

House Bill 865

By: Representatives Powell of the 29th, Harden of the 28th, and Rice of the 51st

A BILL TO BE ENTITLED
AN ACT

1 To enact the "Georgia Motor Common and Contract Carrier Act of 2012"; to amend
2 Chapter 1 of Title 40 of the Official Code of Georgia Annotated, relating to the identification
3 and regulation of motor vehicles, so as to transfer the functions of regulating motor carriers
4 and limousine carriers from the Georgia Public Service Commission to the Georgia
5 Department of Public Safety; to amend Article 2 of Chapter 5 of Title 40 of the Official Code
6 of Georgia Annotated, relating to drivers' licenses, so as to authorize chauffeur endorsements
7 on driver's licenses; to modify, amend, and repeal provisions of the of the Official Code of
8 Georgia Annotated, so as to conform certain cross-references, remove duplication of
9 provisions, and remove such functions from current provisions; to provide for related
10 matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 PART I
13 The Georgia Motor Carrier Act.

14 SECTION 1.
15 Chapter 1 of Title 40 of the Official Code of Georgia Annotated, relating to the identification
16 and regulation of motor vehicles, is amended by adding a new article to read as follows:

17 "ARTICLE 3

18 Part 1

19 40-1-50.

20 This article shall be known and may be cited as the 'Georgia Motor Carrier Act of 2012.'

21 40-1-51.

22 The General Assembly finds that the for-hire transportation of persons and property are a
23 privilege that require close regulation and control to protect public welfare, provide for a
24 competitive business environment, and provide for consumer protection. To that end, the
25 provisions of this article are enacted. This is a remedial law and shall be liberally
26 construed. The Department of Public Safety is designated as the agency to implement and
27 enforce this article. Exceptions contained in this article shall have no effect on the
28 applicability of any other provision of law applicable to motor vehicles, commercial motor
29 vehicles, operators of motor vehicles, or carrier operations.

30 40-1-52.

31 There is created and established a division within the Department of Public Safety to be
32 known as the Motor Carrier Compliance Division. The Motor Carrier Compliance
33 Division shall consist of two sections, the Motor Carrier Compliance Enforcement Section
34 and the Motor Carrier Regulation Compliance Section. Except as provided in Part 2 of this
35 article, the members of the Motor Carrier Compliance Enforcement Section shall be known
36 and designated as law enforcement officers. The Motor Carrier Regulation Compliance
37 Section shall be responsible for the regulation of the operation of motor carriers and
38 limousine carriers in accordance with this article and motor carrier safety and the
39 transportation of hazardous materials as provided in Code Section 40-1-8 and Article 2 of
40 this chapter.

41 40-1-53.

42 The department is authorized to enforce this article by instituting actions for injunction,
43 mandamus, or other appropriate relief.

44 40-1-54.

45 (a) The department shall promulgate such rules and regulations as are necessary to
46 effectuate and administer the provisions of this article pursuant to Chapter 13 of Title 50,
47 the 'Georgia Administrative Procedure Act.'

48 (b) The commissioner is authorized to issue such orders, authorizations, and modification
49 thereof as necessary to implement this article.

50 40-1-55.

51 Every officer, agent, or employee of any corporation and every person who violates or fails
52 to comply with this article relating to the regulation of motor carriers and limousine carriers
53 or any order, rule, or regulation of the Department of Public Safety, or who procures, aids,

54 or abets therein, shall be guilty of a misdemeanor. Misdemeanor violations of this article
55 may be prosecuted, handled, and disposed of in the manner provided for by Chapter 13 of
56 this title.

57 40-1-56.

58 (a) Any motor carrier or limousine carrier subject to the provisions of Part 3 or Part 4 of
59 this article that fails to register as a motor carrier or limousine carrier with the department
60 or that is subject to the jurisdiction of the department and willfully violates any law
61 administered by the department or any duly promulgated regulation issued thereunder, or
62 that fails, neglects, or refuses to comply with any order after notice thereof, shall be liable
63 for a penalty not to exceed \$15,000.00 for such violation and an additional penalty not to
64 exceed \$10,000.00 for each day during which such violation continues.

65 (b)(1) The department, after a hearing conducted after not less than 30 days' notice, shall
66 determine whether any motor carrier has willfully violated any law administered by the
67 department, or any duly promulgated regulation issued thereunder, or has failed,
68 neglected, or refused to comply with any order of the department. Upon an appropriate
69 finding of a violation, the department may impose by order such civil penalties as are
70 provided by subsection (a) of this Code section. In each such proceeding, the department
71 shall maintain a record as provided in paragraph (8) of subsection (a) of Code Section
72 50-13-13 including all pleadings, a transcript of proceedings, a statement of each matter
73 of which the department takes official notice, and all staff memoranda or data submitted
74 to the department in connection with its consideration of the case. All penalties and
75 interest thereon, at the rate of 10 percent per annum, recovered by the department shall
76 be paid into the general fund of the state treasury.

77 (2) Any party aggrieved by a decision of the department may seek judicial review as
78 provided in subsection (c) of this Code section.

79 (c)(1) Any party who has exhausted all administrative remedies available before the
80 department and who is aggrieved by a final decision of the department in a proceeding
81 described in subsection (b) of this Code section may seek judicial review of the final
82 order of the department in the Superior Court of Fulton County.

83 (2) Proceedings for review shall be instituted by filing a petition within 30 days after the
84 service of the final decision of the department or, if a rehearing is requested, within 30
85 days after the decision thereon. A motion for rehearing or reconsideration after a final
86 decision by the department shall not be a prerequisite to the filing of a petition for review.
87 Copies of the petition shall be served upon the department and all parties of record before
88 the department.

89 (3) The petition shall state the nature of the petitioner's interest, the facts showing that
90 the petitioner is aggrieved by the decision, and the ground, as specified in paragraph (6)
91 of this subsection, upon which the petitioner contends that the decision should be
92 reversed. The petition may be amended by leave of court.

93 (4) Within 30 days after service of the petition or within such further time as is stipulated
94 by the parties or as is allowed by the court, the agency shall transmit to the reviewing
95 court the original or a certified copy of the entire record of the proceedings under review.
96 By stipulation of all parties to the review proceedings, the record may be shortened. A
97 party unreasonably refusing to stipulate that the record be limited may be taxed for the
98 additional costs. The court may require or permit subsequent corrections or additions to
99 the record.

100 (5) If, before the date set for hearing, application is made to the court for leave to present
101 additional evidence, and it is shown to the satisfaction of the court that the additional
102 evidence is material and there were good reasons for failure to present it in the
103 proceedings before the agency, the court may order that the additional evidence be taken
104 before the department upon such procedure as is determined by the court. The
105 department may modify its findings and decision by reason of the additional evidence and
106 shall file that evidence and any modifications, new findings, or decisions with the
107 reviewing court.

108 (6) The review shall be conducted by the court without a jury and shall be confined to
109 the record. The court shall not substitute its judgment for that of the department as to the
110 weight of the evidence on questions of fact. The court may affirm the decision of the
111 department or remand the case for further proceedings. The court may reverse the
112 decision of the department if substantial rights of the petitioner have been prejudiced
113 because the department's findings, inferences, conclusions, or decisions are:

114 (A) In violation of constitutional or statutory provisions;

115 (B) In excess of the statutory authority of the commission department;

116 (C) Made upon unlawful procedure;

117 (D) Clearly not supported by any reliable, probative, and substantial evidence on the
118 record as a whole; or

119 (E) Arbitrary or capricious.

120 (7) A party aggrieved by an order of the court in a proceeding authorized under
121 subsection (b) of this Code section may appeal to the Supreme Court of Georgia or to the
122 Court of Appeals of Georgia in accordance with Article 2 of Chapter 6 of Title 5, the
123 'Appellate Practice Act.'

