

House Bill 221

By: Representatives Smith of the 13th, Post 2, Parham of the 94th, Teper of the 42nd, Post 1, Coleman of the 118th, Porter of the 119th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 11 of the Official Code of Georgia Annotated, relating to the commercial
2 code, so as to exclude a transaction between an owner and a dealer involving a single motor
3 vehicle from the definition of "consignments" for purposes of Article 9 of said title; to amend
4 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, so
5 as to provide that Chapter 3 of said title is applicable to transactions between an owner and
6 dealer involving a single motor vehicle; to provide an effective date; to repeal conflicting
7 laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 11 of the Official Code of Georgia Annotated, relating to the commercial code, is
11 amended by striking paragraph (21) of subsection (a) of Code Section 11-9-102, relating to
12 Article 9 definitions, in its entirety and inserting in lieu thereof the following:

13 "(21) 'Consignment' means a transaction, regardless of its form, in which a person
14 delivers goods to a merchant for the purpose of sale and:

15 (A) The merchant:

16 (i) Deals in goods of that kind under a name other than the name of the person
17 making delivery;

18 (ii) Is not an auctioneer; and

19 (iii) Is not generally known by its creditors to be substantially engaged in selling the
20 goods of others;

21 (B) With respect to each delivery, the aggregate value of the goods is \$1,000.00 or
22 more at the time of delivery;

23 (C) The goods are not consumer goods immediately before delivery; ~~and~~

24 (D) The transaction does not create a security interest that secures an obligation; ~~and~~

25 (E) The transaction is not an isolated event involving a single motor vehicle delivered
26 to a dealer for the purpose of sale in which the owner of the motor vehicle retains the

1 certificate of title, as provided by Code Section 40-3-59. This subparagraph shall not
 2 apply where multiple transactions involving single motor vehicles are made between
 3 an owner of motor vehicles and a dealer. The terms 'dealer,' 'motor vehicle,' and 'owner'
 4 shall have those meanings as contained in Code Section 40-1-1 for purposes of this
 5 subparagraph."

6 SECTION 2.

7 Title 40 of the Official Code of Georgia Annotated, related to motor vehicles and traffic, is
 8 amended by striking Code Section 40-3-59, relating to certain security interests not affected,
 9 in its entirety and inserting in its place the following:

10 "40-3-59.

11 (a) Except as otherwise provided for in subsection (b) of this Code section, this This
 12 chapter does not apply to or affect a security interest in a vehicle created by a manufacturer
 13 or dealer who holds the vehicle for sale. A buyer in the ordinary course of trade from the
 14 manufacturer or dealer takes free of such security interest.

15 (b) This chapter does apply in the event that an owner delivers a single motor vehicle to
 16 a dealer for the purpose of sale and the owner of the motor vehicle retains the certificate
 17 of title. This subsection shall not apply where multiple transactions involving single motor
 18 vehicles are made between an owner of motor vehicles and a dealer."

19 SECTION 3.

20 This Act shall become effective on July 1, 2003.

21 SECTION 4.

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