

Senate Bill 488

By: Senators Meyer von Bremen of the 12th, Lee of the 29th, Golden of the 8th and Butler of the 55th

**AS PASSED**

**A BILL TO BE ENTITLED  
AN ACT**

1 To regulate commercial motor vehicles and motor common carriers and motor contract  
2 carriers; to amend Title 40 of the Official Code of Georgia Annotated, relating to motor  
3 vehicles and traffic, so as to change certain provisions relating to definitions; to change  
4 certain provisions relating to registration of motor vehicles not manufactured to comply with  
5 federal emission and safety standards applicable to new motor vehicles; to change certain  
6 provisions relating to requirement of compliance with federal safety standards; to change  
7 certain provisions relating to definitions relative to commercial drivers' licenses; to change  
8 certain provisions relating to disqualification from driving and action required after  
9 suspending, revoking, or canceling license or nonresident privileges; to change certain  
10 provisions relating to display of owner's name on certain trucks; to change certain provisions  
11 relating to authority of the commissioner of motor vehicle safety; to amend Title 46 of the  
12 Official Code of Georgia Annotated, relating to public utilities and public transportation, so  
13 as to change certain provisions relating to definitions; to change certain provisions relating  
14 to requirement as to obtaining of security bond, indemnity insurance, or self-insurance before  
15 issuance of certificate or permit; to change certain provisions relating to chauffeur's permit  
16 and requirements; to repeal conflicting laws; and for other purposes.

17 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

18 **SECTION 1.**

19 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is  
20 amended by striking paragraph (17) of Code Section 40-1-1, relating to definitions, and  
21 inserting in lieu thereof the following:

22 "(17) 'Flammable liquid' means any liquid which has a flash point of ~~80~~ 141 degrees  
23 Fahrenheit; or less, ~~as determined by a Tagliabue or equivalent closed-cup device.~~"

**SECTION 2.**

Said title is further amended by striking subsection (a) of Code Section 40-2-27, relating to registration of motor vehicles not manufactured to comply with federal emission and safety standards applicable to new motor vehicles, and inserting in lieu thereof the following:

"(a) No application shall be accepted and no certificate of registration shall be issued to any motor vehicle which was not manufactured to comply with applicable federal emission ~~and safety standards applicable to new motor vehicles as required by~~ issued pursuant to 42 U.S.C.A. Section 7401 through Section 7642, known as the Clean Air Act, as amended, ~~and as required by 15 U.S.C.A. Section 1381 through Section 1431, known as the National Traffic and Motor Vehicle Safety Act of 1966, as amended~~ applicable federal motor vehicle safety standards issued pursuant to 49 U.S.C.A. Section 30101, et seq., unless and until the United States Customs Service or the United States Department of Transportation has certified that the motor vehicle complies with such applicable federal standards and unless all documents required by the commissioner for processing an application for a certificate of registration or title are printed and filled out in the English language or are accompanied by an English translation."

**SECTION 3.**

Said title is further amended by striking subsection (a) of Code Section 40-3-30, relating to requirement of compliance with federal safety standards, and inserting in lieu thereof the following:

"(a) In addition to the reasons set forth in Code Section 40-3-29, no application shall be accepted and no certificate of title shall be issued to any motor vehicle which was not manufactured to comply with applicable federal motor vehicle safety standards ~~applicable to new motor vehicles as required by 15 U.S.C.A. Section 1381 through Section 1431, known as the National Traffic and Motor Vehicle Safety Act of 1966, as amended~~ issued pursuant to 49 U.S.C.A. Section 30101, et seq., unless and until the United States Customs Service or the United States Department of Transportation has certified that the motor vehicle complies with such applicable federal standards and unless all documents required by the commissioner for processing an application for a certificate of registration or title are printed and filled out in the English language or are accompanied by an English translation."

**SECTION 4.**

Said title is further amended by striking paragraphs (18) and (22) of Code Section 40-5-142, relating to definitions relative to commercial drivers' licenses, and inserting in lieu thereof the following:

1 "(18) 'Hazardous materials' has the meaning the term has under ~~Section 103 of the~~  
2 ~~Hazardous Materials Transportation Act, Title I, Public Law 93-633, 49 U.S.C.A. App.~~  
3 ~~Section 1801~~ 5101, et seq."

4 "(22) 'Serious traffic violation' means:

5 (A) Speeding 15 or more miles per hour above the posted speed limit;

6 (B) Reckless driving, as defined under state or local law;

7 (C) Following another vehicle too closely, as defined under state or local law;

8 (D) Improper or erratic lane change which presents a risk to any other vehicle, but not  
9 including failure to signal a lane change; ~~or~~

10 (E) A violation, arising in connection with a fatal accident, of state law or a local  
11 ordinance, relating to motor vehicle traffic control, excluding parking, weight, length,  
12 height, and vehicle defect violations; or

13 (F) A railroad grade crossing violation as defined under state law or local ordinance."

