

House Bill 1389 (AS PASSED HOUSE AND SENATE)

By: Representatives Powell of the 23<sup>rd</sup>, Parham of the 122<sup>nd</sup>, Hanner of the 159<sup>th</sup>, Twiggs of the 8<sup>th</sup> and Greene of the 158<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To provide for certain special motor vehicles and the operation, regulation, and taxation  
2 thereof; to amend Code Section 33-34-2 of the Official Code of Georgia Annotated, relating  
3 to definitions relative to motor vehicle accident reparations, so as to define a term; to amend  
4 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, so  
5 as to regulate low-speed vehicles; to change certain provisions relating to definitions; to  
6 provide for exceptions to motor vehicle licensing and registration requirements; to change  
7 certain provisions relating to registration of motor vehicles not manufactured to comply with  
8 federal emission and safety standards applicable to new motor vehicles; to change certain  
9 provisions relating to five-year and annual license plates, license plate design, revalidation,  
10 and county decals; to change certain provisions relating to issuance of license plates,  
11 payment and disposition of fees, and compensation of tag agents; to provide for exclusions  
12 from titling; to change certain provisions relating to requirement of compliance with federal  
13 safety standards; to provide for daylight operation of certain motor vehicles; to provide for  
14 authority for certain motor vehicles to operate on streets pursuant to ordinance; to provide  
15 special uniform rules of the road for low-speed vehicles; to provide certain equipment  
16 requirements for low-speed vehicles; to amend Title 48 of the Official Code of Georgia  
17 Annotated, relating to revenue and taxation, so as to change certain provisions regarding  
18 income tax credits for low and zero emission vehicles; to provide for additional procedures,  
19 conditions, and limitations with respect to such credit; to provide an effective date; to repeal  
20 conflicting laws; and for other purposes.

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

22 **SECTION 1.**

23 Code Section 33-34-2 of the Official Code of Georgia Annotated, relating to definitions  
24 relative to motor vehicle accident reparations, is amended by striking paragraph (2) and  
25 inserting in lieu thereof the following:

26 "(2) 'Motor vehicle' means a vehicle having more than three load-bearing wheels of a kind  
27 required to be registered under the laws of this state relating to motor vehicles designed

1 primarily for operation upon the public streets, roads, and highways and driven by power  
 2 other than muscular power. The term includes a trailer drawn by or attached to such a  
 3 vehicle and also includes without limitation a low-speed vehicle."

#### 4 SECTION 2.

5 Said title is further amended in said Code Section 40-1-1 by inserting a new paragraph to  
 6 read as follows:

7 "(25.1) 'Low-speed vehicle' means any four-wheeled electric vehicle whose top speed  
 8 attainable in one mile is greater than 20 miles per hour but not greater than 25 miles per  
 9 hour on a paved level surface and which is manufactured in compliance with those  
 10 federal motor vehicle safety standards for low-speed vehicles set forth in 49 C.F.R.  
 11 Section 571.500 and in effect on January 1, 2001."

#### 12 SECTION 3.

13 Said title is further amended in said Code Section 40-1-1 by striking paragraph (41) and  
 14 inserting in lieu thereof the following:

15 "(41) 'Passenger car' means every motor vehicle, except motorcycles ~~and~~ motor driven  
 16 cycles, and low-speed vehicles, designed for carrying ten passengers or less and used for  
 17 the transportation of persons."

#### 18 SECTION 4.

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

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

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

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

27 (2.1) To any vehicle or equipment used for transporting cargo or containers between and  
 28 within wharves, storage areas, or terminals within the facilities of any port under the  
 29 jurisdiction of the Georgia Ports Authority when such vehicle or equipment is being  
 30 operated upon any public road not part of The Dwight D. Eisenhower System of  
 31 Interstate and Defense Highways by the owner thereof or his or her agent within a radius  
 32 of ten miles of the port facility of origin and accompanied by an escort vehicle equipped  
 33 with one or more operating amber flashing lights that are visible from a distance of 500  
 34 feet;

- 1 (3) To any trailer which has no springs and which is being employed in hauling  
 2 unprocessed farm products to their first market destination;
- 3 (4) To any trailer which has no springs, which is pulled from a tongue, and which is used  
 4 primarily to transport fertilizer to a farm;
- 5 (5) To any motorized cart; or
- 6 (6) To any moped."