124 40-1-57.
 125 Rules, orders, and regulations previously adopted which relate to functions performed by
 126 the Pubic Service Commission which were transferred under this Article to the Department
 127 of Public Safety shall remain of full force and effect as rules, orders, and regulations of the
 128 Department of Public Safety until amended, repealed, or superseded by rules or regulations
 129 adopted by the department.

130 Part 2

131 40-1-80.
 132 (a) The Motor Carrier Compliance Enforcement Section of the department shall have
 133 jurisdiction throughout this state with such duties and powers as are prescribed by law.
 134 (b) The primary duties of the Motor Carrier Compliance Enforcement Section shall be as
 135 follows:
 136 (1) Enforcement of laws and regulations relating to the size and the weights of motor
 137 vehicles, trailers, and loads as provided for in Article 2 of Chapter 6 of Title 32;
 138 (2) Enforcement of laws and regulations relating to licensing and fuel tax registration
 139 requirements and the reporting of violations thereof to the Department of Revenue;
 140 (3) Enforcement of safety standards for motor vehicles and motor vehicle components;
 141 (4) Enforcement of laws relating to hazardous materials carriers;
 142 (5) Enforcement of all state laws on the following properties owned or controlled by the
 143 Department of Transportation or the State Road and Tollway Authority: rest areas,
 144 truck-weighing stations or checkpoints, wayside parks, parking facilities, toll facilities,
 145 and any buildings and grounds for public equipment and personnel used for or engaged
 146 in administration, construction, or maintenance of the public roads or research pertaining
 147 thereto;
 148 (6) Enforcement of Code Section 16-10-24, relating to obstructing or hindering law
 149 enforcement officers;
 150 (7) Directing and controlling traffic on any public road which is part of the state highway
 151 system but only in areas where maintenance and construction activities are being
 152 performed and at scenes of accidents and emergencies until local police officers or
 153 Georgia State Patrol officers arrive and have the situation under control;
 154 (8) Enforcement of Code Sections 32-9-4 and 40-6-54, relating to designation of
 155 restricted travel lanes;
 156 (9) Enforcement of Code Section 16-11-43, relating to obstructing highways, streets,
 157 sidewalks, or other public passages, on any public road which is part of the state highway
 158 system;

- 159 (10) Enforcement of Code Section 16-7-43, relating to littering public or private property
160 or waters, on any public road which is part of the state highway system;
- 161 (11) Enforcement of Code Section 16-7-24, relating to interference with government
162 property, on any public road which is part of the state highway system; and
- 163 (12) Enforcement of any state law when ordered to do so by the commissioner.
- 164 (c) In performance of the duties specified in subsection (b) of this Code section, certified
165 law enforcement officers employed by the department or designated by the commissioner
166 shall:
- 167 (1) Be authorized to carry firearms;
- 168 (2) Exercise arrest powers;
- 169 (3) Have the power to stop, enter upon, and inspect all motor vehicles using the public
170 highways for purposes of determining whether such vehicles have complied with and are
171 complying with laws, the administration or enforcement of which is the responsibility of
172 the department;
- 173 (4) Have the power to examine the facilities where motor vehicles are housed or
174 maintained and the books and records of motor carriers for purposes of determining
175 compliance with laws, the administration or enforcement of which is the responsibility
176 of the department; and
- 177 (5) Exercise the powers generally authorized for law enforcement officers in the
178 performance of their duties or otherwise to the extent needed to protect any life or
179 property when the circumstances demand action.
- 180 (d) The commissioner shall authorize law enforcement officers of the Motor Carrier
181 Compliance Enforcement Section to make use of dogs trained for the purpose of detection
182 of drugs and controlled substances while such officers are engaged in the performance of
183 their authorized duties. If such authorized use of such a dog indicates probable cause to
184 indicate the presence of contraband, the officer or officers shall in those circumstances
185 have the full authority of peace officers to enforce the provisions of Article 2 of Chapter
186 13 of Title 16, the 'Georgia Controlled Substances Act,' and Article 3 of Chapter 13 of Title
187 16, the 'Dangerous Drug Act'; provided, however, that the department must immediately
188 notify the local law enforcement agency and district attorney of the jurisdiction where a
189 seizure is made.
- 190 (e)(1) Certified law enforcement officers employed by the Motor Carrier Compliance
191 Enforcement Section may use a department motor vehicle while working an approved
192 off-duty job, provided that:
- 193 (A) The off-duty employment is of a general nature that is the subject of a contract
194 between the off-duty employer and the department and is service in which the use of

195 the department motor vehicle is a benefit to the department or is in furtherance of the
196 department's mission;

197 (B) The off-duty employer agrees to pay and does pay to the department an amount
198 determined by the commissioner to be sufficient to reimburse the department for the use
199 of the vehicle and to pay the off-duty employee sufficient compensation. Pursuant to
200 such contract, the department shall pay the employee of the department the
201 compensation earned on off-duty employment whenever such employee performs such
202 service in a department motor vehicle; and

203 (C) The commissioner has specifically approved, in writing, the individual use of the
204 vehicle by the employee.

205 (2) At no time will an off-duty employee be allowed use of a department motor vehicle
206 at any political function of any kind.

207 40-1-81.

208 (a) The commissioner is authorized to establish a position to be known as 'weight
209 inspector' within the Motor Carrier Compliance Enforcement Section of the Department
210 of Public Safety. Weight inspectors shall be assigned to fixed scales facilities and shall not
211 be authorized to operate outside such facilities. The number of such positions shall be
212 determined by the commissioner within the limits set by available appropriations. Weight
213 inspectors may be divided into such ranks as the commissioner deems appropriate.

214 (b) The commissioner shall ensure that a weight inspector is properly trained regarding
215 laws governing commercial motor vehicle weight, registration, size, and load, including,
216 but not limited to, commercial motor vehicle provisions in Article 2 of Chapter 6 of Title
217 32 and safety standards for commercial motor vehicles and such motor vehicle
218 components. The training required in the areas required by this subsection shall be
219 equivalent to training provided to certified officers in the Motor Carrier Compliance
220 Enforcement Section.

221 (c) A weight inspector, at the fixed scales facility, shall be authorized to:

222 (1) Enforce noncriminal provisions relating to commercial motor vehicle weight,
223 registration, size, and load and assess a civil penalty for a violation of such provisions;
224 and

225 (2) Detain a commercial motor vehicle that:

226 (A) Has a safety defect which is critical to the continued safe operation of the vehicle;

227 (B) Is being operated in violation of any criminal law; or

228 (C) Is being operated in violation of an out-of-service order as reported on the federal
229 Safety and Fitness Electronic Records data base.

230 The detention authorized by this paragraph shall be for the purpose of contacting a
 231 certified member of the Motor Carrier Compliance Enforcement Section or Georgia State
 232 Patrol. A certified officer shall report to the scene of a detained vehicle and take any
 233 further action deemed appropriate including completing the inspection and investigation,
 234 making an arrest, or bringing criminal or civil charges.

235 (d) A weight inspector is not a peace officer and shall not be authorized to carry a firearm
 236 or exercise any power of arrest other than a citizen's arrest in accordance with Code
 237 Sections 17-4-60 and 17-4-61. At all times while a weight inspector is on duty, there shall
 238 be a supervisor over the weight inspector also on duty who shall be a certified peace
 239 officer.

240 Part 3

241 40-1-100.

242 As used in this part, the term:

243 (1) 'Carrier' means a person who undertakes the transporting of goods or passengers for
 244 compensation.

245 (2) 'Certificate' or 'motor carrier certificate' means a certificate of public convenience and
 246 necessity issued pursuant to this part or under the 'Motor Carrier Act of 1929,' under the
 247 'Motor Carrier Act of 1931,' or under prior law.

248 (3) 'Commissioner' means the Commissioner of the Department of Public Safety.

249 (4) 'Company' shall include a corporation, a firm, a partnership, an association, or an
 250 individual.

