

Senate Bill 173

By: Senator Williams of the 19th

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and
2 traffic, so as to provide for the disclosure of information to governmental agencies; to
3 provide for the addition and modification of certain definitions; to provide for certain
4 prohibitions against the operation of a commercial motor vehicle; to provide for an additional
5 endorsement for a commercial driver's license; to provide for additional investigation of
6 applicants for commercial drivers' licenses; to provide for additional disqualifications from
7 operating a commercial motor vehicle; to correct a reference; to provide for a civil penalty
8 against an employer who allows, permits, requires, or authorizes a commercial vehicle driver
9 to violate a railroad grade crossing provision; to add certain provisions relating to railroad
10 crossings; to provide that buses must stop at railroad crossings; to provide for reports of
11 traffic deaths by chief executive law enforcement officers; to provide for the prescription of
12 accident report forms by the commissioner of motor vehicle safety; to provide that the
13 transportation of infectious substances and regulated medical waste shall comply with federal
14 regulations; to provide for the designation of law enforcement officers by the commissioner
15 to have certain powers; to provide for related matters; to provide an effective date; to repeal
16 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 in Code Section 40-2-130, relating to records of certificates of registration, by
21 striking subsection (d) in its entirety and inserting in lieu thereof the following:

22 "(d) The commissioner may, ~~if necessary, promulgate reasonable rules and regulations~~
23 ~~outlining additional circumstances under which such records shall be open for public~~
24 inspection in his or her discretion, authorize the release of registration records to any
25 appropriate governmental official, entity, or agency for the purposes of carrying out official
26 governmental functions or legitimate governmental duties."

SECTION 2.

Said title is further amended in Code Section 40-3-23, relating to issuance of certificate of title, maintenance of record of certificates issued, public inspection, furnishing records for fee, and publishing statistical reports, by striking subsection (e) in its entirety and inserting in lieu thereof the following:

"(e) The commissioner may, ~~if necessary, promulgate reasonable rules and regulations outlining additional circumstances under which such records shall be open for public inspection~~ in his or her discretion, authorize the release of title records to any appropriate governmental official, entity, or agency for the purposes of carrying out official governmental functions or legitimate governmental duties."

SECTION 3.

Said title is further amended by striking in its entirety Code Section 40-5-142, relating to definitions, and inserting in lieu thereof the following:

"40-5-142.

As used in this article, the term:

(1) 'Alcohol' means:

(A) Beer, ale, port, or stout and other similar fermented beverages, including sake or similar products, of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;

(B) Wine of not less than one-half of 1 percent of alcohol by volume;

(C) Distilled spirits which means that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced; or

(D) Any substance containing any form of alcohol, including, but not limited to, ethanol, methanol, propanol, and isopropanol.

(2) 'Alcohol concentration' means:

(A) The number of grams of alcohol per 100 milliliters of blood;

(B) The number of grams of alcohol per 210 liters of breath; or

(C) The number of grams of alcohol per 67 milliliters of urine.

(3) 'Commerce' means:

(A) Trade, traffic, and transportation within the jurisdiction of the United States between locations in a state and between a location in a state and a location outside such state including a location outside the United States; and

(B) Trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in subparagraph (A) of this paragraph.

1 ~~(5)~~(4) 'Commercial Driver License Information System' (CDLIS) means the information
 2 system established pursuant to the Commercial Motor Vehicle Safety Act of 1986, Title
 3 XII, Public Law 99-570, to serve as a clearing-house for locating information related to
 4 the licensing and identification of commercial motor vehicle drivers.

5 ~~(6)~~(5) 'Commercial driver's instruction permit' means a permit issued pursuant to
 6 subsection (c) of Code Section 40-5-147.

7 ~~(4)~~(6) 'Commercial driver's license' (CDL) means a license issued in accordance with
 8 the requirements of this article to an individual which authorizes the individual to drive
 9 a class of commercial motor vehicle.

