

The Senate Transportation Committee offered the following substitute to HB 279:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 3 of Title 40 of the Official Code of Georgia Annotated, relating to
2 certificates of title, security interests, and liens, so as to change the value of a vehicle that can
3 be scrapped; to provide for procedures for notifying the Department of Revenue regarding
4 the cancellation of titles to scrap vehicles; to add falsifying a statement regarding
5 cancellation of title of a scrap vehicle to the list of acts deemed to be felonies; to amend
6 Chapter 8 of Title 40 of the Official Code of Georgia Annotated, relating to equipment and
7 inspection of motor vehicles, so as to increase age requirements for use of child restraint
8 systems; to amend Chapter 47 of Title 43 of the Official Code of Georgia Annotated, relating
9 to used motor vehicles and parts dealers, so as to change a cross-reference; to provide for
10 related matters; to provide for effective dates; to repeal conflicting laws; and for other
11 purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 SECTION 1.

14 Chapter 3 of Title 40 of the Official Code of Georgia Annotated, relating to certificates of
15 title, security interests, and liens, is amended by revising paragraphs (2) and (3) of subsection
16 (a) of Code Section 40-3-36, relating to the cancellation of a certificate of title for scrap,
17 dismantled, or demolished vehicles, as follows:

18 "(2) Notwithstanding any other provision of this article to the contrary, if the owner or
19 authorized agent of the owner has not obtained a title in his or her name for the vehicle
20 to be transferred, or has lost the title for the vehicle to be transferred, he or she may sign
21 a statement swearing that, in addition to the foregoing conditions, the vehicle is worth
22 ~~\$750.00~~ \$850.00 or less and is at least 12 model years old. The statement described in
23 this paragraph may be used only to transfer such a vehicle to a licensed used motor
24 vehicle parts dealer under Code Section 43-47-7 or scrap metal processor under Code
25 Section 43-43-1. The department shall promulgate a form for the statement which shall
26 include, but not be limited to:

- 27 (A) A statement that the vehicle shall never be titled again; it must be dismantled or
 28 scrapped;
- 29 (B) A description of the vehicle including the year, make, model, vehicle identification
 30 number, and color;
- 31 (C) The name, address, and driver's license number of the owner;
- 32 (D) A certification that the owner:
- 33 (i) Never obtained a title to the vehicle in his or her name; or
- 34 (ii) Was issued a title for the vehicle, but the title was lost or stolen;
- 35 (E) A certification that the vehicle:
- 36 (i) Is worth ~~\$750.00~~ \$850.00 or less;
- 37 (ii) Is at least 12 model years old; and
- 38 (iii) Is not subject to any secured interest or lien;
- 39 (F) An acknowledgment that the owner realizes this form will be filed with the
 40 department and that it is a felony, punishable by imprisonment for not fewer than one
 41 nor more than three years or a fine of not less than \$1,000.00 nor more than \$5,000.00,
 42 or both, to knowingly falsify any information on this statement;
- 43 (G) The owner's signature and the date of the transaction;
- 44 (H) The name, and address, and National Motor Vehicle Title Information System
 45 identification number of the business acquiring the vehicle;
- 46 (I) A certification by the business that ~~\$750.00~~ \$850.00 or less was paid to acquire the
 47 vehicle; and
- 48 (J) The business agent's signature and date along with a printed name and title if the
 49 agent is signing on behalf of a corporation.
- 50 (3)(A) The used motor vehicle parts dealer or scrap metal processor shall mail or
 51 otherwise deliver the statement required under paragraph (2) of this subsection to the
 52 department within 72 hours of the completion of the transaction, requesting that the
 53 department cancel the Georgia certificate of title and registration.
- 54 (B) Notwithstanding the requirement to mail or otherwise deliver the statement
 55 required under paragraph (2) of this subsection to the department, the department shall
 56 provide a mechanism for the receipt of the information required to be obtained in the
 57 statement by electronic means, at no cost to the used motor vehicle parts dealer or scrap
 58 metal processor, in lieu of the physical delivery of the statement, in which case the used
 59 motor vehicle parts dealer or scrap metal processor shall maintain the original statement
 60 for a period of not less than two years.
- 61 (C) Within 48 hours of each day's close of business, the used motor vehicle parts dealer
 62 or scrap metal processor who purchases or receives motor vehicles for scrap or for parts
 63 shall deliver in a format approved by the department, either by facsimile or by other

64 electronic means to be made available by the department by July 1, 2011, a list of all
65 such vehicles purchased that day for scrap or for parts. That list shall contain the
66 following information:

- 67 (i) The name, address, and contact information for the reporting entity;
68 (ii) The vehicle identification numbers of such vehicles;
69 (iii) The dates such vehicles were obtained;
70 (iv) The names of the individuals or entities from whom the vehicles were obtained,
71 for use by law enforcement personnel and appropriate governmental agencies only;
72 (v) A statement of whether the vehicles were, or will be, crushed or disposed of, or
73 offered for sale or other purposes;
74 (vi) A statement of whether the vehicle is intended for export out of the United
75 States; and
76 (vii) The National Motor Vehicle Title Information System identification number of
77 the business acquiring the vehicle.