251 (5) 'Exempt rideshare' means:

252 (A) Government endorsed rideshare programs;

253 (B) Rideshare programs in which a rideshare driver seeks reimbursement for, or the
 254 rideshare participants pool or otherwise share, rideshare costs such as fuel; or

255 (C) The leasing or rental of a vehicle, in the ordinary course of the lessor's or rentor's
 256 business, for rideshare purposes as part of a government endorsed rideshare program,
 257 or for rideshare under a contract requiring compliance with subparagraph (B) of this
 258 paragraph.

259 (6) 'For compensation' or 'for hire' means an activity wherein for payment or other
 260 compensation a motor vehicle and driver are furnished to a person by another person,
 261 acting directly or knowingly and willfully acting with another to provide the combined
 262 service of the vehicle and driver, and includes every person acting in concert with, under
 263 the control of, or under common control with a motor carrier who shall offer to furnish

264 transportation for compensation or for hire, provided that no exempt rideshare shall be
 265 deemed to involve any element of transportation for compensation or for hire.

266 (7) 'Government endorsed rideshare program' means a vanpool, carpool, or similar
 267 rideshare operation conducted by or under the auspices of a state or local governmental
 268 transit instrumentality, such as GRTA, a transportation management association, or a
 269 community improvement district, or conducted under the auspices of such transit
 270 agencies, including through any form of contract between such transit instrumentality and
 271 private persons or businesses.

272 (8) 'GRTA' means the Georgia Regional Transportation Authority, which is itself exempt
 273 from regulation as a carrier under Code Section 50-32-71.

274 (9) 'Household goods' means any personal effects and property used or to be used in a
 275 dwelling when a part of the equipment or supplies of such dwelling and such other
 276 similar property as the commissioner may provide for by regulation; provided, however,
 277 that such term shall not include property being moved from a factory or store except
 278 when such property has been purchased by a householder with the intent to use such
 279 property in a dwelling and such property is transported at the request of, and with
 280 transportation charges paid by, the householder.

281 (10) 'Motor carrier' means:

282 (A) Every person owning, controlling, operating, or managing any motor vehicle,
 283 including the lessees, receivers, or trustees of such persons or receivers appointed by
 284 any court, used in the business of transporting for hire persons or household goods, or
 285 both, or engaged in the activity of nonconsensual towing pursuant to Code Section
 286 44-1-13 for hire over any public highway in this state.

287 (B) Except as otherwise provided in this subparagraph, the term 'motor carrier' shall
 288 not include:

289 (i) Motor vehicles engaged solely in transporting school children and teachers to and
 290 from public schools and private schools;

291 (ii) Taxicabs which operate within the corporate limits of municipalities and are
 292 subject to regulation by the governing authorities of such municipalities; the
 293 provisions of this division notwithstanding, vehicles and the drivers thereof operating
 294 within the corporate limits of any city shall be subject to the safety regulations
 295 adopted by the commissioner of public safety pursuant to Code Section 60-1-8;

296 (iii) Limousine carriers as provided for in Part 4 of this article;

297 (iv) Hotel passenger or baggage motor vehicles when used exclusively for patrons
 298 and employees of such hotel;

299 (v) Motor vehicles operated not for profit with a capacity of 15 persons or less when
 300 they are used exclusively to transport elderly and disabled passengers or employees

301 under a corporate sponsored van pool program, except that a vehicle owned by the
302 driver may be operated for profit when such driver is traveling to and from his or her
303 place of work provided each such vehicle carrying more than nine passengers
304 maintains liability insurance in an amount of not less than \$100,000.00 per person and
305 \$300,000.00 per accident and \$50,000.00 property damage. For the purposes of this
306 part, elderly and disabled passengers are defined as individuals over the age of 60
307 years or who, by reason of illness, injury, age, congenital malfunction, or other
308 permanent or temporary incapacity or disability, are unable to utilize mass
309 transportation facilities as effectively as persons who are not so affected;

310 (vi) Motor vehicles owned and operated exclusively by the United States government
311 or by this state or any subdivision thereof;

312 (vii) Vehicles, owned or operated by the federal or state government, or by any
313 agency, instrumentality, or political subdivision of the federal or state government,
314 or privately owned and operated for profit or not for profit, capable of transporting not
315 more than ten persons for hire when such vehicles are used exclusively to transport
316 persons who are elderly, disabled, en route to receive medical care or prescription
317 medication, or returning after receiving medical care or prescription medication. For
318 the purpose of this part, elderly and disabled persons shall have the same meaning as
319 in division (iv) of this subparagraph; or

320 (viii) Ambulances.

321 (11) 'Passenger' means a person who travels in a public conveyance by virtue of a
322 contract, either express or implied, with the carrier as to the payment of the fare or that
323 which is accepted as an equivalent therefor. The prepayment of fare is not necessary to
324 establish the relationship of passenger and carrier; although a carrier may demand
325 prepayment of fare if persons enter his or her vehicle by his or her permission with the
326 intention of being carried; in the absence of such a demand, an obligation to pay fare is
327 implied on the part of the passenger, and the reciprocal obligation of carriage of the
328 carrier arises upon the entry of the passenger.

329 (12) 'Person' means any individual, partnership, trust, private or public corporation,
330 municipality, county, political subdivision, public authority, cooperative, association, or
331 public or private organization of any character.

332 (13) 'Public highway' means every public street, road, highway, or thoroughfare of any
333 kind in this state.

334 (14) 'Vehicle' or 'motor vehicle' means any vehicle, machine, tractor, trailer, or
335 semitrailer propelled or drawn by mechanical power and used upon the highways in the
336 transportation of passengers or property, or any combination thereof, determined by the
337 commissioner.

338 40-1-101.

339 (a) Notwithstanding any other provision of law to the contrary, all motor carriers operating
340 on the public roads of this state shall be subject to the requirements of this part and shall
341 be deemed to have given consent to regulatory compliance inspections.

342 (b) Unless expressly prohibited by federal law, the commissioner is vested with power to
343 regulate the business of any person engaged in the transportation as a motor carrier of
344 persons or property, either or both, for hire on any public highway of this state.

345 (c) The commissioner is authorized to employ and designate a person or persons as
346 necessary to implement and carry out the functions contained in this part.

347 (d) All motor carriers shall:

348 (1) Obtain a certificate as required by this part;

349 (2) Maintain liability insurance as provided in the rules and regulations of the
350 department;

351 (3) Act in compliance with Georgia's workers' compensation laws as provided in Chapter
352 9 of Title 34 of the Official Code of Georgia Annotated; and

353 (4) Be a United States citizen, or if not a citizen, present federal documentation verified
354 by the United States Department of Homeland Security to be valid documentary evidence
355 of lawful presence in the United States under federal immigration law.

356 40-1-102.

357 (a) No motor carrier of passengers or household goods shall, except as otherwise provided
358 in this part, operate without first obtaining from the commissioner a certificate.

359 (b) Before a motor carrier may enter into any contract for the transportation of passengers,
360 the motor carrier shall provide to all parties to the agreement a copy of the motor carrier's
361 proof of legally required minimum insurance coverage and a valid certification number
362 demonstrating that the motor carrier is currently certified by the commissioner, the
363 Commissioner of Revenue, the Federal Motor Carrier Safety Administration, or any other
364 similarly required certifying agency. Any contract entered into in violation of this Code
365 section shall be void and unenforceable.

366 40-1-103.

367 (a) The department shall prescribe the form of the application for a motor carrier certificate
368 and shall prescribe such reasonable requirements as to notice, publication, proof of service,
369 maintenance of adequate liability insurance coverage, and information as may, in its
370 judgment, be necessary and may establish fees as part of such certificate process.

371 (b) A motor carrier certificate shall be issued to any qualified applicant, provided that such
372 applicant is a motor carrier business domiciled in this state, authorizing the operations

373 covered by the application if it is found that the applicant is fit, willing, and able to perform
 374 properly the service and conform to the provisions of this part and the rules and regulations
 375 of the department and has not been convicted of any felony as such violation or violations
 376 are related to the operation of a motor vehicle.