## 14 SECTION 5.

15 Said title is further amended by striking subsection (f) of Code Section 40-5-151, relating to  
16 disqualification from driving and action required after suspending, revoking, or canceling  
17 license or nonresident privileges, and inserting in lieu thereof the following:

18 "(f)(1) Except as otherwise provided by paragraph (2) of this subsection, any Any person  
19 is disqualified from driving a commercial motor vehicle for a period of not less than 60  
20 days if convicted of two serious traffic violations or 120 days if convicted of three serious  
21 traffic violations committed in a commercial motor vehicle arising from separate  
22 incidents occurring within a three-year period as measured from the dates of arrests for  
23 which convictions were obtained.

24 (2) If the serious traffic violation committed in a commercial motor vehicle is a railroad  
25 grade crossing violation, the person shall be disqualified from driving a commercial  
26 motor vehicle for a period of not less than 60 days upon the first conviction within a  
27 three-year period as measured from the dates of arrests for which convictions were  
28 obtained, for not less than 120 days if convicted of two railroad grade crossing violations  
29 arising from separate incidents within a three-year period as measured from the dates of  
30 arrests for which convictions were obtained, or for not less than one year if convicted of  
31 three railroad grade crossing violations arising from separate incidents within a three-year  
32 period as measured from the dates of arrests for which convictions were obtained."

**SECTION 6.**

Said title is further amended by striking Code Section 40-8-9, relating to display of owner's name on certain trucks, and inserting in lieu thereof the following:

"40-8-9.

It shall be unlawful to operate in this state any truck or truck tractor having ~~an owner declared~~ a gross weight of 43,000 or more pounds which does not comply with ~~the name display requirements of this Code section. Each such truck or truck tractor shall have displayed on each side thereof the name and principal place of domicile of the registered owner or, if the truck or truck tractor is operating under a lease arrangement, the name and principal place of domicile of the lessee, except that trucks and truck tractors operating pursuant to authority granted by the commissioner of motor vehicle safety under Chapter 7 of Title 46 or the federal Interstate Commerce Commission shall display the name of the holder of such authority and such other information as may be required by those authorities. The display shall be in sharp color contrast to the background and shall be of such size, color, and shape as to be readily legible during daylight hours from a distance of 50 feet while the vehicle is not in motion; and such display shall be maintained in a manner so as to remain so legible. This Code section shall not prohibit the display of additional information which does not interfere with the legibility of the display required by this Code section~~ United States Department of Transportation."

**SECTION 7.**

Said title is further amended by striking subsection (c) of Code Section 40-16-5, relating to authority of the commissioner of motor vehicle safety, and inserting in lieu thereof the following:

"(c) The authority granted to the commissioner pursuant to this Code section shall be exercised at all times in conformity with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Act'; provided, however, that regulations governing motor common carrier and motor contract carrier safety, commercial driver licensing, and hazardous materials may be adopted by administrative order referencing compatible federal regulations or standards without compliance with the procedural requirements of Chapter 13 of Title 50; provided, further, that such compatible federal regulations or standards shall be maintained on file by the department and made available for inspection and copying by the public, by means including but limited to posting on the department's computer Internet site."

**SECTION 8.**

Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public transportation, is amended in Code Section 46-1-1, relating to definitions, by striking paragraph (7), subparagraph (C) of paragraph (9), and paragraph (11), and inserting in lieu thereof the following:

"(7) 'Household goods' means any personal effects and property used or to be used in a dwelling when a part of the equipment or supplies of such dwelling and such other similar property as the commissioner of motor vehicle safety may provide for by regulation; ~~furniture, fixtures, equipment, and property of offices, stores, museums, institutions, hospitals, or other establishments when a part of the stock, equipment, or supplies of such stores, museums, institutions, hospitals, or other establishments; articles including objects of art, displays, exhibits, which, because of their unusual nature or value, require specialized handling and equipment usually employed in moving household goods~~ provided, however, that such term shall not include property being moved from a factory or store except when such property has been purchased by a householder with the intent to use such property in a dwelling and such property is transported at the request of, and with transportation charges paid by, the householder."

