

House Bill 455

By: Representatives Murphy of the 23<sup>rd</sup>, Rice of the 51<sup>st</sup>, Parham of the 141<sup>st</sup>, Powell of the 29<sup>th</sup>, and Dollar of the 45<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend provisions of the Official Code of Georgia Annotated relating to new and used  
2 motor vehicle dealers; to amend Chapter 2 of Title 40 of the Official Code of Georgia  
3 Annotated, relating to registration and licensing of motor vehicles, so as to provide for use  
4 of the vehicle identification number on temporary license plates; to provide that all  
5 temporary plates shall be required to have a holographic security image and a write resistant  
6 overlay; to require all sellers and distributors of holographic strips to register with the  
7 department; to provide for dealer's plates; to provide for the replacement of lost or stolen  
8 plates; to delete references to temporary sites for selling motor vehicles; to provide for civil,  
9 administrative, and criminal penalties; to amend Chapter 47 of Title 43 of the Official Code  
10 of Georgia Annotated, relating to used motor vehicle and used motor vehicle parts dealers,  
11 so as to remove a definition of temporary site; to provide for related matters; to provide an  
12 effective date; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

15 Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to registration and  
16 licensing of motor vehicles, is amended by striking subparagraph (b)(2)(B) and paragraph  
17 (3) of subsection (b) of Code Section 40-2-8, relating to operation of an unregistered vehicle  
18 or vehicle without a current license plate, and inserting in their respective places the  
19 following:

20 "(B)(i) Any dealer of new or used motor vehicles shall issue to the purchaser of a  
21 vehicle at the time of sale thereof, unless at such time the purchaser makes application  
22 to transfer to such vehicle in accordance with this chapter a valid license plate issued  
23 to him or her or unless such vehicle is to be registered under the International  
24 Registration Plan, a temporary plate which may bear the dealer's name and location  
25 and shall bear, in characters not less than one-quarter of an inch wide and one and  
26 one-half inches high, the expiration date of the period within which the purchaser is

1 required by Code Section 40-2-20 to register such vehicle. Such temporary plates  
 2 shall be made of heavy stock paper, inscribed with indelible ink, and designed to  
 3 resist deterioration or fading due to exposure to the elements during the period for  
 4 which display is required. The expiration date ~~may~~ and the vehicle identification  
 5 number shall be handprinted on the plate at the time of issuance by use of an indelible  
 6 ink marker, with contrasting ink, provided that the month of expiration shall be  
 7 indicated by complete word or by three-letter abbreviation thereof. The expiration  
 8 date of such a temporary plate may be revised and extended by the county tag agent  
 9 only if an extension of the purchaser's initial registration period has been granted as  
 10 provided by Code Section 40-2-20. Such temporary plate shall not resemble a license  
 11 plate issued by this state and shall be issued without charge or fee therefor. Such  
 12 temporary plate shall be surrendered to the tag agent at the time the vehicle is  
 13 registered, and the tag agent shall destroy such temporary plate. The requirements of  
 14 this subparagraph do not apply to a dealer whose primary business is the sale of  
 15 salvage motor vehicles and other vehicles on which total loss claims have been paid  
 16 by insurers.

17 (ii) All temporary plates issued by dealers to purchasers of vehicles on or after  
 18 January 1, ~~2001~~2006, shall be of a standard design prescribed by regulation  
 19 promulgated by the Department of Motor Vehicle Safety in accordance with the  
 20 requirements of this subparagraph. All temporary plates shall be required to have a  
 21 holographic security image and a write-resistant overlay with security features such  
 22 that any attempt to change or modify the expiration date on the temporary plate will  
 23 show immediate signs of tampering. All holographic security images required under  
 24 this division shall be numbered with a separate and distinct number at the point of  
 25 manufacture. Temporary plates issued by dealers to purchasers prior to such date may  
 26 be of any design if such plates meet the requirements of this subparagraph.

27 (3) All sellers and distributors of holographic strips must register with the department  
 28 and shall be assigned a distinct identifier by the department. Such identifier shall precede  
 29 the numbers required under division (b)(2)(B)(ii) of this Code section. All sellers of  
 30 holographic security images must maintain an inventory record of holographic security  
 31 images by number and purchaser.

32 ~~(3)~~(4) The purchaser and operator of a vehicle shall not be subject to the penalties set  
 33 forth in this Code section during the period allowed for the registration. If the owner of  
 34 such vehicle presents evidence that such owner has properly applied for the registration  
 35 of such vehicle, but that the license plate or revalidation decal has not been delivered to  
 36 such owner, then the owner shall not be subject to the above penalties."