377 40-1-104.

378 (a) The commissioner may, at any time after notice and opportunity to be heard and for
 379 reasonable cause, revoke, alter, or amend any motor carrier certificate, if it shall be made
 380 to appear that the holder of the certificate has willfully violated or refused to observe any
 381 of the lawful and reasonable orders, rules, or regulations prescribed by the commissioner
 382 or any of the provisions of this part or any other law of this state regulating or taxing motor
 383 vehicles, or both, or if in the opinion of the commissioner the holder of the certificate is not
 384 furnishing adequate service.

385 (b) The commissioner may, at any time, after reasonable attempt at notice, immediately
 386 suspend any motor carrier certificate, if the commissioner finds such suspension necessary
 387 to protect life, health, or safety, or to protect the public and consumers. Certificate holders
 388 affected by such suspension may appeal to the commissioner for review pursuant to
 389 Chapter 13 of Title 50, the 'Georgia Administrative Procedures Act.' The commissioner
 390 may exercise his or her discretion to designate a hearing officer for such appeals.

391 (c) The commissioner, or his or her designated employees, may issue an out-of-service
 392 order or orders to a certificate holder, pursuant to the provisions of this article.

393 40-1-105.

394 Any motor carrier certificate issued pursuant to this part may be transferred upon
 395 application to and approval by the commissioner, and not otherwise.

396 40-1-106.

397 (a) The commissioner shall issue a motor carrier certificate to a person authorizing
 398 transportation as a motor carrier of passengers or household goods subject to the
 399 jurisdiction of the department if the commissioner finds that the person is fit, willing, and
 400 able to provide the transportation to be authorized by the certificate and to comply with
 401 regulations of the department. Fitness encompasses three factors:

402 (1) The applicant's financial ability to perform the service it seeks to provide;

403 (2) The applicant's capability and willingness to perform properly and safely the
 404 proposed service; and

405 (3) The applicant's willingness to comply with the laws of Georgia and the rules and
 406 regulations of the department.

407 (b) The initial burden of making out a prima-facie case that an applicant is fit to provide
 408 such service rests with the applicant.

409 (c) Upon an applicant making out a prima-facie case as to the motor carrier's ability to
 410 provide the service, the burden shifts to protestant to show that the authority sought should
 411 not be granted.

412 (d) A protest of a motor carrier of passengers or of household goods to an application will
 413 not be considered unless the protesting motor carrier:

414 (1) Possesses authority from the department to handle, in whole or in part, the authority
 415 which is being applied for and is willing and able to provide service and has performed
 416 service during the previous 12 month period or has actively in good faith solicited service
 417 during such period;

418 (2) Has pending before the department an application previously filed with the
 419 department for substantially the same authority; or

420 (3) Is granted by the commissioner leave to intervene upon a showing of other interests
 421 which in the discretion of the commissioner would warrant such a grant.

422 (e) The commissioner may issue a certificate without a hearing if the application is
 423 unprotested or unopposed.

424 40-1-107.

425 The commissioner shall adopt rules prescribing the manner and form in which motor
 426 carriers of passengers or household goods shall apply for certificates required by this part.
 427 Such rules shall require that the application be in writing, under oath, and that the
 428 application:

429 (1) Contains full information concerning the applicant's financial condition, the
 430 equipment proposed to be used, including the size, weight, and capacity of each vehicle
 431 to be used, and other physical property of the applicant;

432 (2) States the complete route or routes over which the applicant desires to operate and
 433 the proposed time schedule of the operation; and

434 (3) Contains any such other or additional information as the commissioner may order or
 435 require.

436 40-1-108.

437 Any motor carrier subject to the jurisdiction of the commissioner that transports passengers
 438 shall comply with the provisions of Code Section 3-3-23, concerning consumption of
 439 alcoholic beverages by persons under the age of 21. The commissioner shall provide to all
 440 motor carriers, at the time of registration or renewal of a certificate, an informational

441 packet emphasizing the prohibition on alcohol consumption by persons under the age of
442 21 while being transported by the motor carrier.

443 40-1-109.

444 The commissioner shall collect the following one-time fees upon initial application of a
445 limousine carrier pursuant to this part:

446 (1) A fee of \$75.00 to accompany each application for a motor carrier certificate, or
447 amendment to an existing certificate, where the applicant owns or operates fewer than six
448 motor vehicles;

449 (2) A fee of \$150.00 to accompany each application for a motor carrier certificate, or
450 amendment to an existing certificate, where the applicant owns or operates six to 15
451 motor vehicles;

452 (3) A fee of \$200.00 to accompany each application for a motor carrier certificate, or
453 amendment to an existing certificate, where the applicant owns or operates more than 15
454 motor vehicles;

455 (4) A fee of \$75.00 to accompany each application for transfer of a motor carrier
456 certificate; and

457 (5) A fee of \$50.00 to accompany each application for intrastate temporary emergency
458 authority under Code Section 40-1-104.

459 40-1-110.

460 The commissioner, upon the filing of an application for a motor carrier certificate, shall fix
461 a time and place for hearing thereon and shall, at least ten days before the hearing, give
462 notice thereof by advertising the same at the expense of the applicant in a newspaper in
463 Atlanta, in which sheriffs' notices are published. If no protest is filed with the department
464 or if the protest is subsequently withdrawn, the commissioner may issue the motor carrier
465 certificate without a hearing.

466 40-1-111.

467 When an application for a motor carrier certificate under this part has been in whole or in
468 part denied by the commissioner, or has been granted by the commissioner, and the order
469 of the commissioner granting same has been quashed or set aside by a court of competent
470 jurisdiction, a new application by the same petitioner or applicant therefor shall not be
471 again considered by the department within three months from the date of the order denying
472 the same or the judgment of the court quashing or setting aside the order.

473 40-1-112.

474 (a) No motor carrier of household goods or passengers shall be issued a motor carrier
 475 certificate unless there is filed with the department a certificate of insurance for such
 476 applicant or holder on forms prescribed by the commissioner evidencing a policy of
 477 indemnity insurance by an insurance company licensed to do business in this state, which
 478 policy must provide for the protection, in case of passenger vehicles, of passengers and the
 479 public against injury proximately caused by the negligence of such motor carrier, its
 480 servants, or its agents; and, in the case of vehicles transporting household goods, to secure
 481 the owner or person entitled to recover against loss or damage to such household goods for
 482 which the motor common carrier may be legally liable. The department shall determine
 483 and fix the amounts of such indemnity insurance and shall prescribe the provisions and
 484 limitations thereof. The insurer shall file such certificate. The failure to file any form
 485 required by the department shall not diminish the rights of any person to pursue an action
 486 directly against a motor carrier's insurer.

487 (b) The department shall have power to permit self-insurance, in lieu of a policy of
 488 indemnity insurance, whenever in its opinion the financial ability of the motor carrier so
 489 warrants.

490 (c) It shall be permissible under this part for any person having a cause of action arising
 491 under this part to join in the same action the motor carrier and the insurance carrier,
 492 whether arising in tort or contract.

493 40-1-113.

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

495 (1) 'Motor carrier transportation contract' means a contract, agreement, or understanding
 496 covering:

497 (A) The transportation of property for compensation or hire by the motor carrier;

498 (B) Entrance on property by the motor carrier for the purpose of loading, unloading,
 499 or transporting property for compensation or hire; or

500 (C) A service incidental to activity described in subparagraph (A) or (B) of this
 501 paragraph, including, but not limited to, storage of property.

502 Motor carrier transportation contract shall not include the Uniform Intermodal
 503 Interchange and Facilities Access Agreement administered by the Intermodal Association
 504 of North America or other agreements providing for the interchange, use, or possession
 505 of intermodal chassis, containers, or other intermodal equipment.

