

House Bill 1439

By: Representatives Royal of the 164th, Buck of the 135th, Smith of the 175th and Westmoreland of the 104th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
2 taxation, so as to change certain provisions regarding income tax credits for low and zero
3 emission vehicles; to provide for additional procedures, conditions, and limitations with
4 respect to such credit; to amend Title 40 of the Official Code of Georgia Annotated, relating
5 to motor vehicles and traffic, so as to provide for applicability of certain provisions and
6 requirements with respect to low-speed vehicles; to provide for a definition; to provide that
7 such vehicles shall not be subject to licensing requirements or certificate of title
8 requirements; to provide that such vehicles may be operated during daylight hours; to
9 provide that such vehicles may be operated on public streets as designated by the local
10 governing authority; to provide an effective date; to repeal conflicting laws; and for other
11 purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
15 amended by striking subsection (e) of Code Section 48-7-40.16, relating to income tax
16 credits for low and zero emission vehicles, and inserting in its place a new subsection (e) to
17 read as follows:

18 "(e) The credits granted under this Code section shall be subject to the following
19 conditions and limitations:

20 (1) All claims for any credit provided by subsection (b) of this Code section shall be:

21 (A) Accompanied by a certification approved by the Environmental Protection
22 Division of the Department of Natural Resources; and

23 (B) Made only by a taxpayer who is the owner of a new clean fueled vehicle, as
24 evidenced by the certificate of title issued for such vehicle; provided, however, that if
25 a new clean fueled vehicle is leased to a taxpayer at retail, the taxpayer who is the

1 lessee shall be entitled to claim the credit; provided, further, that only one taxpayer
2 shall be eligible to claim any credit provided by subsection (b) of this Code section;

3 (2) All claims for any credit provided by subsection (c) of this Code section must be
4 accompanied by a certification issued by the Environmental Protection Division of the
5 Department of Natural Resources;

6 (3) All claims for any credit provided by subsection (d) of this Code section shall be:

7 (A) Accompanied by a certification issued by the seller where the new electric vehicle
8 charger was purchased or leased; and

9 (B) Made only by a taxpayer who is the ultimate purchaser or lessee of a new electric
10 vehicle charger at retail;

11 (4) Any credit claimed under this Code section but not used in any taxable year may be
12 carried forward for five years from the close of the taxable year in which a new clean
13 fueled vehicle was purchased or leased or a conventionally fueled vehicle was changed
14 into a converted vehicle, provided that the applicable certification required in
15 paragraph (1) or ~~2~~(2) of this subsection accompanies any such claim; ~~and~~

16 (5) In no event shall the amount of any tax credit provided in this Code section exceed
17 the taxpayer's income tax liability; and

18 (6) Tax credits authorized in this Code section shall be granted to a taxpayer who
19 purchased or leased and placed in service in Georgia a new low-emission vehicle or zero
20 emission vehicle, which also is a low-speed vehicle, during the taxable year ending
21 December 31, 2001, notwithstanding that such vehicle is not eligible for registration as
22 a motor vehicle in Georgia. For purposes of this paragraph, the term 'low-speed vehicle'
23 means a low-speed vehicle as defined in paragraph (25.1) of Code Section 40-1-1. Any
24 claim for such credit must be accompanied by a manufacturer's statement of origin issued
25 to a dealer registered in Georgia which certifies that the low-speed vehicle was
26 manufactured in compliance with those federal motor vehicle safety standards set forth
27 in 49 C.F.R. Section 571.500 and in effect on January 1, 2001, as well as any other
28 documentation deemed necessary by the commissioner to establish the date that delivery
29 was made and such vehicle was placed in service. A taxpayer shall only be eligible to
30 claim such credit with respect to a single low-speed vehicle."

31 SECTION 2.

32 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
33 amended in Code Section 40-1-1, relating to definitions, by adding a new paragraph
34 immediately following paragraph (25), to be designated paragraph (25.1), to read as follows:

35 "(25.1) 'Low-speed vehicle' means any motor vehicle with four wheels whose top speed
36 is greater than 20 miles per hour, but not greater than 25 miles per hour, which has been

1 manufactured in compliance with those federal motor vehicle safety standards set forth
2 in 49 C.F.R. Section 571.500 and in effect on January 1, 2001."

3 **SECTION 3.**

4 Said title is further amended by striking subsection (b) of Code Section 40-2-20, relating to
5 registration and licensing of motor vehicle and exceptions, and inserting in its place a new
6 subsection (b) to read as follows:

7 "(b) Subsection (a) of this Code section shall not apply:

8 (1) To any motor vehicle or trailer owned by the state or any municipality or other
9 political subdivision of this state and used exclusively for governmental functions except
10 to the extent provided by Code Section 40-2-37;

11 (2) To any tractor or three-wheeled motorcycle used only for agricultural purposes;

12 (2.1) To any vehicle or equipment used for transporting cargo or containers between and
13 within wharves, storage areas, or terminals within the facilities of any port under the
14 jurisdiction of the Georgia Ports Authority when such vehicle or equipment is being
15 operated upon any public road not part of The Dwight D. Eisenhower System of
16 Interstate and Defense Highways by the owner thereof or his or her agent within a radius
17 of ten miles of the port facility of origin and accompanied by an escort vehicle equipped
18 with one or more operating amber flashing lights that are visible from a distance of 500
19 feet;

20 (3) To any trailer which has no springs and which is being employed in hauling
21 unprocessed farm products to their first market destination;

22 (4) To any trailer which has no springs, which is pulled from a tongue, and which is used
23 primarily to transport fertilizer to a farm;

24 (5) To any motorized cart; or

25 (6) To any low-speed vehicle; or

26 (7) To any moped."