10 (7) 'Commercial motor vehicle' means a motor vehicle designed or used to transport
 11 passengers or property:

12 (A) If the vehicle has a gross vehicle weight rating of 26,001 or more pounds or such
 13 lesser rating as determined by federal regulation;

14 (B) If the vehicle is designed to transport 16 or more passengers, including the driver;
 15 or

16 (C) If the vehicle is transporting hazardous materials and is required to be placarded
 17 in accordance with the Motor Carrier Safety Rules prescribed by the United States
 18 Department of Transportation, Title 49 C.F.R. Part 172, subpart F;

19 provided, however, that for the purposes of this article, no agricultural vehicle, military
 20 vehicle operated by military personnel, recreational vehicle, or fire-fighting or emergency
 21 equipment vehicle shall be considered a commercial vehicle. As used in this paragraph,
 22 the term 'agricultural vehicle' means a farm vehicle which is controlled and operated by
 23 a farmer; used to transport agricultural products, farm machinery, or farm supplies to or
 24 from a farm; and operated within 150 miles of such person's farm; which vehicle is not
 25 used in the operations of a common or contract carrier. Any other waiver by the Federal
 26 Highway Administration pursuant to Federal Law 49 C.F.R. Parts 383, 391, RIN
 27 2125-AB 68, of the United States Department of Transportation shall supersede state law
 28 in authorizing the Department of Motor Vehicle Safety to exempt said classes.

29 (8) 'Controlled substance' means any substance so defined under Code Section 16-13-21
 30 and includes all substances listed in Schedules I through V of 21 C.F.R. Part 1308, as
 31 they may be revised from time to time.

32 (9) 'Conviction' means a forfeiture of bail or collateral deposited to secure the person's
 33 appearance in court, a plea of guilty or nolo contendere accepted by the court, a finding
 34 of guilt, or the payment of a fine or court cost, regardless of whether the penalty is
 35 rebated, suspended, or probated.

36 (10) 'Disqualification' means ~~a prohibition against driving a commercial motor vehicle.~~
 37 any of the following:

1 (A) The suspension, revocation, or cancellation of a commercial driver's license by any
 2 state or jurisdiction of issuance;

3 (B) The withdrawal of a person's privilege to drive a commercial motor vehicle by any
 4 state or by any other jurisdiction as the result of a violation of any state or local law
 5 relating to motor vehicle traffic control, other than parking, vehicle weight, or vehicle
 6 defect violations; or

7 (C) A determination by the Federal Motor Carrier Safety Administration that a person
 8 is not qualified to operate a commercial motor vehicle.

9 (11) 'Drive' means to operate or be in actual physical control of a motor vehicle in any
 10 place open to the general public for purposes of vehicular traffic. For purposes of Code
 11 Sections 40-5-151 and 40-5-152, 'drive' includes operation or actual physical control of
 12 a motor vehicle anywhere in this state.

13 (12) 'Driver' means any person who drives, operates, or is in actual physical control of
 14 a commercial motor vehicle in any place open to the general public for purposes of
 15 vehicular traffic or who is required to hold a commercial driver's license.

16 (13) 'Driver's license' means a license issued by a state to any individual which
 17 authorizes the individual to drive a motor vehicle.

18 (13.1) 'Driving a commercial vehicle while under the influence of alcohol' means
 19 committing any one or more of the following acts while a person is driving or in actual
 20 physical control of a moving commercial motor vehicle:

21 (A) Driving while the person's alcohol concentration is 0.04 percent or more by weight
 22 of alcohol in his or her blood, breath, or urine;

23 (B) Driving under the influence of alcohol, as prescribed by Code Section 40-6-391;
 24 or

25 (C) Refusal to submit to state-administered chemical testing when requested to do so
 26 by a law enforcement officer.

27 (14) 'Employer' means any person, including the United States, a state, or a political
 28 subdivision of a state, who owns or leases a commercial motor vehicle or assigns a person
 29 to drive a commercial motor vehicle on its behalf.

30 (14.1) 'Fatality' means the death of a person as a result of a motor vehicle crash.

31 (15) 'Felony' means any offense under state or federal law that is punishable by death,
 32 by imprisonment for life, or by imprisonment for more than 12 months.

33 (16) 'Foreign jurisdiction' means any jurisdiction other than a state of the United States.

