

House Bill 480 (RULES COMMITTEE SUBSTITUTE)

By: Representatives Geisinger of the 48th, Powell of the 29th, Rice of the 51st, Abrams of the 84th, Peake of the 137th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 40 and 48 of the Official Code of Georgia Annotated, relating, respectively,
2 to motor vehicles and revenue and taxation, so as to provide for the comprehensive revision
3 of taxation of motor vehicles; to change certain provisions regarding tag agents; to provide
4 for state and local title fees; to provide for continuation of tag, revalidation, and registration
5 fees; to provide for distribution of such state and local title fees; to exclude certain vehicles
6 from certain fees; to change certain provisions regarding classification of motor vehicles as
7 a separate class of property for ad valorem tax purposes; to provide for an additional
8 classification exempt from such taxation; to provide for an exemption from sales and use
9 taxes only with respect to certain sales or purchases of certain motor vehicles; to provide for
10 related matters; to provide for certain reports; to provide for the intent of the General
11 Assembly with regard to the allocation of certain funds received from such title fees and for
12 funding the Georgia Trauma Trust Fund; to provide for related matters; to provide for
13 effective dates; to provide for automatic repeal of certain provisions and reenactment of prior
14 provisions; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 style="text-align:center">**PART I**
17 style="text-align:center">**SECTION 1-1.**

18 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, is amended
19 by revising Code Section 40-2-23, relating to county tax collectors and county tax
20 commissioners designation as tax agents, as follows:

21 "40-2-23.

22 (a) The tax collectors of the various counties of this state and the tax commissioners of
23 those counties in which the duties of the tax collector are performed by a tax commissioner
24 shall be designated as tag agents of the commissioner for the purpose of accepting
25 applications for the registration of vehicles. The commissioner is authorized to promulgate

26 rules and regulations for the purpose of delegating to such tag agents the custodial
 27 responsibility for properly receiving, processing, issuing, and storing motor vehicle titles
 28 or registrations, or both.

29 ~~(b) The state revenue commissioner is authorized to further designate each such tag agent
 30 as a sales tax agent for the purpose of collecting sales and use tax with respect to the casual
 31 sale or casual use of a motor vehicle. For purposes of this Code section, 'casual sale' or
 32 'casual use' means the sale of a motor vehicle by a person who is not regularly or
 33 systematically engaged in making retail sales of motor vehicles and the first use,
 34 consumption, distribution, or storage for use or consumption of such motor vehicle
 35 purchased through a casual sale. As personal compensation for services rendered to the
 36 Department of Revenue with respect to the collection of such sales and use tax, each such
 37 designated tag agent shall be authorized to retain from such collection a fee of \$200.00 per
 38 month. In any month in which an insufficient amount of such tax is collected to pay such
 39 fee, the amount of any such unpaid fee may be deferred until such month as sufficient
 40 collections are made. Such compensation shall be in addition to any other compensation
 41 to which such tax collector or tax commissioner is entitled.~~

42 ~~(c)(b)~~ The duties and responsibilities of agents of the commissioner designated under this
 43 Code section shall be a part of the official duties and responsibilities of the county tax
 44 collectors and tax commissioners."

45 SECTION 1-2.

46 Said title is further amended by adding a new Code section to read as follows:

47 "40-2-25.1.

48 (a)(1) Except as otherwise provided in this subsection, any motor vehicle for which a
 49 title is issued in this state on or after January 1, 2010, shall be exempt from sales tax to
 50 the extent provided under paragraph (87) of Code Section 48-8-3 and shall not be subject
 51 to ad valorem tax as otherwise required under Chapter 5 of Title 48. Any such motor
 52 vehicle shall be titled as otherwise required under this title but shall be subject to:

53 (A) A state title fee in the amount equal to the lesser of \$960.00 or 3.36 percent of the
 54 value of such vehicle as determined under the uniform evaluation of all motor vehicles
 55 prepared by the state revenue commissioner under Code Section 48-5-442; and

56 (B) A local title fee in the amount equal to the lesser of \$1,040.00 or 3.64 percent of
 57 the value of such vehicle as determined under the uniform evaluation of all motor
 58 vehicles prepared by the state revenue commissioner under Code Section 48-5-442.