506 (2) 'Promisee' means the person promising to provide transportation of property and any
 507 agents, employees, servants, or independent contractors who are directly responsible to
 508 such person but shall not include a motor carrier party to a motor carrier transportation

509 contract with such person and such motor carrier's agents, employees, servants, or
 510 independent contractors directly responsible to such motor carrier.
 511 (b) Notwithstanding any provision of law to the contrary, a provision, clause, covenant,
 512 or agreement contained in, collateral to, or affecting a motor carrier transportation contract
 513 that purports to indemnify, defend, or hold harmless, or has the effect of indemnifying,
 514 defending, or holding harmless, the promisee from or against any liability for loss or
 515 damage resulting from the negligence or intentional acts or omissions of the promisee is
 516 against the public policy of this state and is void and unenforceable.

517 40-1-114.

518 Notwithstanding any other provision of law to the contrary, in order to authorize the
 519 provision of passenger or household goods service for which there is an immediate and
 520 urgent need to a point or points, or within a territory, with respect to which there is no
 521 motor carrier service capable of meeting such need, upon receipt of an application for
 522 temporary emergency authority and upon payment of the appropriate fee as fixed by
 523 statute, the department may, in its discretion and without a hearing or other prior
 524 proceeding, grant to any person temporary motor carrier authority for such service. The
 525 order granting such authority shall contain the department's findings supporting its
 526 determination that there is an unmet immediate and urgent need for such service and shall
 527 contain such conditions as the commissioner finds necessary with respect to such authority.
 528 Emergency temporary motor carrier authority, unless suspended or revoked for good cause
 529 within such period, shall be valid for such time as the department shall specify but not for
 530 more than an aggregate of 30 days. Such authority shall in no case be renewed and shall
 531 create no presumption that corresponding permanent authority will be granted thereafter,
 532 except that, where a motor carrier granted temporary emergency motor carrier authority
 533 under the provisions of this Code section makes application during the period of said
 534 temporary emergency authority for permanent motor carrier authority corresponding to that
 535 authorized in its temporary emergency authority, the temporary emergency motor carrier
 536 authority will be extended to the finalization of the permanent authority application unless
 537 sooner suspended or revoked for good cause within the extended period.

538 40-1-115.

539 A motor carrier of passengers may discontinue its entire service on any route upon 30 days'
 540 published notice to be prescribed by the department, and thereupon its certificate therefor
 541 shall be canceled. A motor carrier of passengers may discontinue any part of its service
 542 on any route upon 30 days' published notice, subject, however, to the right of the

543 department to withdraw its certificate for such route if, in the opinion of the commissioner,
544 such diminished service is not adequate or is no longer compatible with the public interest.

545 40-1-116.

546 No subdivision of this state, including cities, townships, or counties, shall levy any excise,
547 license, or occupation tax of any nature, on the right of a motor carrier to operate
548 equipment, or on the equipment, or on any incidents of the business of a motor carrier.

549 40-1-117.

550 (a) Each nonresident motor carrier shall, before any permit is issued to it under this part
551 or at the time of registering as required by Code Section 40-2-140, designate and maintain
552 in this state an agent or agents upon whom may be served all summonses or other lawful
553 processes in any action or proceeding against such motor carrier growing out of its carrier
554 operations; and service of process upon or acceptance or acknowledgment of such service
555 by any such agent shall have the same legal force and validity as if duly served upon such
556 nonresident carrier personally. Such designation shall be in writing, shall give the name
557 and address of such agent or agents, and shall be filed in the office of the state revenue
558 commissioner. Upon failure of any nonresident motor carrier to file such designation with
559 the state revenue commissioner or to maintain such an agent in this state at the address
560 given, such nonresident carrier shall be conclusively deemed to have designated the
561 Secretary of State and his or her successors in office as such agent; and service of process
562 upon or acceptance or acknowledgment of such service by the Secretary of State shall have
563 the same legal force and validity as if duly served upon such nonresident carrier personally,
564 provided that notice of such service and a copy of the process are immediately sent by
565 registered or certified mail or statutory overnight delivery by the Secretary of State or his
566 or her successor in office to such nonresident carrier, if its address be known. Service of
567 such process upon the Secretary of State shall be made by delivering to his or her office
568 two copies of such process with a fee of \$10.00.

569 (b) Except in those cases where the Constitution of Georgia requires otherwise, any action
570 against any resident or nonresident motor carrier for damages by reason of any breach of
571 duty, whether contractual or otherwise, or for any violation of this article or of any order,
572 decision, rule, regulation, direction, demand, or other requirement established by the state
573 revenue commissioner, may be brought in the county where the cause of action or some
574 part thereof arose; and if the motor carrier or its agent shall not be found for service in the
575 county where the action is instituted, a second original may issue and service be made in
576 any other county where the service can be made upon the motor carrier or its agent. The

577 venue prescribed by this Code section shall be cumulative of any other venue provided by
578 law.

579 40-1-118.

580 The commissioner shall prescribe just and reasonable rates, fares, and charges for
581 transportation by motor carriers of household goods and for all services rendered by motor
582 carriers in connection therewith. The tariffs therefor shall be in such form and shall be
583 filed and published in such manner and on such notice as the department may prescribe.
584 Such tariffs shall also be subject to change on such notice and in such manner as the
585 department may prescribe. In order to carry out the purposes of this Code section, including
586 the publication and maintenance of just, reasonable, and nondiscriminatory rates and
587 charges, the department shall establish a rate-making procedure for all carriers of
588 household goods. Failure on the part of any motor carrier to comply with this Code section
589 or the rules and regulations promulgated under this Code section may result in suspension
590 or cancellation of said carrier's operating authority by the department.

591 40-1-119.

592 No motor carrier of household goods shall charge, demand, collect, or receive a greater or
593 lesser or different compensation for the transportation of property or for any service
594 rendered in connection therewith than the rates, fares, and charges prescribed or approved
595 by order of the department; nor shall any such motor carrier unjustly discriminate against
596 any person in its rates, fares, or charges for service. The commissioner may prescribe, by
597 general order, to what persons motor carriers of household goods may issue passes or free
598 transportation; may prescribe reduced rates for special occasions; and may fix and
599 prescribe rates and schedules.

600 40-1-120.

601 Motor carriers of passengers shall not be compelled to carry baggage of passengers, except
602 hand baggage, the character, amount, and size of which the motor carrier may limit by its
603 rules and regulations, subject to the approval of the department; and the department may
604 by rule or regulation limit the amount of the liability of the motor carrier therefor. If a
605 motor carrier shall elect to carry the personal baggage of passengers, other than hand
606 baggage, the department shall prescribe just and reasonable rates therefor and such other
607 rules and regulations with respect thereto as may be reasonable and just, and may by rule
608 or regulation limit the amount of the liability of the motor carrier therefor.

609 40-1-121.

610 The department shall prescribe the books and the forms of accounts to be kept by the
611 holders of certificates under this part, which books and accounts shall be preserved for such
612 reasonable time as may be prescribed by the department. The books and records of every
613 certificate holder shall be at all times open to the inspection of any agent of the department
614 for such purpose. The department shall have the power to examine the books and records
615 of all motor carriers to whom it has granted certificates or permits to operate under this part
616 and to examine under oath the officers and agents of any motor carrier with respect thereto.

617 40-1-122.

618 Motor carriers shall observe the laws of this state in respect to size, weight, and speed of
619 their vehicles. Intrastate motor carriers of passengers shall, and interstate motor carriers
620 of passengers may, file with the department the schedules upon which they propose to
621 operate their vehicles, which schedules shall be such that the net running time of vehicles
622 between terminal points shall not exceed the lawful speed limit; and any motor carrier of
623 passengers filing such a schedule shall be allowed to operate his or her vehicles on the
624 highway at a rate of speed not exceeding the lawful speed limit in order to maintain a
625 schedule so filed.