7 **SECTION 5.**

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

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

23 **SECTION 6.**

24 Said title is further amended in Code Section 40-2-31, relating to five-year and annual license  
 25 plates, license plate design, revalidation, and county decals, by striking subsection (b) and  
 26 inserting in lieu thereof the following:

27 "(b) Such license plates shall be of metal at least six inches wide and not less than 12  
 28 inches in length and shall show in bold characters the year of registration, the serial  
 29 number, and either the full name or the abbreviation of the name of the state, shall  
 30 designate the county from which the license plate was issued, and shall show such other  
 31 distinctive markings as in the judgment of the commissioner may be deemed advisable, so  
 32 as to indicate the class of weight of the vehicle for which the license plate was issued; and  
 33 any license plate for a low-speed vehicle shall designate the vehicle as such. Such plates  
 34 may also bear such figures, characters, letters, or combinations thereof as in the judgment  
 35 of the commissioner will to the best advantage advertise, popularize, and otherwise

1 promote Georgia as the 'Peach State.' The metal shall be of such strength and quality that  
 2 the plate shall provide a minimum service period of five years. Every five years a new  
 3 metal license plate shall be provided by the commissioner for issuance. Metal license plates  
 4 issued on or after January 1, 1997, shall be used for a period of five years."

#### 5 SECTION 7.

6 Said title is further amended by striking paragraph (2) of subsection (a) of Code Section  
 7 40-2-33, relating to issuance of license plates, payment and disposition of fees, and  
 8 compensation of tag agents, and inserting in lieu thereof the following:

9 "(2) ~~Reserved~~ The commissioner may provide for the issuance of a temporary license  
 10 plate for any low-speed vehicle, to be displayed until such time as a license plate of the  
 11 design required by Code Section 40-2-31 has been issued to the registrant as a  
 12 replacement for such temporary license plate; provided, however, that any such  
 13 temporary license plate shall designate the low-speed vehicle as such; and provided,  
 14 further, that the commissioner shall make available for issuance low-speed vehicle license  
 15 plates of the design required by Code Section 40-2-31 not later than September 1, 2002."

#### 16 SECTION 8.

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

19 "40-3-4.

20 No certificate of title shall be obtained for:

- 21 (1) A vehicle owned by the United States unless it is registered in this state;
- 22 (2) A vehicle owned by a manufacturer of or dealer in vehicles and held for sale, even  
 23 though incidentally used on the highway or used for purpose of testing or demonstration;  
 24 a vehicle owned by a dealer in vehicles but used by any Georgia public or private school  
 25 for driver education purposes; or a vehicle used by a manufacturer solely for testing;  
 26 except that all dealers acquiring new vehicles after July 1, 1962, from a manufacturer for  
 27 resale shall obtain such evidence of origin of title from the manufacturer as the  
 28 commissioner shall by rule and regulation prescribe;
- 29 (3) A vehicle owned by a nonresident of this state and not required by law to be  
 30 registered in this state;
- 31 (4) A vehicle regularly engaged in the interstate transportation of persons or property for  
 32 which a currently effective certificate of title has been issued in another state;
- 33 (5) A vehicle moved solely by human or animal power;
- 34 (6) An implement of husbandry;
- 35 (7) Special mobile equipment;

- 1 (8) A self-propelled wheelchair or invalid tricycle;
- 2 (9) A pole trailer;
- 3 (10) Motor buses used for the transportation of persons by a street railroad or other  
4 company engaged in the operation of an urban transit system over fixed routes;
- 5 (11) A boat trailer;
- 6 (12) A homemade trailer;
- 7 (13) A device used exclusively upon stationary rails or tracks or which obtains motive  
8 power from fixed overhead electric wires;
- 9 (14)(A) A vehicle, other than a mobile home or crane, the model year of which is prior  
10 to 1986.
- 11 (B) The owner of any vehicle which has a valid certificate of title and which becomes  
12 subject to the exclusion provided in subparagraph (A) of this paragraph may retain the  
13 certificate of title. Each subsequent transferee of any vehicle covered by subparagraph  
14 (A) of this paragraph, for which the certificate of title has been retained, may obtain a  
15 certificate of title by complying with Code Section 40-3-32. However, the failure of  
16 any subsequent transferee to comply with Code Section 40-3-32 shall preclude  
17 transferees subsequent to that transferee from obtaining a certificate of title. The  
18 department shall maintain such records as may be necessary to allow owners to obtain  
19 a certificate of title under this subparagraph. No certificate of title authorized to be  
20 issued under this subparagraph shall be issued under Code Section 40-3-28.
- 21 (C)(i) A security interest in or lien against a vehicle which is subject to the exclusion  
22 provided for in subparagraph (A) of this paragraph and which arises after such vehicle  
23 becomes subject to the operation of subparagraph (A) of this paragraph may be  
24 perfected in the same manner as such security interests and liens are perfected on  
25 vehicles required by this chapter to have certificates of title.
- 26 (ii) The transferee of any vehicle which is subject to the exclusion provided for in  
27 subparagraph (A) of this paragraph, regardless of whether that vehicle has a certificate  
28 of title issued pursuant to subparagraph (B) of this paragraph, shall take such vehicle  
29 subject to any security interest or lien perfected under this paragraph;
- 30 (15)(A) Except as provided in subparagraph (B) of this paragraph, a trailer with an  
31 unladen gross weight of 2,000 pounds or less.
- 32 (B) The exclusion provided in subparagraph (A) of this paragraph shall not apply to  
33 a travel trailer or camper, regardless of its unladen gross weight;
- 34 (16) A vehicle which is not sold for the purpose of lawful highway use;
- 35 (17) A vehicle with a model year prior to 1963; or
- 36 (18) A moped."