78 There shall be no charge to either a used motor vehicle parts dealer or scrap metal
79 processor associated with providing this information to the department.

80 (D) For purposes of this subsection, the term 'motor vehicle' shall not include a vehicle
81 which has been crushed or flattened by mechanical means such that it is no longer the
82 motor vehicle as described by the certificate of title, or such that the vehicle
83 identification number is no longer visible or accessible, in which case the purchasing
84 or receiving used motor vehicle parts dealer or scrap metal processor shall verify that
85 the seller has reported the vehicles in accordance with this subsection. Such
86 verification may be in the form of a certification from the seller or contract between the
87 seller and the purchasing or receiving used motor vehicle parts dealer or scrap metal
88 processor which clearly identifies the seller by a government issued photograph
89 identification card, or employer identification number, and shall be maintained for a
90 period of not less than two years.

91 (E) The information obtained by the department in accordance with this subsection
92 shall be reported to the National Motor Vehicle Title Information System, in a format
93 which will satisfy the requirement for reporting this information, in accordance with
94 rules adopted by the United States Department of Justice in 28 C.F.R. 25.56.

95 (F) The information obtained by the department in accordance with this subsection
96 shall be made available only to law enforcement agencies, and for purposes of
97 canceling certificates of title, and shall otherwise be considered to be confidential
98 business information of the respective reporting entities.

99 (G) All records required under the provisions of this Code section shall be maintained
100 for a period of two years by the reporting entity and shall include a scanned or

101 photocopied copy of the seller's or seller's representative's driver's license or state
 102 issued identification card."

103 **SECTION 2.**

104 Said chapter is further amended by revising Code Section 40-3-90, relating to felonies
 105 involving certificates of title, as follows:

106 "40-3-90.

107 A person who, with fraudulent intent:

- 108 (1) Alters, forges, or counterfeits a certificate of title;
- 109 (2) Alters or forges an assignment of a certificate of title or an assignment or release of
 110 a security interest on a certificate of title or a form the commissioner prescribed;
- 111 (3) Has possession of or uses a certificate of title knowing it to have been altered, forged,
 112 or counterfeited;
- 113 (4) Uses a false or fictitious name or address or makes a material false statement, or fails
 114 to disclose a security interest, or conceals any other material fact in an application for a
 115 certificate of title;
- 116 (5) Alters or forges a notice of a transaction concerning a security interest or lien
 117 reflected on the certificate of title as provided by Code Section 40-3-27; or
- 118 (6) Knowingly falsifies any information on the statement required by paragraph (2) of
 119 subsection (a) of Code Section 40-3-36; or
- 120 (7) Willfully violates any other provision of this chapter after having previously violated
 121 the same or any other provision of this chapter and having been convicted of that act in
 122 a court of competent jurisdiction
- 123 shall be guilty of a felony."

124 **SECTION 3.**

125 Chapter 8 of Title 40 of the Official Code of Georgia Annotated, relating to equipment and
 126 inspection of motor vehicles, is amended by revising of subsections (b) and (d) of Code
 127 Section 40-8-76, relating to safety belts and child restraint systems, as follows:

- 128 "(b)(1) Every driver who transports a child under ~~six~~ eight years of age in a passenger
 129 automobile, van, or pickup truck, other than a taxicab as defined by Code Section
 130 33-34-5.1 or a public transit vehicle as defined by Code Section 16-5-20, shall, while
 131 such motor vehicle is in motion and operated on a public road, street, or highway of this
 132 state, provide for the proper restraint of such child in a child passenger restraining system
 133 appropriate for such child's height and weight and approved by the United States
 134 Department of Transportation under provisions of Federal Motor Vehicle Safety Standard

135 213 in effect on January 1, 1983, or at the time of manufacture, subject to the following
 136 specific requirements and exceptions:

137 (A) Any such child weighing at least 40 pounds may be secured by a lap belt when:

