided, however, that this Code section shall not apply to policies of automobile liability insurance issued under the Georgia Automobile Insurance Plan nor to any policy insuring an automobile which is one of more than four insured under a single policy nor to any policy covering garage, automobile sales agency, repair shop, service station, or public parking place operation hazards.

(2) 'Renewal' means issuance and delivery by an insurer of a policy superseding at the end of the policy period a policy previously issued and delivered by the same insurer and providing no less than the coverage contained in the superseded policy or issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term or the extension of the term of a policy beyond its policy period or term pursuant to a provision for extending the policy by payment of a continuation premium; provided, however, that any policy with a policy period or term of less than six months shall, for the purpose of this Code section, be considered to have successive policy periods ending each six months following its original date of issue and, regardless of its wording, any interim termination by its terms or by refusal to accept premium shall be a cancellation subject to this Code section, except in case of termination under any of the circumstances specified in subsection (f) of this Code section; provided, further, that, for purposes of this Code section, any policy written for a term longer than one year or any policy with no fixed expiration date shall be considered as if written for successive policy periods or terms of one year and any

termination by an insurer effective on an anniversary date of the policy shall be deemed a refusal to renew.

(c) No notice of cancellation of a policy issued for delivery in this state shall be mailed or delivered by an insurer or its agent duly authorized to effect such cancellation, except for one or more of the following reasons:

- (1) The named insured failed to discharge when due any of his obligations in connection with the payment of premiums on such policy or any installment of premiums or the renewal of premiums, whether payable directly to the insurer or indirectly to the agent;
- (2) The issuance was obtained through a material misrepresentation;
- (3) Any insured violated any of the terms and conditions of the policy;
- (4) The named insured failed to disclose fully, if called for in the application, his record for the preceding 36 months of motor vehicle accidents and moving traffic violations;
- (5) The named insured failed to disclose in his written application or in response to inquiry by his broker or by the insurer or its agent information necessary for the acceptance or proper rating of the risk;
- (6) The named insured made a false or fraudulent claim or knowingly aided or abetted another in the presentation of such a claim;
- (7) The named insured or any other operator either resident in the same household or who customarily operates an automobile insured under such policy:
  - (A) Has, within the 36 months prior to the notice of cancellation, had his driver's license under suspension or revocation;
  - (B) Is or becomes subject to epilepsy or heart attacks and the individual does not produce a certificate from a physician testifying to his unqualified ability to operate a motor vehicle;
  - (C) Has an accident record; a conviction record, criminal or traffic; or a physical, mental, or other condition which is such that his operation of an automobile might endanger the public safety;
  - (D) Has within a three-year period prior to the notice of cancellation been addicted to the use of narcotics or other drugs;
  - (E) Has been convicted or forfeited bail during the 36 months immediately preceding the notice of cancellation for:
    - (i) Any felony;
    - (ii) Criminal negligence resulting in death, homicide, or assault arising out of the operation of a motor vehicle;
    - (iii) Operating a motor vehicle while in an intoxicated condition or while under the

influence of drugs;

(iv) Being intoxicated while in or about an automobile or while having custody of an automobile;

(v) Leaving the scene of an accident without stopping to report;

(vi) Theft or unlawful taking of a motor vehicle; or

(vii) Making false statements in an application for a driver's license; or

(F) Has been convicted of or forfeited bail for three or more violations, within the 36 months immediately preceding the notice of cancellation, of any law, ordinance, or regulation limiting the speed of motor vehicles or any of the provisions of the motor vehicle laws of any state, violation of which constitutes a misdemeanor, whether or not the violations were repetitions of the same offense or different offenses;

(8) The insured automobile:

(A) Is so mechanically defective that its operation might endanger public safety;

(B) Is used in carrying passengers for hire or compensation; provided, however, that the use of an automobile for a car pool shall not be considered use of an automobile for hire or compensation;

(C) Is used in the transportation of flammables or explosives;

(D) Is an authorized emergency vehicle; or

(E) Has changed in shape or condition during the policy period so as to increase substantially the risk.

(d) No notice of cancellation of a policy to which this Code section applies shall be effective unless mailed or delivered as prescribed in Code Section 33-24-44. The insurer shall provide the reason or reasons for such cancellation as required by Chapter 39 of this title.