626 40-1-123.

627 Any motor carrier which operates on the public highways of this state without the required
628 certificate or permit, or after such certificate or permit has been canceled, or without having
629 registered its vehicle or vehicles as provided for in this part, or which operates otherwise
630 than is permitted by the terms of such certificate or permit or the laws of this state may be
631 enjoined from operating on the public highways of this state upon the bringing of a civil
632 action by the department, by a competing motor carrier or rail carrier, or by any individual.

633 40-1-124.

634 Nothing in this part or any other law shall be construed to vest in the owner, holder, or
635 assignee of any certificate or permit issued under this part any vested right to use the public
636 highways of this state and shall not be construed to give to any motor carrier any perpetual
637 franchise over such public highways.

638 40-1-125.

639 (a) Upon issuance by the commissioner of an order suspending or revoking a motor carrier
640 certificate, such motor carrier shall be afforded a hearing to be held in accordance with the
641 procedures set forth in Code Section 40-1-56.

642 (b) Any person whose motor carrier certificate has been suspended or revoked and who
643 has exhausted all administrative remedies available within the Department of Public Safety
644 is entitled to judicial review in accordance with Code Section 40-1-56.

645 40-1-126.

646 In circumstances where a motor carrier is engaged in both interstate and intrastate
647 commerce, it shall nevertheless be subject to all the provisions of this part so far as it
648 separately relates to commerce carried on exclusively in this state. It is not intended that
649 the department shall have the power of regulating the interstate commerce of such motor
650 carrier, except to the extent expressly authorized by this part as to such commerce. The
651 provisions of this part do not apply to purely interstate commerce nor to carriers
652 exclusively engaged in interstate commerce. When a motor carrier is engaged in both
653 intrastate and interstate commerce, it shall be subject to all the provisions of this part so far
654 as they separately relate to commerce carried on in this state.

655 40-1-127.

656 (a) All actions at law against motor carriers operating in this state, which actions seek to
657 recover overcharges accruing on intrastate shipments, shall be initiated within a period of
658 three years after the time the cause of action accrues, and not thereafter, provided that, if
659 a claim for the overcharge is presented in writing to the carrier within the three-year period
660 of limitation, the period shall be extended to include six months from the time notice in
661 writing is given by the carrier to the claimant of disallowance of the claim or any part
662 thereof.

663 (b) A motor carrier of property may, upon notice to the commissioner of public safety,
664 elect to be subject to the following requirements regarding rates, charges, and claims for
665 loss or damage:

666 (1) A motor carrier of property shall provide to the shipper, upon request of the shipper,
667 a written or electronic copy of the rate, classification, rules, and practices upon which any
668 rate agreed to between the shipper and carrier may have been based. When the
669 applicability or reasonableness of the rates and related provisions billed by a carrier is
670 challenged by the person paying the freight charges, the commissioner of public safety
671 shall determine whether such rates and provisions are reasonable or applicable based on
672 the record before it. In cases where a carrier other than a carrier providing transportation
673 of household goods seeks to collect charges in addition to those billed and collected
674 which are contested by the payor, the carrier may request that the commissioner of public
675 safety determine whether any additional charges over those billed and collected must be

676 paid. A carrier must issue any bill for charges in addition to those originally billed within
 677 180 days of the original bill in order to have the right to collect such charges;

678 (2) If a shipper seeks to contest the charges originally billed by a motor carrier of
 679 property, the shipper may request that the commissioner of public safety determine
 680 whether the charges originally billed must be paid. A shipper must contest the original
 681 bill within 180 days in order to have the right to contest such charges; and

682 (3) Claims for loss of or damage to property for which any motor carrier of property may
 683 be liable must be filed within nine months after the delivery of the property, except that
 684 claims for failure to make delivery must be filed within nine months after a reasonable
 685 time for delivery has elapsed.

686 (c) The commissioner of public safety shall adopt rules regarding rates, charges, and
 687 claims for loss or damage applicable to carriers of household goods.

688 40-1-128.

689 (a) Any officer, agent, or employee of any corporation, and any other person, who
 690 knowingly accepts or receives any rebate or drawback from the rates, fares, or charges
 691 established or approved by the department for motor carriers of passengers or household
 692 goods, or who procures, aids, or abets therein, or who uses or accepts from such motor
 693 carrier any free pass or free transportation not authorized or permitted by law or by the
 694 orders, rules, or regulations of the department, or who procures, aids, or abets therein, shall
 695 be guilty of a misdemeanor.

696 (b) The possession of goods, wares, or merchandise loaded on a motor vehicle consigned
 697 to any person, firm, or corporation, being transported or having been transported over the
 698 public highways in this state, without the authority of a permit or certificate for so
 699 transporting having been issued by the department under this article, shall be prima-facie
 700 evidence that such transportation of such goods, wares, or merchandise was an intentional
 701 violation of the law regulating the transportation of persons and property over the public
 702 highways in this state.

703 (c) Any person claiming the benefit of any exception made in this article shall have the
 704 burden of proving that he or she falls within the exception.

705 40-1-129.

706 (a) Whenever the department, after a hearing conducted in accordance with the provisions
 707 of Code Section 40-1-56, finds that any person, firm, or corporation is operating as a
 708 household goods carrier for hire without a valid certificate issued by the department or is
 709 holding itself out as such a carrier without such a certificate in violation of this part, the
 710 department may impose a fine of not more than \$5,000.00 for each violation. The

711 department may assess the person, firm, or corporation an amount sufficient to cover the
 712 reasonable expense of investigation incurred by the department. The department may also
 713 assess interest at the rate specified in Code Section 40-1-56 on any fine or assessment
 714 imposed, to commence on the day the fine or assessment becomes delinquent. All fines,
 715 assessments, and interest collected by the department shall be paid into the general fund
 716 of the state treasury. Any party aggrieved by a decision of the department under this
 717 subsection may seek judicial review as provided in Code section 40-1-56.

718 (b) Any person, firm, or corporation who knowingly and willfully issues, publishes, or
 719 affixes or causes or permits the issuance, publishing, or affixing of any oral or written
 720 advertisement, broadcast, or other holding out to the public, or any portion thereof, that the
 721 person, firm, or corporation is in operation as a household goods carrier for hire without
 722 having a valid certificate issued by the department is guilty of a misdemeanor. Any fine
 723 or assessment imposed by the department pursuant to the provisions of subsection (a) of
 724 this Code section shall not bar criminal prosecution pursuant to the provisions of this
 725 subsection.

726 40-1-130.

727 In any advertisement for a motor carrier, whether by print, radio, television, other
 728 broadcast, or electronic media including but not limited to Internet advertising and any
 729 listing or sites on any website, the motor carrier shall include the motor carrier
 730 authorization number issued to it by the Department of Public Safety. The department shall
 731 be required to issue a motor carrier authorization number to each registered motor carrier.
 732 Whenever the department, after a hearing conducted in accordance with the provisions of
 733 Code Section 40-1-56, finds that any person is advertising in violation of this Code section,
 734 the department may impose a fine of not more than \$500.00 for an initial violation and not
 735 more than \$15,000.00 for a second or subsequent violation.

736 Part 4

737 40-1-150.

738 This part shall be known and may be cited as the 'Georgia Limousine Carrier Act.'

739 40-1-151.

740 As used in this part, the term:

741 (1) 'Certificate' or 'limousine carrier certificate' means a certificate issued by the
 742 department for the operation of limousines or limousine services under this part and such
 743 certificates issued by the Public Service Commission on or before June 30, 2012.

744 (2) 'Chauffeur' means any person with a Georgia state driver's license who meets the
 745 qualifications as prescribed in this part and who is authorized by the commissioner of
 746 driver services to drive a motor vehicle of a limousine carrier as provided in
 747 paragraph (5) below.

748 (3) Department 'means the Department of Public Safety.