59 (2) A person or entity acquiring a salvage title pursuant to subsection (b) of Code Section
 60 40-3-36 shall not be subject to the fee specified in paragraph (1) of this subsection but
 61 shall be subject to a state title fee in the amount of \$10.00 and a local title fee in the

62 amount of \$10.00. Upon any transfer or transfers of such motor vehicle subsequent to
63 the initial issuance of a salvage title, the transferee shall be subject to the state and local
64 title fees specified under paragraph (1) of this subsection.

65 (3)(A) Upon the death of an owner of a motor vehicle which has not become subject
66 to paragraph (1) of this subsection, the surviving spouse of such owner shall either:

67 (i) Transfer title of such motor vehicle to such surviving spouse and become subject
68 to paragraph (1) of this subsection. Such transfer shall be subject to state and local
69 title fees provided for in paragraph (1) of this subsection; or

70 (ii) Transfer title of such motor vehicle to such surviving spouse and continue to be
71 subject to ad valorem tax. Such transfer shall not be subject to state and local title
72 fees provided for in paragraph (1) of this subsection.

73 (B) Upon the death of an owner of a motor vehicle which has become subject to
74 paragraph (1) of this subsection, the surviving spouse of such owner shall transfer title
75 of such motor vehicle to such surviving spouse and shall be allowed a one-time
76 exemption from state and local titles fee upon payment in lieu thereof of a \$25.00 state
77 administrative fee and a \$25.00 local administrative fee.

78 (4) Any motor vehicle subject to state and local title fees under this subsection shall
79 continue to be subject to the tag, revalidation decal, and registration requirements and
80 applicable fees as otherwise provided in this title in the same manner as motor vehicles
81 which are not subject to state and local title fees under this subsection.

82 (5) Motor vehicles owned or leased by or to the state or any county, consolidated
83 government, municipality, county or independent school district, or other government
84 entity in this state shall not be subject to the state and local title fees provided for under
85 this subsection; provided, however, that such other government entity shall not qualify
86 for the exclusion under this paragraph unless it is exempt from ad valorem tax and sales
87 and use tax pursuant to general law.

88 (6) There shall be a penalty imposed on the transfer of all or any part of the interest in a
89 business entity, which interest includes primarily as an asset of such business entity one
90 or more motor vehicles, when such transfer is done to evade the payment of state and
91 local title fees under this subsection. Such penalty shall be in the amount of a \$2,500.00
92 state penalty per motor vehicle, a \$2,500.00 local penalty per motor vehicle, plus the
93 amount of the state and local title fees.

94 (7) Any owner of any motor vehicle other than a new or used car dealer who fails to
95 submit within 30 days of the purchase of the vehicle or from the date the owner is
96 otherwise required by law to register such vehicle in this state an application for a first
97 certificate of title under Code Section 40-3-21 or a certificate of title under Code Section
98 40-3-32 shall be required to pay a penalty in the amount of 10 percent of the state title

99 fees and 10 percent of the local title fees required under this Code section, plus interest
 100 at the rate of 1.0 percent per month, unless a temporary permit has been issued by the tax
 101 commissioner. Such penalty and interest shall be in addition to the penalty and fee
 102 required under Code Section 40-3-21 or 40-3-32, as applicable. The amount of such
 103 penalty and interest for state title fees shall be deposited in the general fund of the state.
 104 (b)(1) The amount of proceeds collected by tag agents each month as state and local title
 105 fees, state and local salvage title fees, administrative fees, penalties, and interest pursuant
 106 to subsection (a) of this Code section shall be allocated and disbursed as provided in this
 107 subsection.

108 (2)(A) For the 2010 tax year, the amount of such funds shall be disbursed within
 109 30 days as follows:

110 (i) State title fees, state salvage title fees, administrative fees, penalties, and interest
 111 shall be remitted to the state revenue commissioner who shall deposit such proceeds
 112 in the general fund of the state; and

113 (ii) Local title fees, local salvage title fees, administrative fees, penalties, and interest
 114 shall be designated as local government funds and shall be disbursed based upon the
 115 address of the owner indicated upon the title to the governing authority of the county.
 116 The governing authority shall then distribute the proceeds as specified in paragraph
 117 (3) of this subsection.