(e)(1) No insurer shall refuse to renew a policy to which this Code section applies unless a written notice of nonrenewal is mailed or delivered in person to the named insured. Such notice stating the time when nonrenewal will be effective, which shall not be less than 30 days from the date of mailing or delivery of such notice of nonrenewal or such longer period as may be provided in the contract or by statute, shall be delivered in person or by depositing the notice in the United States mails to be dispatched by at least first-class mail to the last address of record of the insured and of the lienholder, where applicable, and receiving the receipt provided by the United States Postal Service or such other evidence of mailing as prescribed or accepted by the United States Postal Service.

(2) The insurer shall specify in writing the reason or reasons for such nonrenewal as required by Chapter 39 of this title.

(3) No notice refusing the renewal of a policy issued for delivery in this state shall be

mailed or delivered by an insurer or its agent duly authorized to effect such notice of nonrenewal for the following reasons:

- (A) Lack of, lack of potential for, or failure to agree to a writing of supporting insurance business;
- (B) A change in the insurer's eligibility rules or underwriting rules, provided that this subparagraph shall not apply to a change in such rules if the change applies uniformly within a specific class or territory and such change has been approved by the Commissioner under subparagraph (B) of paragraph (4) of this subsection;
- (C) With respect to any driver or with respect to any automobile or its replacement, except when the replacement is such that together with other relevant underwriting or eligibility rules it would not have been insured as an original policy risk of the insurer, for two or fewer of the following within the preceding 36 month period:
  - (i) Accidents involving two or more motor vehicles in which the driver of the insured automobile under this subparagraph was not at fault;
  - (ii) Uninsured or underinsured motorist coverage claims;
  - (iii) Comprehensive coverage claims; and
  - (iv) Towing or road service coverage claims;
- (D) Age, sex, location of residence address within the state, race, creed, national origin, ancestry, or marital status;
- (E) Lawful occupation, provided that the insured automobile is not used in such occupation and provided, further, that such automobile would have been insured as an original policy risk of the insurer when such occupation is considered together with other relevant underwriting or eligibility rules of the insurer;
- (F) Military service, provided that the named insured has no change of legal residence from this state;
- (G) Number of years of driving experience of a named insured or of any other operator who is either a resident in the same household or customarily an operator of an automobile insured under such policy;
- (H) Accidents or violations which occurred more than 36 months prior to the expiration date or anniversary date of the policy or solely for claims paid or payable pursuant to the policy during the preceding 36 month period which did not aggregate in an amount in excess of \$750.00;
- (I) One claim against the policy based on fault if such coverage has been in effect continuously for at least 36 preceding months;
- (J) Notwithstanding subparagraph (I) of this paragraph, two claims against the policy based on fault if such coverage has been in effect continuously for at least 72 preceding months; and

(K) Factors not relating to the claims record, driving record, or driving ability of the named insured or of any other operator who is either a resident in the same household or customarily an operator of an automobile insured under such policy.

(4)(A) Notwithstanding paragraph (3) of this subsection, any reason set forth in subsection (c) of this Code section, relating to cancellation, shall also constitute a reason for nonrenewal.

(B) If the insurer demonstrates to the satisfaction of the Commissioner that renewal would violate the provisions of this title or would be hazardous to its policyholders or the public, subparagraph (B) or (K) of paragraph (3) shall not apply.

(5)(A) If the insurer complies with paragraph (1) of this subsection, no claim or action may be maintained with respect to a policy which is not renewed unless the named insured files a written notice with the insurer before the time at which nonrenewal becomes effective. The notice shall specify the manner in which the failure to renew is alleged to be unlawful under this subsection. In any subsequent action asserting a violation of this subsection, no violation of this subsection may be alleged other than the specific allegations contained in the notice filed by the named insured.

(B) In addition to other requirements, a notice of nonrenewal shall contain the provisions of subparagraph (A) of this paragraph, in substantially the form which follows:

#### 'NOTICE

Code Section 33-24-45 of the Official Code of Georgia Annotated provides that this insurer must, upon request, furnish you with the reasons for the failure to renew this policy. If you wish to assert that the nonrenewal is unlawful, you must file a written notice with this insurer before the time at which the nonrenewal becomes effective. The notice must specify the manner in which the failure to renew is alleged to be unlawful.

If you do not file the written notice, you may not later assert a claim or action against this insurer based upon an unlawful nonrenewal.'

(6)(A) Notwithstanding paragraph (3) of this subsection, the termination of an agency relationship shall be valid as a reason for a failure to renew a policy. In such case, if the named insured wishes to retain the policy with the particular insurer, the insured shall locate another agent of the insurer and apply for the policy with another agent of the insurer before the time at which the nonrenewal becomes effective.