"(C) Except as otherwise provided in this subparagraph, the terms 'motor common carrier' and 'motor contract carrier' shall not include:

- (i) Motor vehicles engaged solely in transporting school children and teachers to and from public schools and private schools;
- (ii) Taxicabs, drays, trucks, buses, and other motor vehicles which operate within the corporate limits of municipalities and are subject to regulation by the governing authorities of such municipalities. This exception shall apply to taxicabs and buses even though such vehicles may, in the prosecution of their regular business, occasionally go beyond the corporate limits of such municipalities, provided that they do not operate to or from fixed termini outside of such limits and to any dray or truck which operates within the corporate limits of a city and is subject to regulation by the governing authority of such city or by the commissioner of motor vehicle safety and which goes beyond the corporate limits only for the purpose of hauling chattels which have been seized under any court process;
- (iii) Hotel passenger or baggage motor vehicles when used exclusively for patrons and employees of such hotel;
- (iv) Motor vehicles operated not for profit with a capacity of 15 persons or less when they are used exclusively to transport elderly and disabled passengers or employees under a corporate sponsored van pool program, except that a vehicle owned by the driver may be operated for profit when such driver is traveling to and from his or her

place of work provided each such vehicle carrying more than nine passengers maintains liability insurance in an amount of not less than \$100,000.00 per person and \$300,000.00 per accident and \$50,000.00 property damage. For the purposes of this division, elderly and disabled passengers are defined as individuals over the age of 60 years or who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, are unable to utilize mass transportation facilities as effectively as persons who are not so affected;

(v) Granite trucks, where transportation from quarry to finishing plant involves not crossing more than two counties;

(vi) RFD carriers and star-route carriers which carry no more than nine passengers along with carriage of the United States mail, provided that such carriers shall not carry passengers on a route along which another motor common carrier or motor contract carrier of passengers has a permit or a certificate to operate;

(vii) Motor trucks of railway companies which perform a pick-up and delivery service in connection with their freight train service, between their freight terminals and points not more than ten miles distant, when either the freight terminal or such points, or both, are outside the limits of an incorporated city;

(viii) Motor vehicles owned and operated exclusively by the United States government or by this state or any subdivision thereof;

(ix) Single source leasing whereby a leasing company whose primary business is leasing vehicles and who operates a fleet of ten or more vehicles provides vehicle equipment and drivers in a single transaction to a private carrier. Such arrangement is presumed to result in private carriage by the shipper if the requirements enumerated below are met and subject only to the commission's transportation safety rules:

(I) The lease must be reduced to writing and a copy maintained on the leased vehicle at all times during the term of the lease;

(II) The period for which the lease applies must be no less than 30 days;

(III) The lease agreement must provide, and the surrounding facts must reflect, that the leased equipment is exclusively committed to the lessee's use for the term of the lease;

(IV) The lease agreement must provide, and the surrounding facts must reflect, that during the term of the lease the lessee accepts, possesses, and exercises exclusive dominion and control over the leased equipment and assumes complete responsibility for the operation of the equipment;

(V) The lessee must maintain public liability insurance and accept responsibility to the public for any injury caused in the course of performing the transportation service conducted by the lessee with the equipment during the term of the lease;

(VI) The lessee shall display appropriate identification on all equipment leased by it showing operation by the lessee during the performance of the transportation;

(VII) The lessee must accept responsibility for, and bear the cost of, compliance with safety regulations during performance by the lessee of any such transportation services; and

(VIII) The lessee must bear the risk of damage to the cargo, subject to any right of action the lessee may have against the lessor for the latter's negligence;

(x) Motor vehicles engaged exclusively in the transportation of agricultural or dairy products, or both, between farm, market, gin, warehouse, or mill, whether such motor vehicle is owned by the owner or producer of such agricultural or dairy products or not, so long as the title remains in the producer. For the purposes of this division, the term 'producer' includes a landlord where the relations of landlord and tenant or landlord and cropper are involved. As used in this division, the term 'agricultural products' includes fruit, livestock, meats, fertilizer, wood, lumber, cotton, and naval stores; household goods and supplies transported to farms for farm purposes; or other usual farm and dairy supplies, including products of grove or orchard; poultry and eggs; fish and oysters; and timber or logs being hauled by the owner thereof or the owner's agents or employees between forest and mill or primary place of manufacture; provided, however, motor vehicles with a manufacturer's gross weight rated capacity of 44,000 pounds or more engaged solely in the transportation of unmanufactured forest products shall be subject to the Georgia Forest Products Trucking Rules which shall be adopted and promulgated by the commissioner of motor vehicle safety only for application to such vehicles and vehicles defined in subparagraph (A) of paragraph (13) of this Code section; provided, further, that pulpwood trailers and pole trailers with a manufacturer's gross weight rated capacity of 10,001 pounds or more engaged solely in the transportation of unmanufactured forest products shall have two amber side marker reflectors on each side of the trailer chassis between the rear of the tractor cab and the rearmost support for the load. All such reflectors shall be not less than four inches in diameter. Such rules and any amendments thereto adopted by the commissioner of motor vehicle safety shall be subject to legislative review in accordance with the provisions of Code Section 46-2-30, and, for the purposes of such rules and any amendments thereto, the Senate Natural Resources Committee and the House Committee on Natural Resources and Environment shall be the appropriate committees within the meaning of said Code Section 46-2-30. The first such rules adopted by the commissioner of motor vehicle safety shall be effective July 1, 1991;