34 (17) 'Gross vehicle weight rating' (GVWR) means the value specified by the
 35 manufacturer or manufacturers as the maximum loaded weight of a single or a
 36 combination (articulated) vehicle, or registered gross weight, whichever is greater. The
 37 gross vehicle weight rating of a combination (articulated) vehicle, commonly referred to

1 as the 'gross combination weight rating' (GCWR), is the gross vehicle weight rating of
 2 the power unit plus the gross vehicle weight rating of the towed unit or units. In the
 3 absence of a value specified for the towed unit or units by the manufacturer or
 4 manufacturers, the gross vehicle weight rating of a combination (articulated) vehicle is
 5 the gross vehicle weight rating of the power unit plus the total weight of the towed unit
 6 or units, including the loads on them.

7 (18) 'Hazardous materials' has the meaning the term has under 49 U.S.C.A. Section 5101,
 8 et seq.

9 (18.1) 'Imminent hazard' means the existence of a condition that presents a substantial
 10 likelihood that death, serious illness, severe personal injury, or a substantial
 11 endangerment to health, property, or the environment may occur before the reasonably
 12 foreseeable completion date of a formal proceeding begun to lessen the risk of that death,
 13 illness, injury, or endangerment.

14 (19) 'Motor vehicle' means a vehicle, machine, tractor, trailer, or semitrailer propelled
 15 or drawn by mechanical power used on highways, or any other vehicle required to be
 16 registered under the laws of this state, but does not include any vehicle, machine, tractor,
 17 trailer, or semitrailer operated exclusively on a rail.

18 (19.1) 'Noncommercial motor vehicle' means a motor vehicle or combination of vehicles
 19 not defined by the term 'commercial motor vehicle' in this Code section or in the
 20 regulations of the department for the purpose of licensure.

21 (20) 'Nonresident commercial driver's license' means a commercial driver's license
 22 issued by a state to any individual who resides in a foreign jurisdiction.

23 (21) 'Out of service order' means a temporary prohibition against driving a commercial
 24 motor vehicle.

25 (21.1) 'School bus' means a commercial motor vehicle used to transport pre-primary,
 26 primary, or secondary school students from home to school, from school to home, or to
 27 and from school-sponsored events. The term does not include a bus used as a common
 28 carrier.

29 (22) 'Serious traffic violation' means:

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

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

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

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

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

1 (F) A railroad grade crossing violation as defined under state law or local ordinance;

2 (G) Driving a commercial motor vehicle without obtaining a commercial driver's
 3 license;

4 (H) Driving a commercial motor vehicle without a valid commercial driver's license
 5 in the driver's immediate possession; or

6 (I) Driving a commercial motor vehicle without a commercial driver's license of the
 7 proper class and/or endorsements for the specific vehicle being operated or for the
 8 passengers or type of cargo transported.

9 (23) 'State' means a state of the United States and the District of Columbia.

10 (24) 'Tank vehicle' means any commercial motor vehicle designed to transport any liquid
 11 or gaseous materials within a tank that is either permanently or temporarily attached to
 12 the vehicle or the chassis. Such vehicles include, but are not limited to, cargo tanks and
 13 portable tanks as defined by federal law. However, the term 'tank vehicle' shall not
 14 include a portable tank having a rated capacity under 1,000 gallons.

15 (25) 'United States' means the 50 states and the District of Columbia."

16 SECTION 4.

17 Said title is further amended by striking in its entirety Code Section 40-5-145, relating to
 18 duties of employer, and inserting in lieu thereof the following:

19 "40-5-145.

20 (a) Each employer shall require every commercial motor vehicle driver applicant to
 21 provide the information specified in subsection (d) of Code Section 40-5-144.

22 (b) No employer may knowingly allow, require, permit, or authorize a driver to drive a
 23 commercial motor vehicle during any period:

24 (1) In which the driver has a driver's license suspended, revoked, or canceled by a state;
 25 has lost the privilege to drive a commercial motor vehicle in a state; or has been
 26 disqualified from driving a commercial motor vehicle; ~~or~~

27 (2) In which the driver has more than one driver's license;

28 (3) In which the driver, or the commercial motor vehicle that he or she is driving, or the
 29 motor carrier operation, is subject to an out of service order; or

30 (4) In violation of a federal, state, or local law or regulation pertaining to
 31 railroad-highway grade crossings."