27 **SECTION 4.**

28 Said title is further amended by striking Code Section 40-3-4, relating to exclusions, and
29 inserting in its place a new Code Section 40-3-4 to read as follows:

30 "40-3-4.

31 No certificate of title shall be obtained for:

32 (1) A vehicle owned by the United States unless it is registered in this state;

33 (2) A vehicle owned by a manufacturer of or dealer in vehicles and held for sale, even
34 though incidentally used on the highway or used for purpose of testing or demonstration;
35 a vehicle owned by a dealer in vehicles but used by any Georgia public or private school

1 for driver education purposes; or a vehicle used by a manufacturer solely for testing;
2 except that all dealers acquiring new vehicles after July 1, 1962, from a manufacturer for
3 resale shall obtain such evidence of origin of title from the manufacturer as the
4 commissioner shall by rule and regulation prescribe;

5 (3) A vehicle owned by a nonresident of this state and not required by law to be
6 registered in this state;

7 (4) A vehicle regularly engaged in the interstate transportation of persons or property for
8 which a currently effective certificate of title has been issued in another state;

9 (5) A vehicle moved solely by human or animal power;

10 (6) An implement of husbandry;

11 (7) Special mobile equipment;

12 (8) A self-propelled wheelchair or invalid tricycle;

13 (9) A pole trailer;

14 (10) Motor buses used for the transportation of persons by a street railroad or other
15 company engaged in the operation of an urban transit system over fixed routes;

16 (11) A boat trailer;

17 (12) A homemade trailer;

18 (13) A device used exclusively upon stationary rails or tracks or which obtains motive
19 power from fixed overhead electric wires;

20 (14)(A) A vehicle, other than a mobile home or crane, the model year of which is prior
21 to 1986.

22 (B) The owner of any vehicle which has a valid certificate of title and which becomes
23 subject to the exclusion provided in subparagraph (A) of this paragraph may retain the
24 certificate of title. Each subsequent transferee of any vehicle covered by subparagraph
25 (A) of this paragraph, for which the certificate of title has been retained, may obtain a
26 certificate of title by complying with Code Section 40-3-32. However, the failure of
27 any subsequent transferee to comply with Code Section 40-3-32 shall preclude
28 transferees subsequent to that transferee from obtaining a certificate of title. The
29 department shall maintain such records as may be necessary to allow owners to obtain
30 a certificate of title under this subparagraph. No certificate of title authorized to be
31 issued under this subparagraph shall be issued under Code Section 40-3-28.

32 (C)(i) A security interest in or lien against a vehicle which is subject to the exclusion
33 provided for in subparagraph (A) of this paragraph and which arises after such vehicle
34 becomes subject to the operation of subparagraph (A) of this paragraph may be
35 perfected in the same manner as such security interests and liens are perfected on
36 vehicles required by this chapter to have certificates of title.

1 (ii) The transferee of any vehicle which is subject to the exclusion provided for in
 2 subparagraph (A) of this paragraph, regardless of whether that vehicle has a certificate
 3 of title issued pursuant to subparagraph (B) of this paragraph, shall take such vehicle
 4 subject to any security interest or lien perfected under this paragraph;

5 (15)(A) Except as provided in subparagraph (B) of this paragraph, a trailer with an
 6 unladen gross weight of 2,000 pounds or less.

7 (B) The exclusion provided in subparagraph (A) of this paragraph shall not apply to
 8 a travel trailer or camper, regardless of its unladen gross weight;

9 (16) A vehicle which is not sold for the purpose of lawful highway use;

10 (17) A vehicle with a model year prior to 1963; ~~or~~

11 (18) A moped; or

12 (19) A low-speed vehicle."

13 SECTION 5.

14 Said title is further amended by striking Code Section 40-6-330, relating to daylight
 15 operations, and inserting in its place a new Code Section 40-6-330 to read as follows:

16 "40-6-330.

17 Motorized carts and low-speed vehicles may be operated on streets only during daylight
 18 hours unless they comply with the equipment regulations promulgated by the commissioner
 19 of motor vehicle safety."

20 SECTION 6.

21 Said title is further amended by striking Code Section 40-6-331, relating to authority to
 22 operate on streets granted by ordinance, and inserting in its place a new Code Section
 23 40-6-331 to read as follows:

24 "40-6-331.

25 (a) A local governing authority may, by ordinance, designate certain public streets or
 26 portions thereof for the combined use of motorized carts, low-speed vehicles, and regular
 27 vehicular traffic and establish the conditions under which motorized carts or low-speed
 28 vehicles may be operated upon such streets or portions thereof.

29 (b) Such ordinances may establish operating standards but shall not require motorized carts
 30 and low-speed vehicles to meet any requirements of general law as to registration,
 31 inspection, or licensing; provided, however, that a local governing authority may, by
 32 ordinance, require the registration and licensing of such carts and vehicles operated within
 33 its boundaries for a fee not to exceed \$15.00, the license to remain permanently with such
 34 cart or vehicle unless such cart or vehicle is sold or the license is destroyed. The provisions
 35 of this subsection and the authority granted by this subsection shall not apply to motorized

1 carts or low-speed vehicles owned by golf courses, country clubs, or other such organized
2 entities which own such carts or vehicles and make them available to members or the
3 public on a rental basis.

4 (c) Ordinances establishing operating standards shall not be effective unless appropriate
5 signs giving notice are posted along the public streets affected.

6 (d) Motorized carts and low-speed vehicles may cross streets and highways under the
7 jurisdiction of the Department of Transportation only at crossings or intersections
8 designated for that purpose by the department."

9 **SECTION 7.**

10 This Act shall become effective upon its approval by the Governor or upon its becoming law
11 without such approval.

12 **SECTION 8.**

13 All laws and parts of laws in conflict with this Act are repealed.