138 (i) The vehicle is not equipped with both lap and shoulder belts; or

139 (ii) Not including the driver's seat, the vehicle is equipped with one or more lap and
 140 shoulder belts that are all being used to properly restrain other children;

141 (B) Any such child shall be properly restrained in a rear seat of the motor vehicle
 142 consistent with the requirements of this paragraph. If the vehicle has no rear seating
 143 position appropriate for correctly restraining a child or all appropriate rear seating
 144 positions are occupied by other children, any such child may be properly restrained in
 145 a front seat consistent with the requirements of this paragraph;

146 (C) A driver shall not be deemed to be complying with the provisions of this paragraph
 147 unless any child passenger restraining system required by this paragraph is installed and
 148 being used in accordance with the manufacturer's directions for such system; and

149 (D) The provisions of this paragraph shall not apply when the child's parent or guardian
 150 either obtains a physician's written statement that a physical or medical condition of the
 151 child prevents placing or restraining him or her in the manner required by this
 152 paragraph. If the parent or guardian can show the child's height is over 4 feet and 9
 153 inches, such child shall be restrained in a safety belt as required in Code Section
 154 40-8-76.1.

155 (2) Upon a first conviction of an offense under this subsection, the defendant shall be
 156 punished by a fine of not more than \$50.00, except in the case of a child who is ~~five~~ six
 157 or seven years of age, if the defendant shows to the court having jurisdiction of the case
 158 that a child passenger restraining system meeting the applicable requirements of this
 159 subsection has been purchased by him or her after the time of the offense and prior to the
 160 court appearance, the court may waive or suspend the fine for such first conviction. This
 161 exception shall apply until January 1, ~~2005~~ 2012. Upon a second or subsequent
 162 conviction of an offense under this subsection, the defendant shall be punished by a fine
 163 of not more than \$100.00. No court shall impose any additional fees or surcharges to a
 164 fine for such a violation. The court imposing a fine for any violation of this Code section
 165 shall forward a record of the disposition of the cases ~~annually~~ to the Department of ~~Public~~
 166 Safety Driver Services for the sole purpose of data collection on a county by county
 167 basis."

168 "(d) The provisions of this Code section shall not apply to buses, as defined in paragraph
 169 (7) of Code Section 40-1-1, used in the transport of children over four years of age until
 170 July 1, ~~2007~~ 2012, provided that the bus is operated by a licensed or commissioned child
 171 care facility, has a current annual transportation safety inspection certificate as required by

172 the appropriate licensing body, and has evidence of being inspected for use by a child care
 173 facility. If the bus is not a school bus, as defined in paragraph (55) of Code Section 40-1-1,
 174 or a multifunction school activities bus, as defined in 49 C.F.R. 571.3(B), each child over
 175 four years of age and under ~~six~~ eight years of age shall be properly restrained by a ~~safety~~
 176 ~~belt~~ child passenger restraining system. Multifunction school activities buses, as defined
 177 in 49 C.F.R. 571.3(B), shall not be required to transport children five years of age or older
 178 in a child passenger restraining system."

179 **SECTION 4.**

180 Said chapter is further amended by revising paragraph (3) of subsection (e) of Code Section
 181 40-8-76.1, relating to use of safety belts in passenger vehicles, as follows:

182 "(3) Each minor ~~six~~ eight years of age or older who is an occupant of a passenger vehicle
 183 shall, while such passenger vehicle is being operated on a public road, street, or highway
 184 of this state, be restrained by a seat safety belt approved under Federal Motor Vehicle
 185 Safety Standard 208. In any case where a minor passenger ~~six~~ eight years of age or older
 186 fails to comply with the requirements of this paragraph, the driver of the passenger
 187 vehicle shall be guilty of the offense of failure to secure a seat safety belt on a minor and,
 188 upon conviction thereof, may be fined not more than \$25.00. The court imposing such
 189 a fine shall forward a record of the court disposition of the case of failure to secure a seat
 190 safety belt on a minor to the Department of Driver Services."

191 **SECTION 5.**

192 Chapter 47 of Title 43 of the Official Code of Georgia Annotated, relating to used motor
 193 vehicles and parts dealers, is amended in Code Section 43-47-10, relating to investigations
 194 of licensees and sanctions, by revising subparagraph (B) of paragraph (2) as follows:

195 "(B) Any of those activities described in paragraphs (1) through ~~(5)~~ (6) of Code Section
 196 40-3-90; or"

197 **SECTION 6.**

198 Sections 1, 2, and 5 of this Act shall become effective on January 1, 2012. Sections 3 and
 199 4 of this Act shall become effective on July 1, 2011.

200 **SECTION 7.**

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