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MOTOR VEHICLES AND TRAFFIC

Uniform Rules of the Road: Provide for Criminal Offenses of Homicide and Serious Injury When a Person Interferes with Traffic-Control Devices and Death or Bodily Harm Results

CODE SECTION:	O.C.G.A. § 40-6-396 (new)[1]
BILL NUMBER:	HB 1256
ACT NUMBER:	1011
GEORGIA LAWS:	1996 Ga. Laws 1281
SUMMARY:	The Act creates the offenses of homicide and serious injury when death or bodily harm results from a person's interference with an official traffic-control device, railroad sign or signal. The Act provides for criminal penalties for both offenses.
EFFECTIVE DATE:	July 1, 1996

History

On July 15, 1995, a pickup truck and a minivan collided at an intersection in Irwin County.[2] A woman, Sae Ja Scott, and her twelve-year-old son, Roger Scott, were killed, and four other people were seriously injured.[3] The two vehicles had entered the intersection without stopping because all four of the stop signs had been stolen.[4] The thieves who stole the signs were never caught, but attorneys representing the accident victims discovered that the most serious offense such a perpetrator could be charged with was a misdemeanor for theft or damage to a traffic-control device.[5]

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1. HB 1256 affects two separate chapters in title 40 of the Code and amends chapter 8 of title 35. This *Peach Sheet*™ addresses the new section added to chapter 6 of title 40. A separate *Peach Sheet* within this issue discusses the changes to chapter 14 of title 40, dealing with the use of radar speed detection devices, and changes to chapter 8 of title 35, dealing with the training of peace officers. *See Legislative Review*, 13 GA. ST. U. L. REV. 244 (1996).

2. *Metro and Georgia in Brief: Stolen Signs Linked to Fatal Wreck*, ATLANTA J., July 17, 1995, at B6 [hereinafter *Stolen Signs*]; *Georgia in Brief: Crash Kills Two*, ATLANTA J., July 18, 1995, at C5 [hereinafter *Crash Kills Two*]; Telephone Interview with Rep. Tommy Chambless, House District No. 163 (May 1, 1996) [hereinafter Chambless Interview].

3. *Stolen Signs, supra* note 2; *Crash Kills Two, supra* note 2; Chambless Interview, *supra* note 2.

4. *Stolen Signs, supra* note 2; *Crash Kills Two, supra* note 2; Chambless Interview, *supra* note 2.

5. Chambless Interview, *supra* note 2. The Code sections applicable at the time of

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The victims' attorneys contacted Representative Tommy Chambless of the 163rd District with their concern that penalties were insufficient for persons who have tampered with traffic signs and caused injury or death to another.[6] Representative Chambless offered his support and introduced legislation that came to be included in HB 1256.[7]

HB 1256

Representative Chambless introduced this piece of legislation as HB 1643.[8] The purpose of HB 1643 was to create a new Code section, adding another offense to the list of serious traffic offenses found in article 15 of chapter 6 of title 40.[9]

Subsection (a) of the new Code section 40-6-396 creates the offense of homicide when a person "who, without malice aforethought, causes the death of another person through the violation of subsection (a) of Code section 40-6-26."[10] The language in Code section 40-6-396(a) was patterned after subsection (a) of Code section 40-6-393, which defines the criminal offense of vehicular homicide.[11] The penalty imposed