749 (4) 'Limousine' means any motor vehicle that meets the manufacturer's specifications for
 750 a luxury limousine with a designed seating capacity for no more than ten passengers and
 751 with a minimum of five seats located behind the operator of the vehicle, and which does
 752 not have a door at the rear of the vehicle designed to allow passenger entry or exit;
 753 further, no vehicle shall be permitted to be operated both as a taxicab and a limousine.

754 (5) 'Limousine carrier' means any person owning or operating a prearranged service
 755 regularly rendered to the public by furnishing transportation as a motor carrier for hire,
 756 not over fixed routes, by means of one or more unmetered:

757 (A) Limousines;

758 (B) Extended limousines;

759 (C) Sedans;

760 (D) Extended sedans;

761 (E) Sport utility vehicles;

762 (F) Extended sport utility vehicles;

763 (G) Other vehicles with a capacity for seating and transporting no more than 15
 764 persons for hire including the driver; or

765 (H) Any combination of subparagraphs (A) through (G) of this paragraph on the basis
 766 of telephone contract or written contract. A limousine carrier shall not use per capita
 767 rates or charges.

768 (6) 'Person' means any individual, firm, partnership, private or public corporation,
 769 company, association, or joint-stock association, and includes any trustee, receiver,
 770 assignee, or personal representative thereof.

771 (7) 'Public highway' means every public street, road, highway, or thoroughfare of any
 772 kind in this state.

773 (8) 'Vehicle' or 'motor vehicle' means any vehicle, machine, tractor, trailer, or semitrailer
 774 propelled or drawn by mechanical power and used upon the highways in the
 775 transportation of passengers or property, or any combination thereof, determined by the
 776 commission.

777 40-1-152.

778 (a) No limousine carrier shall operate any motor vehicle owned or operated by a limousine
779 carrier for the transportation of passengers for compensation on any public highway in this
780 state except in accordance with the provisions of this article.

781 (b) No person may engage in the business of a limousine carrier over any public highway
782 in this state without first having obtained from the department a certificate to do so.

783 40-1-153.

784 (a) The department shall prescribe the form of the application for a limousine carrier
785 certificate and shall prescribe such reasonable requirements as to notice, publication, proof
786 of service, maintenance of adequate liability insurance coverage, and information as may,
787 in its judgment, be necessary and may establish fees as part of such certificate process.

788 (b) A limousine carrier certificate shall be issued to any qualified applicant, provided that
789 such applicant is a limousine carrier business domiciled in this state, authorizing the
790 operations covered by the application if it is found that the applicant is fit, willing, and able
791 to perform properly the service and conform to the provisions of this part and the rules and
792 regulations of the department and has not been convicted of any felony as such violation
793 or violations are related to the operation of a motor vehicle.

794 40-1-154.

795 (a) It shall be the duty of the department to regulate limousine carriers with respect to the
796 safety of equipment.

797 (b) The department shall require safety and mechanical inspections at least on an annual
798 basis for each vehicle owned or operated by a limousine carrier. The department shall
799 provide, by rule or regulation, for the scope of such inspections, the qualifications of
800 persons who may conduct such inspections, and the manner by which the results of such
801 inspections shall be reported to the department.

802 (c) In addition to the requirements of this Code section, limousine carriers shall comply
803 with the applicable provisions of Code Section 40-1-8.

804 40-1-155.

805 No limousine carrier certificate issued under this part may be leased, assigned, or otherwise
806 transferred or encumbered unless authorized by the department.

807 40-1-156.

808 (a) The department may cancel, revoke, or suspend any limousine carrier certificate issued
809 under this part on any of the following grounds:

- 810 (1) The violation of any of the provisions of this part;
 811 (2) The violation of an order, decision, rule, regulation, or requirement established by the
 812 department;
 813 (3) Failure of a limousine carrier to pay a fee imposed on the carrier within the time
 814 required by law or by the department;
 815 (4) Failure of a limousine carrier to maintain required insurance in full force and effect;
 816 and
 817 (5) Failure of a limousine carrier to operate and perform reasonable services.
 818 (b) After the cancellation or revocation of a certificate or during the period of its
 819 suspension, it is unlawful for a limousine carrier to conduct any operations as such a
 820 carrier.

821 40-1-157.

822 Limousine certificates shall be valid unless suspended, revoked, or cancelled by the
 823 commissioner, or surrendered to the commissioner by the holder.

824 40-1-158.

825 Pursuant to rules and regulations prescribed by the commissioner of driver services, each
 826 chauffeur employed by a limousine carrier shall secure from the Department of Driver
 827 Services a limousine chauffeur authorization and licence endorsement.

828 40-1-159.

829 The commissioner shall collect the following one-time fees upon initial application of a
 830 limousine carrier pursuant to this part:

- 831 (1) A fee of \$75.00 to accompany each application for a certificate, or amendment to an
 832 existing certificate, where the applicant owns or operates fewer than six limousines;
 833 (2) A fee of \$150.00 to accompany each application for a certificate, or amendment to
 834 an existing certificate, where the applicant owns or operates six to 15 limousines;
 835 (3) A fee of \$200.00 to accompany each application for a certificate, or amendment to
 836 an existing certificate, where the applicant owns or operates more than 15 limousines; and
 837 (4) A fee of \$75.00 to accompany each application for transfer of a certificate.

838 40-1-160.

839 Any limousine carrier subject to the jurisdiction of the commissioner that transports
 840 passengers shall comply with the provisions of paragraph (1) of subsection (a) of Code
 841 Section 3-3-23 and Code Section 3-9-6, concerning consumption of alcoholic beverages.
 842 The commissioner shall provide to all such limousine carriers, at the time of registration

843 a certificate, an informational packet emphasizing the prohibition on alcohol consumption
844 by persons under the age of 21 while being transported by the limousine carrier.

845 40-1-161.

846 (a) The commissioner may, at any time after notice and opportunity to be heard and for
847 reasonable cause, revoke, alter, or amend any limousine certificate issued under this part,
848 or under prior law, if it shall be made to appear that the holder of the certificate has
849 willfully violated or refused to observe any of the lawful and reasonable orders, rules, or
850 regulations prescribed by the commissioner or any of the provisions of this part or any
851 other law of this state regulating or taxing motor vehicles, or both, or if in the opinion of
852 the commissioner the holder of the certificate is not furnishing adequate service.

853 40-1-162.

854 The State of Georgia fully occupies and preempts the entire field of regulation over
855 limousine carriers as regulated by this part; provided, however, that the governing authority
856 of any county or municipal airport shall be authorized to permit any limousine carrier doing
857 business at any such airport and may establish fees as part of such permitting process;
858 provided, further, that such fees shall not exceed the airport's approximate cost of
859 permitting and regulating limousine carriers; and provided, further, that such governing
860 authorities of such airports shall accept a chauffeur's endorsement issued by the
861 Department of Driver Services to the driver and evidence of a certificate issued to the
862 limousine carrier by the Department of Public Safety as adequate evidence of sufficient
863 criminal background investigations and shall not require any fee for any further criminal
864 background investigation. The list of licensed limousine carriers on the website of the
865 Department of Public Safety shall be sufficient evidence that a limousine carrier has a
866 certificate issued by the Department of Public Safety.

867 40-1-163.

868 (a) Notwithstanding the powers granted to the department regarding tariffs of other motor
869 carriers, the department is not authorized to set, adjust, or change rates or charges for
870 transportation of passengers, property, or passengers and property by a vehicle of a type
871 listed in Code Section 40-1-118 that is managed, operated, owned, leased, rented, or
872 controlled by a limousine carrier.

873 (b) Any tariff issued by the department that exists as of June 30, 2007, that regulates the
874 rates or charges for transportation of passengers, property, or passengers and property by
875 a vehicle of a type listed in Code Section 40-1-118 that is managed, operated, owned,
876 leased, rented, or controlled by a limousine carrier shall be void.

877 40-1-164.