Upon receipt of the application, the insurer shall treat the application as a renewal and not as an original writing. Nothing in this subparagraph shall abridge or supersede contractual rights of the terminated agency or the insurer, provided that

these contractual rights do not adversely affect the privilege of the named insured to apply for renewal through another agent of the insurer.

(B) A notice of nonrenewal based upon the termination of an agency relationship shall contain the provisions of subparagraph (A) of this paragraph, in substantially the form which follows:

#### 'NOTICE

Your policy has not been renewed because your present agent no longer represents this insurer. You have the option of procuring coverage through your present agent or retaining this policy by applying through another agent of this insurer. Code Section 33-24-45 of the Official Code of Georgia Annotated provides that if you will locate another agent of this insurer and apply for this policy before the time at which the nonrenewal becomes effective, this insurer will treat the application as a renewal and not as an application for a new policy.'

(f) Subsection (e) of this Code section shall not apply in case of:

- (1) Nonpayment of premium for the expiring policy;
- (2) Failure of the insured to pay the premium as required by the insurer for renewal; or
- (3) The insurer having manifested its willingness to renew by delivering a renewal policy, renewal certificate, or other evidence of renewal to the named insured or his representative or by offering to issue a renewal policy, certificate, or other evidence of renewal or having manifested such intention by any other means.

(g) Notwithstanding the failure of an insurer to comply with this Code section, termination of any coverage under the policy either by cancellation or nonrenewal shall be effective on the effective date of any other policy providing similar coverage on the same motor vehicle or any replacement of coverage.

(h) Renewal or continuation of a policy shall not constitute a waiver or estoppel with respect to ground for cancellation which existed before the effective date of the renewal or continuance.

(i) When a policy is canceled other than for nonpayment of premium or in the event of a refusal to renew or continue a policy, the insurer shall notify the named insured of his possible eligibility for insurance through the Georgia Automobile Insurance Plan. Such notice shall accompany or be included in the notice of cancellation or the notice of intent not to renew or not to continue the policy and shall state that such notice of availability of the Georgia Automobile Insurance Plan is given pursuant to this Code section.

(j) There shall be no liability on the part of and no cause of action of any nature shall arise against the Commissioner or his employees or against any insurer, its authorized representatives, its agents, its employees, or any firm, person, or corporation furnishing

to the insurer information as to reasons for cancellation or nonrenewal for any statement made by any of them in any written notice of cancellation or nonrenewal or in any other communication, oral or written, specifying the reasons for cancellation or nonrenewal or providing information pertaining to the reasons for cancellation or nonrenewal or for statements made or evidence submitted at any formal or informal hearing conducted in connection with the reasons for cancellation or nonrenewal of the insured's policy.

(k) This Code section shall not apply to any policy which has been in effect less than 60 days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal of a policy. Such policies shall be canceled in accordance with Code Section 33-24-44.

(l) Return of unearned premium, if any, due to cancellations as to which this Code section applies shall be processed in accordance with Code Section 33-24-44.

(m) Notice to the insured shall not be required by this Code section when a policy is canceled by an insurance premium finance company under a power of attorney contained in an insurance premium finance agreement if notification of the existence of the premium finance agreement has been given to the insurer in accordance with the provisions of Chapter 22 of this title. However, the insurer shall comply with the provisions of subsection (d) of Code Section 33-22-13 pertaining to notice to a governmental agency, mortgagee, or other third party. Such notice shall be delivered in person or by depositing the notice in the United States mails to be dispatched by at least first-class mail to the last address of record of such governmental agency, mortgagee, or other third party and receiving the receipt provided by the United States Postal Service or such other evidence of mailing as prescribed or accepted by the United States Postal Service.

(n) Cancellation by the insured shall be accomplished as provided in Code Section 33-24-44.1.

(o) An insured may request a review by the Commissioner if the insured believes that his or her policy has been canceled or nonrenewed in violation of this Code section. Such request must be filed with the Commissioner within 15 days of receipt of a notice of cancellation or nonrenewal. A review of the cancellation or nonrenewal shall be conducted within 30 days of said request. The Commissioner shall notify the insured and the insurer of his or her decision within the 30 day period. During the pendency of such review, the policy shall continue in full force and effect and the Commissioner shall specify by rule or regulation the method of payment of premium due and the disposition of premium refunds, if any. The Commissioner shall either require that the policy be reinstated or renewed or may uphold the nonrenewal or cancellation. In the event the Commissioner determines that an insurer's cancellation or nonrenewal action

constitutes an unfair act or practice, the Commissioner may take action as authorized by this title. Following the completion of any review provided by this subsection, an insured may request a hearing pursuant to Code Section 33-2-17, and nothing in this subsection shall be deemed to waive an insured's right to request such a hearing.