32 SECTION 5.

33 Said title is further amended in Code Section 40-5-150, relating to contents of license,
 34 classifications, endorsements and restrictions, information to be obtained before issuance,

1 notice of issuance, expiration of license, and renewal, by striking in their entirety subsections
2 (c) and (e) and inserting in lieu thereof the following:

3 "(c) Commercial driver's licenses may be issued with the following endorsements and
4 restrictions:

5 (1) 'H' — Authorizes the driver to drive a vehicle transporting hazardous materials;

6 (2) 'L' — Restricts the driver to vehicles not equipped with air brakes;

7 (3) 'T' — Authorizes driving double and triple trailers;

8 (4) 'P' — Authorizes driving vehicles carrying 16 or more passengers, including the
9 driver, but does not authorize the driver to drive a school bus;

10 (5) 'N' — Authorizes driving tank vehicles; ~~and~~

11 (5.1) 'S' — Authorizes the driver to drive a school bus; and

12 (6) 'X' — Represents a combination of hazardous materials and tank vehicle
13 endorsements.

14 The fee for Classes A, B, C, M, and P licenses and for the endorsements and restrictions
15 shall be as provided in Code Section 40-5-25."

16 "(e) Before issuing a commercial driver's license, the department shall obtain driving
17 record information through the Commercial Driver License Information System, through
18 the National Driver Register (NDR), and from each state in which the applicant has been
19 licensed ~~within the past five years."~~

20 SECTION 6.

21 Said title is further amended by striking in its entirety Code Section 40-5-151, relating to
22 disqualification from driving and action required after suspending, revoking, or canceling
23 license or nonresident privileges, and inserting in lieu thereof the following:

24 "40-5-151.

25 (a) Any person is disqualified from driving a commercial motor vehicle for a period of not
26 less than one year:

27 (1) If convicted of a first violation of:

28 (A) Any offense specified in Code Section 40-5-54 that occurs while the person is
29 driving or being in actual physical control of a moving commercial motor vehicle or a
30 moving noncommercial vehicle; ~~or~~

31 (B) Driving or being in actual physical control of a moving commercial motor vehicle
32 while there is 0.04 percent or more by weight of alcohol in his or her blood, breath, or
33 urine; or

34 (C) Driving or being in actual physical control of a moving noncommercial vehicle in
35 violation of Code Section 40-6-391; or

1 (2) For refusal to submit to a test as prescribed in ~~paragraph (1) of subsection (a) of Code~~
2 Section ~~40-6-392~~ 40-5-55 to determine the driver's alcohol concentration while driving
3 a commercial motor vehicle or a noncommercial motor vehicle.

4 (b) Any person is disqualified from driving a commercial motor vehicle for a period of not
5 less than three years if convicted of a first violation of using a commercial motor vehicle
6 in the commission of a felony or for offenses specified in paragraph (1) of subsection (a)
7 of this Code section, provided that the vehicle being operated or used in connection with
8 such violation or commission of such felony is transporting a hazardous material required
9 to be placarded under Section 105 of the Hazardous Material Transportation Act.

10 (c) Any person is disqualified from driving a commercial motor vehicle for life if
11 convicted of two or more violations of any of the offenses specified in subsection (a) of
12 Code Section 40-5-54 or Code Section 40-6-391 ~~or 40-6-392~~, the refusal to submit to
13 state-administered chemical testing as prescribed by Code Section 40-5-55, or any
14 combination of those offenses or refusals, arising from two or more separate incidents.

15 (d) The department may issue regulations establishing guidelines, including conditions,
16 under which a disqualification for life under subsection (c) of this Code section may be
17 reduced to a period of not less than ten years. The department is not authorized to make
18 any other reduction in a term of disqualification or to issue a limited or other permit or
19 license that would allow the operation of a commercial motor vehicle during the term of
20 disqualification mandated by this Code section.

21 (e) Any person is disqualified from driving a commercial motor vehicle for life who
22 knowingly uses a commercial motor vehicle in the commission of any felony involving the
23 manufacture, distribution, or dispensing of a controlled substance, or possession with intent
24 to manufacture, distribute, or dispense a controlled substance.

25 (f)(1) Except as otherwise provided by paragraph (2) of this subsection, any person is
26 disqualified from driving a commercial motor vehicle for a period of not less than 60
27 days if convicted of two serious traffic violations or 120 days if convicted of three serious
28 traffic violations committed in a commercial motor vehicle or a noncommercial motor
29 vehicle arising from separate incidents occurring within a three-year period as measured
30 from the dates of arrests for which convictions were obtained.