118 (B) For the 2011 tax year and in each subsequent tax year:

119 (i) The dollar amount specified in subparagraph (a)(1)(A) of this Code section shall
 120 decrease annually by \$40.00, and the percentage figure specified in subparagraph
 121 (a)(1)(A) of this Code section shall decrease annually by .14 of 1 percent until the
 122 state title fee shall be in an amount equal to the lesser of \$800.00 or 2.8 percent of the
 123 value of such vehicle as determined under the uniform evaluation of all motor
 124 vehicles prepared by the state revenue commissioner under Code Section 48-5-442;
 125 and

126 (ii) The dollar amount specified in subparagraph (a)(1)(B) of this Code section shall
 127 increase annually by \$40.00, and the percentage figure specified in subparagraph
 128 (a)(1)(B) of this Code section shall increase annually by .14 of 1 percent until the
 129 local title fee shall be in an amount equal to the lesser of \$1,200.00 or 4.2 percent of
 130 the value of such vehicle as determined under the uniform evaluation of all motor
 131 vehicles prepared by the state revenue commissioner under Code Section 48-5-442.

132 (3) The distribution of local title fee proceeds required under this subsection shall be in
 133 accordance with the following:

134 (A) Upon receipt of the monthly disbursement of local government funds from the tag
 135 agent, the governing authority of the county shall within 30 days allocate and distribute

136 to itself and to municipalities, the board of education of the county school district, and
 137 the board of education of any independent school district located in such county a
 138 proportionate amount of those proceeds which represents the amount of ad valorem
 139 taxes on motor vehicles which would have been due to each such entity; and
 140 (B) Of the proceeds remaining following the allocation and distribution under
 141 subparagraph (A) of this paragraph, the governing authority shall allocate and distribute
 142 to itself and to municipalities, the board of education of the county school district, and
 143 the board of education of any independent school district located in such county the
 144 remaining amount of those proceeds in the manner provided in this subparagraph. Of
 145 such remaining proceeds:

146 (i) An amount equal to one-third of such proceeds shall be distributed to the board
 147 of education of the county school district and the board of education of each
 148 independent school district located in such county in the same manner as required for
 149 any local sales tax for educational purposes levied pursuant to Part 2 of Article 3 of
 150 Chapter 8 of Title 48 currently in effect. If such tax is not currently in effect, such
 151 proceeds shall be distributed to such board or boards of education in the same manner
 152 as if such tax were in effect;

153 (ii)(I) Except as otherwise provided in this division, an amount equal to one-third
 154 of such proceeds shall be distributed to the governing authority of the county and
 155 the governing authority of each qualified municipality located in such county in the
 156 same manner as specified under the distribution certificate for the joint county and
 157 municipal sales and use tax under Article 2 of Chapter 8 of Title 48 currently in
 158 effect.

159 (II) If such tax were never in effect, such proceeds shall be distributed to the
 160 governing authority of the county and the governing authority of each qualified
 161 municipality located in such county on a pro rata basis according to the ratio of the
 162 population that each such municipality bears to the population of the entire county.

163 (III) If such tax is currently in effect as well as a local option sales and use tax for
 164 educational purposes levied pursuant to a local constitutional amendment, an
 165 amount equal to one-third of such proceeds shall be distributed in the same manner
 166 as required under subdivision (I) of division (ii) of this subparagraph and an amount
 167 equal to one-third of such proceeds shall be distributed to the board of education of
 168 the county school district.

169 (IV) If such tax is not currently in effect and a local option sales and use tax for
 170 educational purposes levied pursuant to a local constitutional amendment is
 171 currently in effect, such proceeds shall be distributed to the board of education of