1 distributor. A dealer may apply for one or more distinguishing dealer's numbers. In the  
 2 event the dealers, distributors, or manufacturers desire more than one tag, they shall so  
 3 state on the application, and, in addition to the fee of \$62.00 provided in this Code  
 4 section, shall pay \$12.00 for each and every additional number plate furnished. ~~Persons~~  
 5 ~~engaged in the business of transporting vehicles for others under such vehicle's own~~  
 6 ~~power shall likewise be entitled to obtain license plates under this Code section, but such~~  
 7 ~~plates shall be used only on vehicles being transported.~~

8 (b) Dealer plates shall be issued in the following manner:

9 (1) A dealer licensed under this Code section that does not sell at least five new or used  
 10 motor vehicles in any calendar year may not be issued or have renewed any dealer plates;

11 (2) Dealers shall be issued a master plate and two additional plates, for a total of three  
 12 initial plates; and

13 (3) In addition to the three dealer plates issued in accordance with paragraph (2) of this  
 14 subsection, each dealer may also be issued one additional dealer plate for every 20 retail  
 15 units sold in a calendar year.

16 In order to determine the additional number of plates to be issued to a dealer, a dealer shall  
 17 be required to certify to the department the number of retail units sold in the prior calendar  
 18 year using the past motor vehicle sales history of the dealer. If no sales history is available,  
 19 the department shall issue a number of plates based on an estimated number of sales for the  
 20 coming calendar year. The department may, in its discretion, increase or decrease the  
 21 number of plates issued based on actual sales.

22 (c) Persons engaged in the business of transporting mobile homes and house trailers for  
 23 others shall likewise be entitled to obtain license plates under this Code section. The  
 24 commissioner is authorized to promulgate rules and regulations covering the issuance of  
 25 plates to such persons; provided, however, this Code section shall not apply in any manner  
 26 to farm tractors.

27 ~~(e)~~(d) This Code section shall not apply in any manner to mopeds as such term is defined  
 28 in Code Section 40-1-1.

29 ~~(d)~~(e) The license plates issued pursuant to this Code section shall be revoked and  
 30 confiscated upon a determination after a hearing that such dealer, distributor, manufacturer,  
 31 or person engaged in transporting mobile homes and house trailers has unlawfully used  
 32 such license plates in violation of this Code section.

33 (f) If a license plate issued pursuant to this Code section is lost or stolen, the dealer,  
 34 manufacturer, distributor, or other party to whom the license plate was issued must  
 35 immediately report the lost or stolen plate to local law enforcement agencies. If a  
 36 replacement license plate is sought, the dealer, manufacturer, distributor, or other party to  
 37 whom the license plate was issued shall file a notarized affidavit with the department

1 requesting a replacement plate. Such affidavit shall certify under penalty of perjury that the  
 2 license plate has been lost or stolen and that the loss has been reported to a local law  
 3 enforcement agency."

### 4 SECTION 3.

5 Said chapter is further amended by striking Code Section 40-2-39, relating to registration and  
 6 licensing of new motor vehicle dealers, and inserting in its place the following:

7 "40-2-39.

8 (a) As used in this Code section, the term:

9 (1) 'Dealer' means any person engaged in the business of selling or leasing or offering  
 10 to sell or lease new motor vehicles and who is licensed or otherwise authorized to utilize  
 11 trademarks or service marks associated with one or more makes of motor vehicles in  
 12 connection with such sales or leases. The term 'dealer' shall not mean any person engaged  
 13 solely in the business of selling used motor vehicles and shall not mean any person  
 14 engaged in the solicitation, advertising, or financing of the sale of new motor vehicles and  
 15 shall not mean any person engaged solely in activities as a manufacturer or distributor of  
 16 new motor vehicles.

17 (2) 'Distributor' means any person who, pursuant to a contract with a manufacturer, sells  
 18 or offers to sell new motor vehicles to new motor vehicle dealers.

19 (3) 'Established place of business' means a permanent salesroom or sales office of a new  
 20 motor vehicle dealer, which permanent salesroom or sales office is located in a permanent  
 21 building on an open lot and which is marked by an appropriate sign and at which a  
 22 permanent business of bartering, trading, or selling of new motor vehicles is carried on  
 23 in good faith.

24 (4) 'Manufacturer' means any person who makes or assembles new motor vehicles.

25 (5) 'Motor vehicle' means every self-propelled vehicle intended primarily for use and  
 26 operation on the public highways, except farm tractors and other machines and tools used  
 27 in the production, harvesting, and care of farm products and except construction  
 28 equipment.

29 (6) 'New motor vehicle' means a motor vehicle which has been sold to a dealer and on  
 30 which the original motor vehicle title has not been issued.

31 (7) 'Person' means every natural person, partnership, corporation, association, trust,  
 32 estate, or any other legal entity.