**SECTION 9.**

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 10.**

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

"40-6-330.

Motorized carts may be operated on streets only during daylight hours unless they comply with the equipment regulations promulgated by the commissioner of motor vehicle safety."

**SECTION 11.**

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

"40-6-331.

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

(b) Such ordinances may establish operating standards but shall not require motorized carts to meet any requirements of general law as to registration, inspection, or licensing; provided, however, that a local governing authority may, by ordinance, require the registration and licensing of such carts operated within its boundaries for a fee not to exceed \$15.00, the license to remain permanently with such cart unless such cart is sold or

1 the license is destroyed. The provisions of this subsection and the authority granted by this  
 2 subsection shall not apply to motorized carts owned by golf courses, country clubs, or other  
 3 such organized entities which own such carts and make them available to members or the  
 4 public on a rental basis.

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

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

## 10 SECTION 12.

11 Said title is further amended in Article 13 of Chapter 6, relating to special provisions of  
 12 uniform rules of the road for certain vehicles, by adding a new Part 5 to read as follows:

### 13 "Part 5

14 40-6-360.

15 Every person operating a low-speed vehicle shall be granted all the rights and shall be  
 16 subject to all the duties applicable to the driver of any other vehicle under this chapter  
 17 except as to special regulations in this part and except as to those provisions of this chapter  
 18 which by their nature can have no application.

19 40-6-361.

20 (a) All low-speed vehicles are entitled to full use of a lane, and no motor vehicle shall be  
 21 driven in such a manner as to deprive any low-speed vehicle of the full use of a lane.

22 (b) The operator of a low-speed vehicle shall not overtake and pass in the same lane  
 23 occupied by the vehicle being overtaken.

24 (c) No person shall operate a low-speed vehicle between lanes of traffic or between  
 25 adjacent lines or rows of vehicles.

26 (d) Low-speed vehicles shall not be operated two or more abreast in a single lane.

27 40-6-362.

28 Low-speed vehicles shall be operated only on any highway where the posted speed limit  
 29 does not exceed 35 miles per hour. The operator of a low-speed vehicle shall not operate  
 30 such vehicle on any highway where the posted speed limit exceeds 35 miles per hour."



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

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

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

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

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

13 (6) Tax credits authorized in this Code section shall be granted to a taxpayer who  
14 purchased or leased and placed in service in Georgia a new low-emission vehicle or zero  
15 emission vehicle, which also is a low-speed vehicle, but only if such low-speed vehicle  
16 was placed in service during the taxable year ending December 31, 2001. For purposes  
17 of this paragraph, the term 'low-speed vehicle' means a low-speed vehicle as defined in  
18 paragraph (25.1) of Code Section 40-1-1. Any claim for such credit must be accompanied  
19 by a manufacturer's statement of origin issued to a dealer registered in Georgia which  
20 certifies that the low-speed vehicle was manufactured in compliance with those federal  
21 motor vehicle safety standards set forth in 49 C.F.R. Section 571.500 and in effect on  
22 January 1, 2001, as well as any other documentation deemed necessary by the  
23 commissioner to establish the date that delivery was made and such vehicle was placed  
24 in service. A taxpayer shall only be eligible to claim such credit with respect to a single  
25 low-speed vehicle."

26 **SECTION 16.**

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

29 **SECTION 17.**

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