172 the county school district and the board of education of any independent school
173 district in the same manner as required under that local constitutional amendment.
174 (V) If such tax is not currently in effect and a homestead option sales and use tax
175 under Article 2A of Chapter 8 of Title 48 is in effect, such proceeds shall be
176 distributed to the governing authority of the county, each qualified municipality, and
177 each existing municipality in the same proportion as otherwise required under Code
178 Section 48-8-104; and
179 (iii)(I) An amount equal to one-third of such proceeds shall be distributed to the
180 governing authority of the county and the governing authority of each qualified
181 municipality located in such county in the same manner as specified under an
182 intergovernmental agreement or as otherwise required under the county special
183 purpose local option sales and use tax under Part 1 of Article 3 of Chapter 8 of Title
184 48 currently in effect; provided, however, that this subdivision shall not apply if
185 subdivision (III) of division (ii) of this subparagraph is applicable.
186 (II) If such tax were in effect but expired and is not currently in effect, such
187 proceeds shall be distributed to the governing authority of the county and the
188 governing authority of each qualified municipality located in such county in the
189 same manner as if such tax were still in effect according to the intergovernmental
190 agreement or as otherwise required under the county special purpose local sales and
191 use tax under Part 1 of Article 3 of Chapter 8 of Title 48 for the 12 month period
192 commencing at the expiration of such tax. If such tax is not renewed prior to the
193 expiration of such 12 month period, such amount shall be distributed in accordance
194 with subdivision (I) of division (ii) of this subparagraph; provided, however, that if
195 a tax under Article 2 of Chapter 8 of Title 48 is not in effect, such amount shall be
196 distributed in accordance with subdivision (II) of division (ii) of this subparagraph.
197 (III) If such tax is not currently in effect in a county in which a tax is levied for
198 purposes of a metropolitan area system of public transportation, as authorized by the
199 amendment to the Constitution set out at Georgia Laws 1964, page 1008; the
200 continuation of such amendment under Article XI, Section I, Paragraph IV(d) of the
201 Constitution; and the laws enacted pursuant to such constitutional amendment, such
202 proceeds shall be distributed to the governing body of the authority created by local
203 Act to operate such metropolitan area system of public transportation.
204 (IV) If such tax were never in effect, such proceeds shall be distributed in the same
205 manner as specified under the distribution certificate for the joint county and
206 municipal sales and use tax under Article 2 of Chapter 8 of Title 48 currently in
207 effect; provided, however, that if such tax under said Article 2 is not in effect such
208 proceeds shall be distributed to the governing authority of the county and the

209 governing authority of each qualified municipality located in such county on a pro
 210 rata basis according to the ratio of the population that each such municipality bears
 211 to the population of the entire county.

212 (c)(1) As soon as practicable after the end of each fiscal year, the Office of Treasury and
 213 Fiscal Services shall report to the General Assembly, the Office of Planning and Budget,
 214 and the Georgia Trauma Care Network Commission the amount of funds remitted to the
 215 state for deposit in the general fund pursuant to this Code section from state title fees.

216 (2) It is the intent of the General Assembly that such funds be allocated as follows:

217 (A) For each fiscal year, an amount equal to 105 percent of the amount of state sales
 218 and use taxes received by the state on the sale of motor vehicles in 2009 shall be used
 219 for general appropriations;

220 (B) Subject to appropriation, an amount of those funds in excess of the amount
 221 provided in subparagraph (A) of this paragraph, if any, not to exceed the greater of
 222 \$150 million or an amount equal to the aggregate of \$50.00 for each title for which a
 223 state title fee was collected under subsection (a) of this Code section in the immediately
 224 preceding fiscal year, shall be made available during the following fiscal year to the
 225 Georgia Trauma Trust Fund for use of the Georgia Trauma Care Network Commission
 226 for the purposes set forth in Code Section 31-11-102; and

227 (C) For each fiscal year, all funds in excess of the amounts provided in subparagraphs
 228 (A) and (B) of this paragraph, if any, shall be used for general appropriations."

229 **SECTION 1-3.**

230 Title 48 of Official Code of Georgia Annotated, relating to revenue and taxation, is amended
 231 by revising Code Section 48-5-441, relating to classification of motor vehicles and mobile
 232 homes as separate classes of tangible property for ad valorem tax purposes, as follows:

233 "48-5-441.

234 (a)(1) For the purposes of ad valorem taxation, motor vehicles ~~are~~ shall be classified as
 235 a separate and distinct class of tangible property. Such class of tangible property shall
 236 be divided into two distinct and separate subclasses of tangible property with one
 237 subclass including heavy-duty equipment motor vehicles as defined in Code Section
 238 48-5-505 and the other subclass including all other motor vehicles. The procedures
 239 prescribed by this article for returning motor vehicles, excluding heavy-duty equipment
 240 motor vehicles as defined in Code Section 48-5-505, for taxation, determining the
 241 applicable rates for taxation, and collecting the ad valorem tax imposed on motor vehicles
 242 shall be exclusive.

243 (2) This subsection shall not apply to motor vehicles subject to Code Section 48-5-441.1.

244 (b) For the purposes of ad valorem taxation, mobile homes ~~are~~ shall be classified as a
 245 separate and distinct class of tangible property. The procedures prescribed by this article
 246 for returning mobile homes for taxation, determining the applicable rates for taxation, and
 247 collecting the ad valorem tax imposed on mobile homes shall be exclusive.