1 ~~(xi) Motor vehicles engaged in the transportation of unmanufactured agricultural~~  
2 ~~products, dairy products, poultry and processed poultry, nursery stock, sod grass,~~  
3 ~~potting soil, pine bark nuggets, dry fertilizer, flue-cured tobacco, soybean meal, pine~~  
4 ~~bark, wood chips, shavings, sawdust, or feedstuff for livestock and poultry, including~~  
5 ~~feedstuff ingredients, provided that such vehicles do not haul or transport other~~  
6 ~~commodities on the same vehicle at the same time not exempt by law from the~~  
7 ~~regulations of the commissioner of motor vehicle safety; motor vehicles commonly~~  
8 ~~known as tow trucks or wreckers, designed and exclusively used in the business of~~  
9 ~~towing abandoned, disabled, and wrecked vehicles and replacement vehicles therefor~~  
10 ~~or otherwise rendering assistance to abandoned, disabled, and wrecked vehicles;~~  
11 ~~except that any operator of such a vehicle is required to register the exempt operation~~  
12 ~~with the commissioner of motor vehicle safety, register and identify any of its~~  
13 ~~vehicles, and become subject to the commissioner's liability insurance and vehicle~~  
14 ~~and hazardous materials safety rules~~ Reserved;

15 (xii) Motor vehicles engaged in compensated intercorporate hauling whereby  
16 transportation of property is provided by a person who is a member of a corporate  
17 family for other members of such corporate family, provided:

18 (I) The parent corporation notifies the commissioner of motor vehicle safety of its  
19 intent or the intent of one of the subsidiaries to provide the transportation;

20 (II) The notice contains a list of participating subsidiaries and an affidavit that the  
21 parent corporation owns directly or indirectly a 100 percent interest in each of the  
22 subsidiaries;

23 (III) A copy of the notice is carried in the cab of all vehicles conducting the  
24 transportation; and

25 (IV) The transportation entity of the corporate family registers the compensated  
26 intercorporate hauling operation with the commissioner of motor vehicle safety,  
27 registers and identifies any of its vehicles, and becomes subject to the  
28 commissioner's liability insurance and motor common carrier and motor contract  
29 carrier and hazardous materials transportation rules.

30 For the purpose of this division, the term 'corporate family' means a group of  
31 corporations consisting of a parent corporation and all subsidiaries in which the parent  
32 corporation owns directly or indirectly a 100 percent interest;

33 (xiii) Vehicles, except limousines, transporting not more than ten persons for hire,  
34 except that any operator of such a vehicle is required to register the exempt operation  
35 with the commissioner of motor vehicle safety, register and identify any of its  
36 vehicles, and become subject to the commissioner's liability insurance and vehicle  
37 safety rules;



(xiv) ~~Any dump truck or transit mixer vehicle used exclusively in the transportation of sand, gravel, crushed stone, fill dirt, borrow pit materials, plant mix road materials, plant mix concrete, or road base materials, except that any operator of such a vehicle is required to register the exempt operation with the commissioner of motor vehicle safety, register and identify any of its vehicles, and become subject to the commissioner's liability insurance and vehicle and hazardous materials safety rules~~  
Reserved; or

(xv) Ambulances."

"(11) 'Permit' means a registration permit issued by the commissioner of motor vehicle safety authorizing interstate transportation for hire exempt from the jurisdiction of the ~~Interstate Commerce Commission~~ United States Department of Transportation or intrastate passenger transportation for hire exempt from the jurisdiction of the commissioner of motor vehicle safety or intrastate transportation by a motor carrier of property."

## SECTION 9.

Said title is further amended by striking Code Section 46-7-12, relating to requirement as to obtaining of security bond, indemnity insurance, or self-insurance before issuance of certificate or permit, and inserting in lieu thereof the following:

"46-7-12.