33 ~~(8) 'Temporary site' means a location at which new motor vehicles are sold or offered for~~  
 34 ~~sale which location is:~~

35 ~~(A) Used for a period not to exceed 96 hours in any one-month period of time;~~

36 ~~(B) Used not more than three times in any calendar year; and~~

1       ~~(C) Located in the county which is within two counties of the county in which the~~  
 2       ~~established place of business of the new motor vehicle dealer using the temporary site~~  
 3       ~~is located.~~

4       ~~(9)~~(8) 'Trade shows' means the display or solicitation for sale of new motor vehicles at  
 5       a location other than the established place of business at which the sales transaction is  
 6       accomplished or at which delivery of the new motor vehicle is completed.

7       (b)(1) It shall be unlawful for any person to engage in any activity as a new motor  
 8       vehicle dealer unless and until such person has registered with the commissioner and  
 9       obtained a dealer's number license plate under Code Section 40-2-38 for each established  
 10      place of business at which the person engages in such activity. The commissioner shall  
 11      not accept such application for registration and shall not issue a dealer's number license  
 12      plate unless and until the applicant establishes to the satisfaction of the commissioner,  
 13      under criteria established by rules or regulations promulgated by the commissioner, that  
 14      the applicant shall not engage in any activity of a new motor vehicle dealer except at an  
 15      established place of business ~~or at a temporary site.~~

16      (2) It shall be unlawful for any person to engage in any activity as a new motor vehicle  
 17      dealer except at an established place of business which has been registered as such under  
 18      this Code section and Code Section 40-2-38 ~~or at a temporary site.~~

19      (3) This subsection shall not be construed to prohibit new motor vehicle trade shows.

20      (c) As an alternative to criminal or other civil enforcement, the commissioner, in order to  
 21      enforce this Code section or any orders, rules, and regulations promulgated pursuant  
 22      thereto, may issue an administrative fine not to exceed \$1,000.00 for each violation,  
 23      whenever the commissioner, after a hearing, determines that any person has violated any  
 24      provisions of this Code section or any regulations or orders promulgated thereunder. If,  
 25      after a hearing, the commissioner determines that any person has violated this provision  
 26      more than once, the commissioner may suspend a dealer's registration for a period not to  
 27      exceed 14 days. Any ~~The~~ hearing and any administrative review thereof held pursuant to  
 28      this Code section shall be conducted in accordance with the procedure for contested cases  
 29      under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Any person who  
 30      has exhausted all administrative remedies available and who is aggrieved or adversely  
 31      affected by a final order or action of the commissioner shall have the right of judicial  
 32      review thereof in accordance with Chapter 13 of Title 50. All fines recovered under this  
 33      subsection shall be paid into the state treasury. The commissioner may file, in the superior  
 34      court (1) wherein the person under order resides; (2) if such person is a corporation, in the  
 35      county wherein the corporation maintains its established place of business; or (3) in the  
 36      county wherein the violation occurred, a certified copy of a final order of the  
 37      commissioner, whether unappealed from or affirmed upon appeal, whereupon the court

1 shall render judgment in accordance therewith and notify the parties. Such judgment shall  
 2 have the same effect and proceedings in relation thereto shall thereafter be the same as  
 3 though the judgment had been rendered in an action duly heard and determined by the  
 4 court. The penalty prescribed in this Code section shall be concurrent, alternative, and  
 5 cumulative with any and all other civil, criminal, or alternative rights, remedies, forfeitures,  
 6 or penalties provided, allowed, or available to the commissioner with respect to any  
 7 violation of this Code section or any order, rules, or regulations promulgated pursuant  
 8 thereto. The sale of each motor vehicle while not in compliance with this Code section  
 9 shall constitute a separate violation for which a separate fine can be levied.

10 (d) Any person who violates any provision of this Code section shall be guilty of a  
 11 misdemeanor."

#### 12 SECTION 4.

13 Said chapter is further amended by striking Code Section 40-2-153, relating to registration  
 14 and licensing of makers and dealers of motor vehicles, and inserting in lieu thereof the  
 15 following:

16 "40-2-153.

17 ~~(a) Manufacturers and dealers engaged in the manufacture or sale of motor vehicles,~~  
 18 ~~tractors, or trailers shall register with the commissioner and shall apply for a distinguishing~~  
 19 ~~dealer's number. The application shall specify the name and make of motor vehicle, tractor,~~  
 20 ~~or trailer manufactured or sold by the applicant and shall be made upon forms prepared by~~  
 21 ~~the commissioner. The applicant shall pay at the time of making application a fee of~~  
 22 ~~\$62.00. For the fee, the commissioner shall furnish the applicant one number plate to expire~~  
 23 ~~December 31 of odd-numbered years, to be known as a dealer's number and to be~~  
 24 ~~distinguished from the number plates provided in this Code section by a different and~~  
 25 ~~distinguishing color to be determined by the commissioner. The dealer's number plate shall~~  
 26 ~~have the word 'Dealer' on its face and shall be used for the purpose of demonstrating or~~  
 27 ~~transporting a manufacturer's or dealer's vehicles or trailers for sale. No dealer or~~  
 28 ~~manufacturer may use or permit to be used a dealer's number for private use or on cars for~~  
 29 ~~hire or for lease or in any other manner not provided in this Code section.~~