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the accident were O.C.G.A. §§ 32-6-50(d) and 40-6-26(a). *See* 1981 Ga. Laws 1826, § 1, at 1828 (codified at O.C.G.A. § 32-6-50(d) (1996)); 1990 Ga. Laws 2048, § 5, at 2254 (codified at O.C.G.A. § 40-6-26(a) (1994)). O.C.G.A. § 32-6-50(d) makes it "unlawful for any person to remove . . . any official traffic-control device" and states that any person "who knowingly sells any sign . . . shall be guilty of a misdemeanor." 1981 Ga. Laws 1826, § 1, at 1828 (codified at O.C.G.A. § 32-6-50(d) (1996)). O.C.G.A. § 40-6-26 provides that "[n]o person shall, without lawful authority, . . . remove any official traffic-control device." 1990 Ga. Laws 2048, § 5, at 2254 (codified at O.C.G.A. § 40-6-26(a) (1994)). When interpreting Code section 40-6-26, the courts have held that alteration of a stop sign (to face it in the wrong direction) is a violation of that section and is negligence per se. Richards & Assocs. v. Studstill, 92 Ga. App. 853, 858, 90 S.E.2d 56, 60 (1955), *rev'd on other grounds*, 212 Ga. 375, 93 S.E.2d 3 (1956).

6. Chambless Interview, *supra* note 2.

7. *Id.*

8. *Id.; see* HB 1643, as introduced, 1996 Ga. Gen. Assem.

9. Chambless Interview, *supra* note 2.

10. O.C.G.A. § 40-6-396(a) (Supp. 1996). A violation of Code section 40-6-26(a) is interference with an official traffic-control device. 1990 Ga. Laws 2048, § 5, at 2254 (codified at O.C.G.A. § 40-6-26(a) (1994)).

11. 1992 Ga. Laws 2093, § 1, at 2094 (codified at O.C.G.A. § 40-6-393 (1994)); Chambless Interview, *supra* note 2. The charge of vehicular homicide is proper when any person "without malice aforethought, causes the death of another person through the violation of" laws relating to the duty of a driver to stop before reaching a school bus using visual signs, the duty of a driver to stop when involved in an accident that is the proximate cause of death or serious injury, the laws defining reckless driving, driving under the influence of alcohol or drugs, or fleeing or attempting to elude a police officer. 1992 Ga. Laws 2093, § 1, at 2094 (codified at O.C.G.A. § 40-6-393 (1994)). The penalty for vehicular homicide is imprisonment for at least two years, but not more than fifteen years. *Id.*

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under Code section 40-6-396 is imprisonment for at least two years, but not more than fifteen years.[12]

Subsection (b) of the new Code section 40-6-396 creates the offense of serious injury if injury results from a person's interference with an official traffic-control device.[13] Subsection (b) was also patterned after existing Georgia law. Its language mirrors Code section 40-6-394, which defines the offense of serious bodily injury by vehicle.[14] The penalty for serious bodily injury under Code section 40-6-396(b) is imprisonment for one to five years.[15]

HB 1643 passed without amendment through the House Judiciary Committee, the House floor, and the Senate Judiciary Committee.[16] However, it could not be scheduled in time for the Senate Rules Committee calendar.[17] At this point, Representative Chambless searched for another piece of legislation compatible with HB 1643, to which he could attach the bill to enhance its chance at passage.[18] HB 1643 was incorporated into HB 1256, which amends sections of the motor vehicles law concerning the use of radar speed detection devices as well as Code sections governing the employment and training of peace officers.[19] HB 1256 was approved as amended by both chambers and signed by Governor Zell Miller on April 15, 1996.[20]

Angela Carson

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12. O.C.G.A. § 40-6-396(a) (Supp. 1996).
13. *Id.* § 40-6-396(b).
14. 1990 Ga. Laws 2048, § 5, at 2321 (codified at O.C.G.A. § 40-6-394 (1994)). Serious injury means bodily harm inflicted by depriving another of a "member of his body, by rendering a member of his body useless, by seriously disfiguring his body or a member thereof, or by causing organic brain damage which renders the body or any member thereof useless." *Id.*
15. O.C.G.A. § 40-6-396(b) (Supp. 1996).
16. Final Composite Status Sheet, Mar. 18, 1996.
17. Chambless Interview, *supra* note 2.
18. *Id.*
19. HB 1256 (CCS), 1996 Ga. Gen. Assem.
20. Final Composite Status Sheet, Mar. 18, 1996.

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