248 (c)(1) For the purposes of ad valorem taxation, commercial vehicles ~~are~~ shall be
 249 classified as a separate and distinct class of tangible property. The procedures prescribed
 250 by this article for returning commercial vehicles for taxation and for determining the
 251 valuation of commercial vehicles shall be exclusive and as provided for in Code Section
 252 48-5-442.1. All other procedures prescribed by this article for the taxation of motor
 253 vehicles shall be applicable to the taxation of commercial vehicles.

254 (2) This subsection shall not apply to motor vehicles subject to Code Section
 255 48-5-441.1."

256 SECTION 1-4.

257 Said title is further amended by adding a new Code section to read as follows:

258 "48-5-441.1.

259 Motor vehicles subject to the provisions of Code Section 40-2-25.1 shall be classified as
 260 a separate and district class of tangible property and shall be exempt from all ad valorem
 261 taxation."

262 SECTION 1-5.

263 Said title is further amended in Code Section 48-8-3, relating to exemptions from sales and
 264 use tax, by replacing "; or" with a semicolon at the end of paragraph (85), replacing the
 265 period at the end of paragraph (86) with "; or", and by adding a new paragraph to read as
 266 follows:

267 "(87) The sale or purchase of any motor vehicle titled in this state on or after January 1,
 268 2010, pursuant to Code Section 40-2-25.1."

269 PART II

270 SECTION 2-1.

271 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, is amended
 272 by repealing in its entirety Code Section 40-2-25.1, relating to motor vehicle title fees and
 273 trauma funding.

274

SECTION 2-2.

275 Title 48 of Official Code of Georgia Annotated, relating to revenue and taxation, is amended
 276 by revising Code Section 48-5-441, relating to classification of motor vehicles and mobile
 277 homes as separate classes of tangible property for ad valorem tax purposes, as follows:

278 "48-5-441.

279 (a)(1) For the purposes of ad valorem taxation, motor vehicles ~~shall be~~ are classified as
 280 a separate and distinct class of tangible property. Such class of tangible property shall
 281 be divided into two distinct and separate subclasses of tangible property with one
 282 subclass including heavy-duty equipment motor vehicles as defined in Code Section
 283 48-5-505 and the other subclass including all other motor vehicles. The procedures
 284 prescribed by this article for returning motor vehicles, excluding heavy-duty equipment
 285 motor vehicles as defined in Code Section 48-5-505, for taxation, determining the
 286 applicable rates for taxation, and collecting the ad valorem tax imposed on motor vehicles
 287 shall be exclusive.

288 ~~(2) This subsection shall not apply to motor vehicles subject to Code Section 48-5-441.1.~~

289 (b) For the purposes of ad valorem taxation, mobile homes ~~shall be~~ are classified as a
 290 separate and distinct class of tangible property. The procedures prescribed by this article
 291 for returning mobile homes for taxation, determining the applicable rates for taxation, and
 292 collecting the ad valorem tax imposed on mobile homes shall be exclusive.

293 (c)(1) For the purposes of ad valorem taxation, commercial vehicles ~~shall be~~ are
 294 classified as a separate and distinct class of tangible property. The procedures prescribed
 295 by this article for returning commercial vehicles for taxation and for determining the
 296 valuation of commercial vehicles shall be exclusive and as provided for in Code Section
 297 48-5-442.1. All other procedures prescribed by this article for the taxation of motor
 298 vehicles shall be applicable to the taxation of commercial vehicles.

299 ~~(2) This subsection shall not apply to motor vehicles subject to Code Section~~
 300 ~~48-5-441.1."~~

301

SECTION 2-3.

302 Said title is further amended by repealing in its entirety Code Section 48-5-441.1, relating
 303 to classification of motor vehicles subject to Code Section 40-2-25.1 as a separate class of
 304 property.

305

SECTION 2-4.

306 Said title is further amended in Code Section 48-8-3, relating to exemptions from sales and
 307 use tax, by repealing and reserving paragraph (87).

308

PART III

309

SECTION 3-1.

310 (a) Part 1 of this Act and this part shall become effective on January 1, 2010.

311 (b) Part 2 of this Act shall become effective at the last moment of December 31, 2014.

312

SECTION 3-2.

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