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

1 three railroad grade crossing violations arising from separate incidents within a three-year
2 period as measured from the dates of arrests for which convictions were obtained.

3 (g)(1) Any person is disqualified from driving a commercial motor vehicle based on the
4 following violations of out-of-service orders:

5 (A) First violation — a driver who is convicted of a first violation of an out-of-service
6 order is disqualified for a period of not less than 90 days and not more than one year;

7 (B) Second violation — a driver who is convicted of two violations of out-of-service
8 orders in separate incidents is disqualified for a period of not less than one year and not
9 more than five years; and

10 (C) Third or subsequent violation — a driver who is convicted of three or more
11 violations of out-of-service orders in separate incidents is disqualified for a period of
12 not less than three years and not more than five years.

13 (2) Whenever the operator of a commercial motor vehicle is issued an out-of-service
14 order, a copy of such order shall be issued to the operator of the commercial motor
15 vehicle, the operator of the commercial motor vehicle's employer, and a copy or notice
16 of such out-of-service order shall be provided to the department. The form of such
17 out-of-service order, the procedures for notifying the department upon the issuance of
18 such an order, and other matters relative to the issuance of out-of-service orders and
19 violations thereof shall be provided in rules and regulations promulgated by the
20 commissioner.

21 (h) After suspending, revoking, or canceling a commercial driver's license, the department
22 shall update its records to reflect that action within ten days. After suspending, revoking,
23 or canceling a nonresident commercial driver's privileges, the department shall notify the
24 licensing authority of the state which issued the commercial driver's license within ten
25 days."

26 SECTION 7.

27 Said title is further amended by striking in its entirety Code Section 40-5-152, relating to
28 operating vehicle while having measurable alcohol in system and refusal to take chemical
29 test, and inserting in lieu thereof the following:

30 "40-5-152.

31 (a) Notwithstanding any other provision of this article, a person may not drive, operate,
32 or be in physical control of a commercial motor vehicle while having any measurable
33 alcohol in his or her system.

34 (b) A person who drives, operates, or is in physical control of a commercial motor vehicle
35 while having any measurable alcohol in his or her system or who refuses to take a test

1 ~~under paragraph (1) of subsection (a) of prescribed by Code Section ~~40-6-392~~ 40-5-55 to~~
 2 determine his or her alcohol content must be placed out of service for 24 hours."

3 **SECTION 8.**

4 Said title is further amended by striking in its entirety Code Section 40-5-159, relating to
 5 violations, and inserting in lieu thereof the following:

6 "40-5-159.

7 (a) Any person who drives a commercial motor vehicle while in violation of the provisions
 8 of Code Section 40-5-143 or any employer who knowingly allows, requires, permits, or
 9 authorizes a driver to drive a commercial motor vehicle in violation of the provisions of
 10 subsection (b) of Code Section 40-5-145 shall be guilty of a felony and, upon conviction
 11 thereof, shall be punished as follows:

12 (1) By a civil penalty of \$2,500.00 for each offense; and

13 (2) By a fine of \$5,000.00, imprisonment for not more than 90 days, or both, for each
 14 offense.

15 (b) Any employer who reports fraudulent information to the department regarding an
 16 employee's employment or experience as required under 49 C.F.R. Part 383 shall be guilty
 17 of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500.00.

18 (c) Any person who drives a commercial motor vehicle while in violation of the provisions
 19 mandated under Code Section 40-5-146 shall be guilty of a misdemeanor and, upon
 20 conviction thereof, shall be fined not less than \$500.00. The department shall suspend the
 21 commercial driver's license or commercial driving privilege of such driver for a period of
 22 six months.

23 (d) Any employer who knowingly allows, requires, permits, or authorizes a driver to drive
 24 a commercial motor vehicle in violation of any federal, state, or local law or regulation
 25 pertaining to railroad grade crossings shall be subject to a civil penalty in an amount not
 26 to exceed \$10,000.00."

27 **SECTION 9.**

28 Said title is further amended by striking in its entirety Code Section 40-6-140, relating to
 29 obedience to signal indicating approach of train, and inserting in lieu thereof the following:

30 "40-6-140.