30 ~~(b) In the event a dealer or manufacturer desires more than one number plate, he shall so~~  
 31 ~~state on the application and, in addition to the fee of \$62.00, shall pay a fee of \$12.00 for~~  
 32 ~~each additional number plate furnished.~~

33 ~~(c) Each person engaged in the business of transporting motor vehicles for others under~~  
 34 ~~the motor vehicle's own power shall be entitled to obtain license plates under this Code~~  
 35 ~~section, but the plates shall be used only on vehicles being transported.~~

1 ~~(d) Each person engaged in the business of transporting mobile homes and house trailers~~  
 2 ~~for others shall be entitled to obtain license plates under this Code section.~~

3 ~~(e) This Code section shall not apply in any manner to farm tractors Reserved.~~"

#### 4 SECTION 5.

5 Chapter 47 of Title 43 of the Official Code of Georgia Annotated, relating to used motor  
 6 vehicle and used motor vehicle parts dealers, is amended by striking paragraph (15.1) of  
 7 Code Section 43-47-2, relating to definitions regarding used motor vehicle and used motor  
 8 vehicle parts dealers, which reads as follows:

9 "(15.1) 'Temporary site' means a location at which used motor vehicles are sold or  
 10 offered for sale, which location is:

11 (A) Used for a period not to exceed 96 hours in any one-month period of time; and

12 (B) Located in the county which is within two counties of the county in which the  
 13 established place of business of the used motor vehicle dealer using the temporary site  
 14 is located."

#### 15 SECTION 6.

16 Said chapter is further amended by striking Code Section 43-47-8.2, relating to places of  
 17 business and temporary sites, and inserting in its place the following:

18 "43-47-8.2.

19 (a) A used motor vehicle dealer shall not engage in any activity as a used motor vehicle  
 20 dealer except at such dealer's established place of business which has been registered under  
 21 Code Section 40-2-38 or at temporary sites not more than three times in any one calendar  
 22 year.

23 (b) Any person who violates any provision of this Code section shall be guilty of a  
 24 misdemeanor.

25 (c) As an alternative to criminal or other civil enforcement of this Code section or any  
 26 orders, rules, and regulations promulgated pursuant hereto, the board may issue an  
 27 administrative fine not to exceed \$1,000.00 for each violation whenever the board, after a  
 28 hearing, determines that any person has violated any provisions of this Code section or any  
 29 orders, rules, and regulations promulgated pursuant hereto. If, after a hearing, the board  
 30 determines that any person has violated this provision more than once, the board may  
 31 suspend his or her license for a period not to exceed ten days. Any hearing and any  
 32 administrative review held pursuant to this Code section shall be conducted in accordance  
 33 with the procedure for contested cases under Chapter 13 of Title 50, the 'Georgia  
 34 Administrative Procedure Act.' Any person who has exhausted all administrative remedies  
 35 available and who is aggrieved or adversely affected by a final order or action of the board

1 shall have the right of judicial review thereof in accordance with Chapter 13 of Title 50.  
2 All fines recovered under this Code section shall be paid into the state treasury. The board  
3 may file, in the superior court:  
4 (1) In the county wherein the person under order resides;  
5 (2) If such person is a corporation, in the county wherein the corporation maintains its  
6 established place of business; or  
7 (3) In the county wherein the violation occurred,  
8 a certified copy of a final order of the board, whether unappealed from or affirmed upon  
9 appeal, whereupon the superior court shall render judgment in accordance therewith and  
10 notify the parties. Such judgment shall have the same effect and proceedings in relation  
11 thereto shall thereafter be the same as though the judgment had been rendered in an action  
12 duly heard and determined by the superior court. The penalty prescribed in this Code  
13 section shall be concurrent, alternative, and cumulative with any and all other civil,  
14 criminal, or alternative rights, remedies, forfeitures, or penalties provided, allowed, or  
15 available to the board with respect to any violation of this Code section or any order, rule,  
16 or regulation promulgated pursuant hereto. The sale of each motor vehicle while not in  
17 compliance with this Code section shall constitute a separate violation for which a separate  
18 fine can be levied."

19 **SECTION 7.**

20 This Act shall become effective on July 1, 2005, except Section 2, which shall become  
21 effective on January 1, 2006.

22 **SECTION 8.**

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