

House Bill 144 (COMMITTEE SUBSTITUTE)

By: Representatives Reese of the 98th, Coan of the 101st, Lunsford of the 110th, Johnson of the 37th, and Forster of the 3rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 47 of Title 43 and Article 2 of Chapter 2 of Title 40 of the Official Code
2 of Georgia Annotated, relating to used motor vehicle and used motor vehicle parts dealers
3 and registration and licensing of motor vehicles, respectively, so as to change certain
4 exceptions concerning the sale or advertising of used motor vehicles displayed or parked on
5 property and the practice of curbstoning; to provide criminal penalties for violations; to
6 provide for related matters; to provide for applicability; to provide for an effective date; to
7 repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 47 of Title 43 of the Official Code of Georgia Annotated, relating to used motor
11 vehicle and used motor vehicle parts dealers, is amended by revising Code Section 43-47-8.1,
12 relating to restrictions on sale or advertising of used motor vehicles displayed or parked, as
13 follows:

14 "43-47-8.1.

15 ~~(a)(1) An owner or lessee of any real property shall not authorize more than five used~~
16 ~~motor vehicles within any 12-month period displayed or parked on such real property for~~
17 ~~the purpose of selling or advertising the sale of such used motor vehicles by the owner~~
18 ~~or lessee of such vehicles.~~

19 ~~(2) An owner or lessee of any real property shall not authorize more than two used motor~~
20 ~~vehicles at the same time displayed or parked on such real property for the purpose of~~
21 ~~selling or advertising the sale of such used motor vehicles by the owner or lessee of such~~
22 ~~vehicles.~~

23 ~~(3) An owner or lessee of any used motor vehicle shall not display or park such used~~
24 ~~motor vehicle on the real property of another for the purpose of selling or advertising the~~
25 ~~sale of such used motor vehicle if the display or parking of such vehicle will cause the~~

1 ~~owner or lessee of the real property to be in violation of paragraph (1) or (2) of this~~
2 ~~subsection.~~

3 ~~(4) An owner or lessee of any used motor vehicle shall not display or park such used~~
4 ~~motor vehicle on the real property of another for the purpose of selling or advertising the~~
5 ~~sale of such used motor vehicle unless the owner or lessee of such vehicle has the prior~~
6 ~~permission of the owner or lessee of the real property.~~

7 ~~(b) The provisions of subsection (a) of this Code section shall not apply:~~

8 ~~(1) If the owner or lessee of the vehicle displayed or parked is employed by the owner~~
9 ~~or lessee of the real property on which the vehicle is displayed or parked;~~

10 ~~(2) If the owner or lessee of the vehicle displayed or parked is conducting business with~~
11 ~~the owner or lessee of the real property on which the vehicle is parked or displayed at the~~
12 ~~time such vehicle is displayed or parked; or~~

13 ~~(3) If the real property on which a vehicle is displayed or parked is a parking lot for~~
14 ~~which a fee is charged for the use of such parking lot and the owner or lessee of the~~
15 ~~vehicle displayed or parked has paid the fee for the use of such parking lot.~~

16 ~~(c)(1) An owner or lessee of any real property shall not authorize any used motor vehicle~~
17 ~~to be displayed or parked on such real property for the purpose of selling or advertising~~
18 ~~the sale of such used motor vehicle if such vehicle is not lawfully titled and registered in~~
19 ~~the name of the individual or entity offering such vehicle for sale in accordance with the~~
20 ~~applicable provisions of Chapters 2 and 3 of Title 40.~~

21 ~~(2) A person shall not advertise, display, sell, or offer for sale any used motor vehicle~~
22 ~~unless such vehicle is lawfully titled and registered in such person's name in accordance~~
23 ~~with the applicable provisions of Chapters 2 and 3 of Title 40.~~

24 ~~(d) Any law enforcement officer or agency, the board, or the owner or lessee of any real~~
25 ~~property upon which a vehicle is displayed or parked in violation of subsection (a) or (c)~~
26 ~~of this Code section for longer than 24 consecutive hours may have any such vehicle towed~~
27 ~~from such real property and stored at the expense of the owner or lessee of such vehicle and~~
28 ~~may then dispose of said vehicle in accordance with Chapter 11 of Title 40, relating to~~
29 ~~abandoned motor vehicles.~~

30 ~~(e) A violation of this Code section shall constitute an unfair or deceptive act or practice~~
31 ~~and shall be a violation of Part 2 of Article 15 of Chapter 1 of Title 10, the 'Fair Business~~
32 ~~Practices Act of 1975.'~~ A violation of this Code section may be penalized as provided in
33 ~~Code Section 43-47-21 or any other applicable provision of this Code, including but not~~
34 ~~limited to the 'Fair Business Practices Act of 1975.'~~

35 ~~(f) This Code section shall not apply to any person licensed under this chapter or to any~~
36 ~~franchised motor vehicle dealer or any subsidiary wholly owned or controlled by such~~
37 ~~dealer. This Code section shall not eliminate or change the requirement for any person to~~

1 ~~obtain a license under this chapter if such person engages in any conduct or activity for~~
 2 ~~which a license is required under this chapter.~~

3 (g) Any person who violates any provision of ~~this Code section~~ Code Section 40-2-39.1
 4 shall be deemed to be a licensee for the purpose of imposing sanctions and penalties under
 5 this chapter and for the purpose of granting the board jurisdiction over such violator."