31 (a) Whenever any person driving a vehicle approaches a railroad grade crossing, such
 32 driver shall stop within 50 feet but not less than 15 feet from the nearest rail of such
 33 railroad and shall not proceed until he can do so safely, when:

34 (1) A clearly visible electric or mechanical signal device gives warning of the immediate
 35 approach of a train;

1 (2) A crossing gate is lowered or a human flagman gives or continues to give a signal of
2 the approach of the passage of a train; or

3 (3) An approaching train is plainly visible and is in hazardous proximity to such
4 crossing.

5 (b) No person shall drive any vehicle through, around, or under any crossing gate or
6 barrier at a railroad crossing while such gate or barrier is closed or is being opened or
7 closed.

8 (c) If no electric or mechanical signal device is giving warning of the immediate approach
9 of a train, no crossing gate or barrier is closed, there is no stop sign at the crossing, and
10 there is no human flagman giving warning, all drivers shall slow to a reasonable and
11 prudent speed and verify that there is no approaching train prior to proceeding. For the
12 purposes of this subsection, 'a reasonable and prudent speed' means a speed slow enough
13 to enable the driver to safely stop the vehicle prior to reaching the nearest rail of such
14 crossing.

15 (d) No person shall drive a vehicle over a railroad grade crossing when a train is
16 approaching.

17 (e) No person shall drive a vehicle over a railroad grade crossing if there is insufficient
18 space to drive completely through the crossing without stopping.

19 (f) No person shall drive a vehicle over a railroad grade crossing if there is insufficient
20 undercarriage clearance for the vehicle to negotiate the crossing."

21 SECTION 10.

22 Said title is further amended by striking in its entirety Code Section 40-6-142, relating to
23 certain vehicles to stop at all railroad crossings, and inserting in lieu thereof the following:

24 "40-6-142.

25 (a) Except as provided in subsection (b) of this Code section, the driver of any motor
26 vehicle carrying passengers for hire, any bus, whether or not operated for hire, or of any
27 school bus, whether carrying any school children or empty, or of any vehicle carrying
28 ~~explosive substances, flammable liquids, hazardous waste or constituents, or hazardous~~
29 ~~acidic liquids as a cargo or part of a cargo~~ any hazardous material listed in Section 392.10
30 of Title 49 of the Code of Federal Regulations, as those regulations currently exist or as
31 they may in the future be amended or in regulations adopted by the commissioner of motor
32 vehicle safety, before crossing at grade any track or tracks of a railroad, shall stop such
33 vehicle within 50 feet but not less than 15 feet from the nearest rail of such railroad and
34 while so stopped shall listen and look in both directions along such track for any
35 approaching train and for signals indicating the approach of a train and shall not proceed
36 until he can do so safely. After stopping as required in this Code section and upon

1 proceeding when it is safe to do so, the driver of any such vehicle shall cross only in such
 2 gear of the vehicle that there will be no necessity for changing gears while traversing such
 3 crossing, and the driver shall not shift gears while crossing the track or tracks.

4 (b) No stop need be made at any such crossing where:

5 (1) Traffic is directed to proceed by a police officer, a firefighter, or a railroad flagman;

6 (2) A traffic-control signal directs traffic to proceed;

7 (3) The highway crosses an abandoned railroad track which is marked with a sign
 8 indicating its abandoned status, where such signs are erected by or under the direction of
 9 the local or state authority having jurisdiction over the highway; or

10 (4) The highway crosses an industrial siding or spur track marked 'exempt,' where such
 11 signs are erected by or under the direction of the local or state authority having
 12 jurisdiction over the highway."

13 SECTION 11.

14 Said title is further amended by striking in its entirety Code Section 40-6-253.1, relating to
 15 transportation of etiologic agent, exception, and penalty for violation, and inserting in lieu
 16 thereof the following:

17 "40-6-253.1.

18 (a) As used in this Code section, the terms 'infectious substance' and 'regulated medical
 19 waste' have the same meaning as given to those terms under the federal Hazardous
 20 Materials Regulations published in Title 49 of the Code of Federal Regulations as those
 21 regulations currently exist or may in the future be amended. The terms term 'etiologic
 22 agent' means any tissue, body fluid, or any other biological material which has the potential
 23 to transmit illness or disease or other harm upon contact, ingestion, or inhalation and
 24 'infectious substance' are synonymous.