(a) ~~No certificate or permit shall be issued or continued in operation unless the applicant or holder shall give and maintain bond, with adequate security, for the protection, in case of passenger vehicles, of the passengers and baggage carried and of the public against injury proximately caused by the negligence of such motor common or contract carrier, its servants, or its agents. In cases of vehicles transporting freight, the applicant or holder shall give bond, with adequate security, to secure the owner or person entitled to recover therefor against loss or damage to such freight for which the motor common or contract carrier may be legally liable and for the protection of the public against injuries proximately caused by the negligence of such motor carrier, its servants, or its agents.~~

(b) ~~The commissioner shall approve, determine, and fix the amount of such bonds and shall prescribe the provisions and limitations thereof; and such bonds shall be for the benefit of and subject to action thereon by any person who shall sustain actionable injury or loss protected thereby.~~

(c) ~~The commissioner may, in his or her discretion, allow the filing of~~ No certificate or permit shall be issued or continued in operation unless there is filed with the commissioner a certificate of insurance for such applicant or holder on forms prescribed by the commissioner, ~~in lieu of such bond~~, evidencing a policy of indemnity insurance in some

indemnity insurance company authorized to do business in this state, which policy must substantially conform to all of the provisions of this article relating to bonds provide for the protection, in case of passenger vehicles, of passengers and baggage carried and of the public against injury proximately caused by the negligence of such motor common carrier or motor contract carrier, its servants, or its agents; and, in the case of vehicles transporting freight, to secure the owner or person entitled to recover therefor against loss or damage to such freight for which the motor common carrier or motor contract carrier may be legally liable and for the protection of the public against injuries proximately caused by the negligence of such motor common carrier or motor contract carrier, its servants, or its agents. The commissioner shall determine and fix the amounts of such indemnity insurance and shall prescribe the provisions and limitations thereof; and such insurance shall be for the benefit of and subject to action by any person who shall sustain injury or loss protected thereby. Such certificate shall be filed by the insurer. The failure to file any form required by the commissioner shall not diminish the rights of any person to pursue an action directly against a motor common carrier's or motor contract carrier's insurer.

~~(d)~~(b) The commissioner shall have power to permit self-insurance, in lieu of a ~~bond or~~ policy of indemnity insurance, whenever in his or her opinion the financial ability of the motor common carrier or motor contract carrier so warrants.

~~(e)~~(c) It shall be permissible under this article for any person having a cause of action arising under this article ~~in tort or contract~~ to join in the same action the motor common carrier or motor contract carrier and its surety, ~~in the event a bond is given. If a policy of indemnity insurance is given in lieu of bond, it shall be permissible to join the motor carrier and the insurance carrier in the same action, whether arising in tort or contract."~~

## SECTION 10.

Said title is further amended by striking Code Section 46-7-85.10, relating to chauffeur's permit and requirements, and inserting in lieu thereof the following.

"46-7-85.10.

In order to secure a chauffeur's permit, an applicant must provide the following information on a form provided by the commissioner. The applicant must:

- (1) Be at least 18 years of age;
- (2) Possess a valid Georgia driver's license which ~~must have been held for a minimum period of one year prior to application, and said license must~~ is not be limited as defined in Code Section 40-5-64; and
- (3)(A) Not have been convicted, been on probation or parole, or served time on a sentence for a period of five years previous to the date of application for the violation of any of the following criminal offenses of this state or any other state or of the United

1 States: criminal homicide, rape, aggravated battery, mayhem, burglary, aggravated  
2 assault, kidnapping, robbery, driving a motor vehicle while under the influence of  
3 intoxicating beverages or drugs, child molestation, any sex related offense, leaving the  
4 scene of an accident, criminal solicitation to commit any of the above, any felony in the  
5 commission of which a motor vehicle was used, perjury or false swearing in making  
6 any statement under oath in connection with the application for a chauffeur's permit,  
7 any law involving violence or theft, or possession, sale, or distribution of narcotic  
8 drugs, barbituric acid derivatives, or central nervous system stimulants; provided,  
9 however, that all applicants shall be entitled to the full benefits of Article 3 of Chapter  
10 8 of Title 42, relating to first offender probation.

11 (B) If at the time of application the applicant is charged with any of the offenses  
12 prescribed in subparagraph (A) of this paragraph, consideration of the application shall  
13 be suspended until entry of a plea or verdict or dismissal.

14 (C) If after the issuance of a permit a person is charged with any of the offenses  
15 prescribed in subparagraph (A) of this paragraph, the permit shall be suspended pending  
16 disposition of such charge. If the person is convicted of such charge, the permit shall  
17 be revoked.

18 (D) For purposes of this paragraph, a plea of nolo contendere to any of the offenses set  
19 out in this paragraph shall constitute a conviction."

## 20 SECTION 11.

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