6 SECTION 2.

7 Article 2 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to
 8 registration and licensing of motor vehicles, is amended by adding a new Code Section
 9 40-2-39.1 to read as follows:

10 "40-2-39.1.

11 (a)(1) An owner or lessee of any real property shall not authorize more than five used
 12 motor vehicles within any 12 month period displayed or parked on such real property for
 13 the purpose of selling or advertising the sale of such used motor vehicles by the owner
 14 or lessee of such vehicles.

15 (2) An owner or lessee of any real property shall not authorize more than two used motor
 16 vehicles at the same time displayed or parked on such real property for the purpose of
 17 selling or advertising the sale of such used motor vehicles by the owner or lessee of such
 18 vehicles.

19 (3) An owner or lessee of any used motor vehicle shall not display or park such used
 20 motor vehicle on the real property of another for the purpose of selling or advertising the
 21 sale of such used motor vehicle if the display or parking of such vehicle will cause the
 22 owner or lessee of the real property to be in violation of paragraph (1) or (2) of this
 23 subsection.

24 (4) An owner or lessee of any used motor vehicle shall not display or park such used
 25 motor vehicle on the real property of another for the purpose of selling or advertising the
 26 sale of such used motor vehicle unless the owner or lessee of such vehicle has the prior
 27 permission of the owner or lessee of the real property.

28 (b) The provisions of subsection (a) of this Code section shall not apply:

29 (1) If the owner or lessee of the vehicle displayed or parked is employed by the owner
 30 or lessee of the real property on which the vehicle is displayed or parked;

31 (2) If the owner or lessee of the vehicle displayed or parked is conducting business with
 32 the owner or lessee of the real property on which the vehicle is parked or displayed at the
 33 time such vehicle is displayed or parked; or

34 (3) If the real property on which a vehicle is parked is a parking lot for which a fee is
 35 charged for the use of such parking lot, the owner or lessee of the parked vehicle has paid
 36 the fee for the use of such parking lot, and such vehicle is legitimately parked on the

1 property for purposes other than displaying, selling, or advertising the sale of such
2 vehicle.

3 (c)(1) An owner or lessee of any real property shall not authorize any used motor vehicle
4 to be displayed or parked on such real property for the purpose of selling or advertising
5 the sale of such used motor vehicle if such vehicle is not lawfully titled and registered in
6 the name of the individual or entity offering such vehicle for sale in accordance with the
7 applicable provisions of this chapter and Chapter 3 of this title.

8 (2) A person shall not advertise, display, sell, or offer for sale any used motor vehicle
9 unless such vehicle is lawfully titled and registered in such person's name in accordance
10 with the applicable provisions of this chapter and Chapter 3 of this title.

11 (d) Any law enforcement officer or agency, the board, or the owner or lessee of any real
12 property upon which a vehicle is displayed or parked in violation of subsection (a) or (c)
13 of this Code section for longer than 24 consecutive hours may have any such vehicle towed
14 from such real property and stored at the expense of the owner or lessee of such vehicle and
15 may then dispose of said vehicle in accordance with Chapter 11 of this title.

16 (e) A violation of this Code section shall constitute an unfair or deceptive act or practice
17 and shall be a violation of Part 2 of Article 15 of Chapter 1 of Title 10, the 'Fair Business
18 Practices Act of 1975.' A violation of this Code section may be penalized as provided in
19 Code Section 43-47-21 or any other applicable provision of this Code, including, but not
20 limited to, the 'Fair Business Practices Act of 1975.'

21 (f) This Code section shall not apply to any person licensed under Chapter 47 of Title 43
22 or to any franchised motor vehicle dealer or any subsidiary wholly owned or controlled by
23 such dealer. This Code section shall not eliminate or change the requirement for any
24 person to obtain a license under Chapter 47 of Title 43 if such person engages in any
25 conduct or activity for which a license is required under Chapter 47 of Title 43.

26 (g) Any person who violates this Code section shall be guilty of a misdemeanor and, upon
27 conviction thereof, shall be subject to a fine not to exceed \$1,000.00 for each violation or
28 imprisonment for a period not to exceed 12 months, or both."

29 SECTION 3.

30 This Act shall be effective on July 1, 2007. Prosecutions for or cases involving any violation
31 of law occurring prior to the effective date of this Act shall not be affected by the repeals or
32 amendments made by it or abated by reason thereof.

33 SECTION 4.

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