25 ~~(b) Except as provided in subsection (c) of this Code section, any vehicle while~~
 26 ~~transporting any etiologic agent or any biomedical waste as such term is defined in Code~~
 27 ~~Section 12-8-22 in this state shall be clearly marked on both sides and on the back with a~~
 28 ~~sign or placard bearing the internationally recognized symbol designated for use in this~~
 29 ~~state by the Environmental Protection Division of the Department of Natural Resources~~
 30 ~~denoting biohazardous material, not less than 12 inches in height and red in color on a~~
 31 ~~white background, and the words 'BIOHAZARDOUS MATERIAL' in capital block letters~~
 32 ~~not less than two inches in height and red in color on a white background. The~~
 33 ~~transportation of infectious substances and regulated medical waste, including but not~~
 34 ~~limited to the marking of packages and marking or placarding of vehicles with appropriate~~
 35 ~~warnings, shall comply with the requirements of the federal Hazardous Material~~
 36 ~~Regulations published in Title 49 of the Code of Federal Regulations as those regulations~~

1 currently exist or may in the future be amended and with compatible regulations adopted
 2 or promulgated by the commissioner of motor vehicle safety.

3 ~~(c) Any nurse who under the orders of a physician transports in accordance with the~~
 4 ~~containment procedures established in the rules of the Department of Natural Resources~~
 5 ~~for transportation of biomedical products or waste less than 100cc of any body fluid shall~~
 6 ~~be exempt from the placarding requirements of subsection (b) of this Code section. Nurses,~~
 7 ~~physicians, and other health care professionals may utilize all applicable exceptions~~
 8 ~~contained in federal regulations and in the regulations of the Department of Motor Vehicle~~
 9 ~~Safety when transporting infectious substances.~~

10 (d) Violation of the provisions of this Code section shall constitute a misdemeanor."

11 SECTION 12.

12 Said title is further amended by striking in its entirety Code Section 40-6-277, relating to
 13 sheriffs to report deaths, and inserting in lieu thereof the following:

14 "40-6-277.

15 Every sheriff and chief executive officer of a law enforcement agency other than a sheriff
 16 shall, on or before the tenth day of each month, report in writing to the Department of
 17 Motor Vehicle Safety the death of any person within ~~his or her~~ their jurisdiction during the
 18 preceding calendar month as the result of a traffic accident known to ~~him or her~~ them,
 19 giving the time and place of the accident and the circumstances relating thereto, in the
 20 manner specified by the commissioner of motor vehicle safety."

21 SECTION 13.

22 Said title is further amended in Code Section 40-9-3, relating to administration of chapter,
 23 rules and regulations, hearings, and appeals, by striking subsection (a) in its entirety and
 24 inserting in lieu thereof the following:

25 "(a) The commissioner shall administer and enforce this chapter and is authorized to adopt
 26 and enforce rules and regulations necessary for its administration. The commissioner shall
 27 prescribe and provide suitable forms requisite or deemed necessary for the purposes of this
 28 chapter, ~~except that the form for accident reports shall be prescribed by the commissioner~~
 29 ~~of public safety."~~

30 SECTION 14.

31 Said title is further amended in Code Section 40-16-2, relating to primary responsibilities,
 32 by striking subsection (b) in its entirety and inserting in lieu thereof the following:

1 "(b) In performance of the duties specified in subsection (a) of this Code section, certified
2 law enforcement officers employed by the department or designated by the commissioner
3 shall:

4 (1) Be authorized to carry firearms;

5 (2) Exercise arrest powers;

6 (3) Have the power to stop, enter upon, and inspect all motor vehicles using the public
7 highways for purposes of determining whether such vehicles have complied with and are
8 complying with this chapter and other laws the administration or enforcement of which
9 is the responsibility of the department;

10 (4) Have the power to examine the facilities where motor vehicles are housed or
11 maintained and the books and records of motor carriers for purposes of determining
12 compliance with this chapter and other laws the administration or enforcement of which
13 is the responsibility of the department; and

14 (5) Exercise the powers generally authorized for law enforcement officers in the
15 performance of the duties specified by this chapter or otherwise to the extent needed to
16 protect any life or property when the circumstances demand action."

17 **SECTION 15.**

18 This Act shall become effective on October 1, 2003.

19 **SECTION 16.**

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