## 32-6-193.1.

(a) The department shall by rule or regulation prescribe uniform criteria for its own use and that of local governing authorities in assessing whether elimination of a grade crossing on a public road by physical removal of the grade crossing and barricading or removing the approaches thereto without construction of an underpass or overpass is reasonably necessary in the interest of public safety. For purposes of this Code section, 'reasonably necessary in the interest of public safety' means that the enhancement of public safety resulting from such elimination of the grade crossing will outweigh any inconvenience to the reasonable passage of public traffic, specifically including without limitation emergency vehicle traffic, caused by such rerouting of traffic. Such criteria shall include consideration of each of the following factors:

- (1) Number and timetable speeds of passenger trains operated through the crossing;
- (2) Number and timetable speeds of freight trains operated through the crossing;
- (3) Distance to alternate crossings;
- (4) Accident history of the crossing for the immediately preceding five-year period;
- (5) Type of warning device present at the crossing, if any;
- (6) The alignments, horizontal and vertical, of the roadway and the railroad and the angle of the intersection of those alignments;
- (7) The average daily traffic volume in proportion to the population of the municipality if the crossing is located within a municipality or the population of the county if the crossing is located within an unincorporated area of a county;
- (8) The posted speed limit over the crossing;
- (9) The effect of closing the crossing upon access by persons utilizing:
  - (A) Hospital or medical facilities and public health departments, specifically including without limitation utilization by medical personnel;
  - (B) Facilities of federal, state, or local government, specifically including without limitation court, postal, library, sanitation, and park facilities; and
  - (C) Commercial, industrial, and other areas of public commerce;
- (10) Any use of the crossing by:
  - (A) Trucks carrying hazardous material;
  - (B) Vehicles carrying passengers for hire;
  - (C) School buses;
  - (D) Emergency vehicles; or
  - (E) Public or private utility vehicles, specifically including without limitation water, sewer, natural gas, and electric utility maintenance and repair vehicles; and
- (11) Any other relevant factors as prescribed by the department.

(b)(1) Any railroad may file a written petition requesting an order to eliminate a grade

crossing on a public road by physical removal of the grade crossing and barricading or removing the approaches thereto without construction of an underpass or overpass. Any such petition shall be filed by certified mail or statutory overnight delivery, return receipt requested, with the department in respect to the state highway system, a county governing authority in respect to its county road system, or a municipal governing authority in respect to its municipal street system.

(2) Any petition by a railroad under this subsection shall include without limitation information as to each of the factors set forth in paragraphs (1) through (5) of subsection (a) of this Code section.

(3) The department or the local governing authority, whichever is applicable, shall conduct a public hearing on the matter prior to deciding whether to grant or deny such a petition.

(4)(A) No railroad shall have a duty to file a petition for elimination of a grade crossing as authorized by this subsection.

(B) Neither the failure of a railroad to file such a petition nor any decision by the department or any local governing authority regarding such a petition shall give rise to a cause of action against the railroad, the department, or a local governing authority by a person for injuries or damages arising from the existence or use of such crossing.

(c)(1) If the department in respect to the state highway system, a county governing authority in respect to its county road system, or a municipal governing authority in respect to its municipal street system determines that elimination of a grade crossing in accordance with this Code section is reasonably necessary in the interest of public safety, the department or the local governing authority may issue an order to eliminate the crossing. Such order shall be in writing, and a copy shall be served upon the railroad. If a local governing authority issues such an order, it shall make a record of its findings and transmit a copy of the same along with the order to the department.

(2) If the department in respect to the state highway system, a county governing authority in respect to its county road system, or a municipal governing authority in respect to its municipal street system determines that elimination of a grade crossing in accordance with this Code section is not reasonably necessary in the interest of public safety, the department or the local governing authority may issue an order denying a petition to eliminate the crossing. Such order shall be in writing, and a copy shall be served upon the railroad. If a local governing authority denies a petition, it shall make a written record of its findings and transmit a copy of the same along with the order and petition to the department.

(3)(A) Any railroad aggrieved by an order of a local governing authority under this

subsection may make a written request to the department for review of such order. Such request shall be accompanied by a \$500.00 filing fee. The department shall within 60 days after the filing of such request review the matter.

(B) Upon review of the order and findings of the local governing authority and any filings by the railroad, if the department determines that elimination of a grade crossing in accordance with this Code section is not reasonably necessary in the interest of public safety, the department shall order that the crossing shall remain open.

(C) Upon review of the order and findings of the local governing authority and any filings by the railroad, if the department determines that elimination of a grade crossing in accordance with this Code section is reasonably necessary in the interest of public safety, the department shall issue an order to eliminate the crossing.

(D) Any such order of the department shall be in writing, and a copy of the order shall be served upon the railroad and the local governing authority. As part of such order, the department shall assess all its costs of investigating and reviewing the matter against the railroad if an order for the crossing to remain open is issued or against the county or municipality if an order to eliminate the crossing is issued, and the party so assessed shall be liable therefor to the department; provided, however, that any filing fee paid to the department by a railroad shall be applied to any such amount assessed against the railroad, and the balance of such filing fee, if any, shall be refunded to the railroad. The department shall keep detailed records of its costs of investigation and review for purposes of this subparagraph, and such records shall be subject to public inspection as provided by Article 4 of Chapter 18 of Title 50.

(d) If an order to close a grade crossing is issued, the railroad shall at its expense physically remove the crossing from the tracks and for two feet beyond the ends of the crossties on each side and extending four feet beyond the traveled way or flush with the edge of a paved shoulder, whichever is greater, of such crossing and erect a department approved barricade; and the department in respect to the state highway system, the county in respect to its county road system, or the municipality in respect to its municipal street system may at its expense remove approaches to the crossing. The provisions of Code Section 32-6-195 for division of costs of elimination of a grade crossing by construction of an underpass or overpass shall not apply to elimination of any grade crossing under this Code section.

40-6-20.

(a) The driver of any vehicle shall obey the instructions of an official traffic-control device applicable thereto, placed in accordance with this chapter, unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter. A violation of this subsection shall be a misdemeanor, except as otherwise provided by subsection (f) of this Code section.

(b) No provisions of this chapter which require official traffic-control devices shall be enforced against an alleged violator if at the time and place of the alleged violation an official device was not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular Code section does not state that official traffic-control devices are required, such Code section shall be effective even though no devices are erected or in place.

(c) Whenever official traffic-control devices are placed in position approximately conforming to the requirements of this chapter, such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

(d) Any official traffic-control device placed pursuant to this chapter and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this chapter, unless the contrary shall be established by competent evidence.

(e) The disregard or disobedience of the instructions of any official traffic-control device or signal placed in accordance with the provisions of this chapter by the driver of a vehicle shall be deemed prima-facie evidence of a violation of law, without requiring proof of who and by what authority such sign or device has been erected.

(f)(1) As used in this subsection, the term:

(A) 'Owner' means the registrant of a motor vehicle, except that such term shall not include a motor vehicle rental company when a motor vehicle registered by such company is being operated by another person under a rental agreement with such company.

(B) 'Recorded images' means images recorded by a traffic-control signal monitoring device:

(i) On:

- (I) Two or more photographs;
- (II) Two or more microphotographs;
- (III) Two or more electronic images; or
- (IV) Videotape; and

(ii) Showing a traffic-control signal displaying a CIRCULAR RED or RED

ARROW signal along with the rear of a motor vehicle apparently operated in disregard or disobedience of such signal and, on at least one image or portion of tape, clearly revealing the number or other identifying designation of the license plate displayed on the motor vehicle.

(C) 'Traffic-control signal monitoring device' means a device with one or more motor vehicle sensors working in conjunction with a traffic-control signal to produce recorded images of motor vehicles being operated in disregard or disobedience of a CIRCULAR RED or RED ARROW signal.

(2) Subsection (a) of this Code section may be enforced as provided in this subsection pursuant to the use of traffic-control signal monitoring devices in accordance with Article 3 of Chapter 14 of this title.

(3) For the purpose of enforcement pursuant to this subsection:

(A) The driver of a motor vehicle shall be liable for a civil monetary penalty of not more than \$70.00 if such vehicle is found, as evidenced by recorded images produced by a traffic-control signal monitoring device, to have been operated in disregard or disobedience of a CIRCULAR RED or RED ARROW signal in violation of subsection (a) of this Code section and such disregard or disobedience was not otherwise authorized by law;

(B) The law enforcement agency for which such device is permitted shall send by first-class mail addressed to the owner of the motor vehicle postmarked not later than ten days after the date of the alleged violation:

(i) A citation for the violation, which shall include the date and time of the violation, the location of the intersection, the amount of the civil monetary penalty imposed, and the date by which the civil monetary penalty shall be paid;

(ii) A copy of the recorded image;

(iii) A copy of a certificate sworn to or affirmed by a trained law enforcement officer or a technician employed by a law enforcement agency for which such device is authorized and stating that, based upon inspection of recorded images, the owner's motor vehicle was operated in disregard or disobedience of a CIRCULAR RED or RED ARROW signal in violation of subsection (a) of this Code section and that such disregard or disobedience was not otherwise authorized by law;

(iv) A statement of the inference provided by subparagraph (D) of this paragraph and of the means specified therein by which such inference may be rebutted;

(v) Information advising the owner of the motor vehicle of the manner and time in which liability as alleged in the citation may be contested in court; and

(vi) Warning that failure to pay the civil monetary penalty or to contest liability in a timely manner shall waive any right to contest liability and result in a civil

monetary penalty;

provided, however, that only warning notices and not citations for violations shall be sent during the 30 day period commencing with the installation of a traffic-control signal monitoring device at such location;

(C) Proof that a motor vehicle was operated in disregard or disobedience of a CIRCULAR RED or RED ARROW signal in violation of subsection (a) of this Code section shall be evidenced by recorded images produced by a traffic-control signal monitoring device authorized pursuant to Article 3 of Chapter 14 of this title. A copy of a certificate sworn to or affirmed by a trained law enforcement officer or a technician employed by a law enforcement agency for which such device is authorized and stating that, based upon inspection of recorded images, a motor vehicle was operated in disregard or disobedience of a CIRCULAR RED or RED ARROW signal in violation of subsection (a) of this Code section and that such disregard or disobedience was not otherwise authorized by law shall be prima-facie evidence of the facts contained therein; and

(D) Liability under this subsection shall be determined based upon preponderance of the evidence. Prima-facie evidence that the vehicle described in the citation issued pursuant to this subsection was operated in violation of subsection (a) of this Code section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, shall permit the trier of fact in its discretion to infer that such owner of the vehicle was the driver of the vehicle at the time of the alleged violation. Such an inference may be rebutted if the owner of the vehicle:

(i) Testifies under oath in open court that he or she was not the operator of the vehicle at the time of the alleged violation;

(ii) Presents to the court prior to the return date established on the citation a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation; or

(iii) Submits to the court prior to the return date established on the citation a sworn notarized statement identifying the name of the operator of the vehicle at the time of the alleged violation.

(4) A violation for which a civil penalty is imposed pursuant to this subsection shall not be considered a moving traffic violation, for the purpose of points assessment under Code Section 40-5-57. Such violation shall be deemed noncriminal, and imposition of a civil penalty pursuant to this subsection shall not be deemed a conviction and shall not be made a part of the operating record of the person upon whom such liability is imposed, nor shall it be used for any insurance purposes in the provision of motor vehicle insurance coverage.

(5) If a person summoned by first-class mail fails to appear on the date of return set out in the citation and has not paid the penalty for the violation or filed a police report or affidavit pursuant to division (3)(D)(ii) or (3)(D)(iii) of this subsection, the person summoned shall have waived the right to contest the violation and shall be liable for a civil monetary penalty of not more than \$70.00.

(6) Any court having jurisdiction over violations of subsection (a) of this Code section or any ordinance adopting the provisions of said subsection pursuant to Code Section 40-6-372 shall have jurisdiction over cases arising under this subsection and shall be authorized to impose the civil monetary penalty provided by this subsection. Except as otherwise provided in this subsection, the provisions of law governing jurisdiction, procedure, defenses, adjudication, appeal, and payment and distribution of penalties otherwise applicable to violations of subsection (a) of this Code section shall apply to enforcement under this subsection; provided, however, that any appeal from superior or state court shall be by application in the same manner as that provided by Code Section 5-6-35.

(7) Recorded images made for purposes of this subsection shall not be a public record for purposes of Article 4 of Chapter 18 of Title 50.

(8) The provisions of this subsection shall not limit law enforcement agencies to the use of traffic-control signal monitoring devices in enforcing subsection (a) of this Code section; and, when there is evidence obtained from another source or sources which constitutes a prima-facie case of a violation of subsection (a) of this Code section, such violation may be prosecuted as otherwise provided by law in lieu of, but not in addition to, enforcement under this subsection.