878 Before the department shall enter any order, regulation, or requirement directed against any
879 limousine carrier, such carrier shall first be given reasonable notice and an opportunity to
880 be heard on the matter.

881 40-1-165.

882 In any advertisement for a limousine carrier, whether by print, radio, television, other
883 broadcast, or electronic media including but not limited to Internet advertising and any
884 listing or sites on any website, the limousine carrier shall include the motor carrier
885 authorization number issued to it by the Department of Public Safety. The department shall
886 be required to issue a motor carrier authorization number to each registered limousine
887 carrier. Whenever the department, after a hearing conducted in accordance with the
888 provisions of Code Section 40-1-56, finds that any person is advertising in violation of this
889 Code section, the department may impose a fine of not more than \$500.00 for an initial
890 violation and not more than \$15,000.00 for a second or subsequent violation.

891 40-1-166.

892 Each limousine carrier shall obtain and maintain commercial indemnity and liability
893 insurance with an insurance company authorized to do business in this state which policy
894 shall provide for the protection of passengers and property carried and of the public against
895 injury proximately caused by the negligence of the limousine carrier, its servants, and its
896 agents. The minimum amount of such insurance shall be:

897 (1) For capacity of 12 passengers or less, \$300,000.00 for bodily injuries to or death of
898 all persons in any one accident with a maximum of \$100,000.00 for bodily injuries to or
899 death of one person, and \$50,000.00 for loss of damage in any one accident to property
900 of others, excluding cargo; or

901 (2) For capacity of more than 12 passengers, \$500,000.00 for bodily injuries to or death
902 of all persons in any one accident with a maximum of \$100,000.00 for bodily injuries to
903 or death of one person, and \$50,000.00 for loss of damage in any one accident to property
904 of others, excluding cargo.

905 40-1-167.

906 Each limousine carrier which registers any vehicle under this article shall, for each such
907 certificated vehicle, affix to the center of the front bumper of each such certificated vehicle
908 a standard size license plate bearing the following information: (1) limousine carrier name,
909 (2) city and state of principal domicile, (3) company telephone number, and (4) the vehicle
910 classification, IE-1. The cost for such license plate shall be the sole responsibility of the

911 limousine carrier and must be placed on each certificated vehicle prior to said vehicle being
 912 placed in service.

913 40-1-168.

914 No subdivision of this state, including cities, townships, or counties, shall levy any excise,
 915 license, or occupation tax of any nature, on the right of a limousine carrier to operate
 916 equipment, or on the equipment, or on any incidents of the business of a limousine carrier.

917 40-1-169.

918 The department is authorized to enforce the provisions of this part. Additionally, the
 919 department may hear a petition by a third party asserting that a limousine carrier has
 920 violated 40-1-152 and may impose the penalties and seek the remedies set out in 40-1-56
 921 of this title if the department finds such a violation.

922 40-1-170.

923 The provisions of this part and the powers granted to the department by this part to regulate
 924 limousine carriers shall apply to every vehicle of a type listed in Code Section 40-1-151
 925 that is managed, operated, owned, leased, rented, or controlled by a limousine carrier."

926 **SECTION 2.**

927 Article 2 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to
 928 drivers' licenses, is amended by adding a new Code section to read as follows:

929 "40-5-39.

930 (a) The department shall endorse the driver's license of any approved limousine chauffeur
 931 employed by a limousine carrier. In order to be eligible for such endorsement, an applicant
 932 shall:

933 (1) Be at least 18 years of age;

934 (2) Possess a valid Georgia driver's license which is not limited as defined in Code
 935 Section 40-5-64;

936 (3) Not have been convicted, been on probation or parole, or served time on a sentence
 937 for a period of ten years previous to the date of application for any felony or any other
 938 crime of moral turpitude or a pattern of misdemeanors that evidences a disregard for the
 939 law unless he or she has received a pardon and can produce evidence of same. For the
 940 purposes of this paragraph, a plea of nolo contendere shall be considered to be a
 941 conviction, and a conviction for which a person has been free from custody and free from
 942 supervision for at least ten years shall not be considered a conviction unless the
 943 conviction is for a dangerous sexual offense which is contained in Code Section 42-1-12

944 or the criminal offense was committed against a victim who was a minor at the time of
 945 the offense;

946 (4) Submit at least one set of classifiable electronically recorded fingerprints to the
 947 department in accordance with the fingerprint system of identification established by the
 948 director of the Federal Bureau of Investigation. The department shall transmit the
 949 fingerprints to the Georgia Crime Information Center, which shall submit the fingerprints
 950 to the Federal Bureau of Investigation for a search of bureau records and an appropriate
 951 report and promptly conduct a search of state records based upon the fingerprints. After
 952 receiving the report from the Georgia Crime Information Center and the Federal Bureau
 953 of Investigation, the department shall determine whether the applicant may be certified;
 954 and

955 (5) Be a United States citizen, or if not a citizen, present federal documentation verified
 956 by the United States Department of Homeland Security to be valid documentary evidence
 957 of lawful presence in the United States under federal immigration law.

958 (b) Such endorsement shall be valid for the same term as such person's driver's license,
 959 provided that each person seeking renewal of a driver's license with such endorsement shall
 960 submit to a review of his or her criminal history for verification of his or her continued
 961 eligibility for such endorsement prior to making application for such renewal using the
 962 same process set forth in subsection (a) of this Code section. If such person no longer
 963 satisfies the background requirements set forth herein, he or she shall not be eligible for the
 964 inclusion of such endorsement on his or her driver' license, and it shall be renewed without
 965 the endorsement.

966 (c) Every chauffeur employed by a limousine carrier shall have his or her Georgia driver's
 967 license with the prescribed endorsement in his or her possession at all times while
 968 operating a motor vehicle of a limousine carrier.

969 (d) The department is authorized to promulgate rules and regulations as necessary to
 970 implement this Code section."

971 PART II

972 Conformity of Cross-References.

973 SECTION 3.

974 Code Section 20-1-10 of the Official Code of Georgia Annotated, relating to certification by
 975 Public Service Commission required prior to contracting with motor or contract carrier, is
 976 amended by revising subsection (b) as follows:

977 "(b) No educational institution receiving state funds shall enter into an agreement with a
 978 motor carrier or contract carrier for the purpose of transporting students without first

979 verifying that such carrier is certified by the ~~Public Service Commission~~ Department of
 980 Public Safety as required by ~~Article 1 of Chapter 7 of Title 46~~ Article 5 of Chapter 2 of
 981 Title 35, the Federal Motor Carrier Safety Administration, or any other similarly required
 982 certifying agency."

983 **SECTION 4.**

984 Code Section 27-5-4 of the Official Code of Georgia Annotated, relating to wild animal
 985 licenses and permits generally, is amended by revising subsection (d) as follows:

986 "(d) No wild animal license or permit shall be required for a carrier regulated either by the
 987 Interstate Commerce Commission, the Civil Aeronautics Board, or the ~~Public Service~~
 988 ~~Commission~~ Department of Public Safety to import or transport any wild animal."

989 **SECTION 5.**

990 Code Section 34-8-35 of the Official Code of Georgia Annotated, relating to employment,
 991 is amended by revising subparagraph (n)(10)(B) as follows:

992 "(B) The employer exercises no general control over such commission agent but only
 993 such control as is necessary to assure compliance with its filed tariffs and with the laws
 994 of the United States and the State of Georgia and the rules and regulations of the ~~Public~~
 995 ~~Service Commission~~ Department of Public Safety, the ~~Interstate Commerce~~
 996 ~~Commission~~ Federal Motor Carrier Safety Administration, and all other regulatory
 997 bodies having jurisdiction of the premises; and"

998 **SECTION 6.**

999 Chapter 2 of Title 35 of the Official Code of Georgia Annotated, relating to the Department
 1000 of Public Safety, is amended by repealing Article 5, relating to motor carrier compliance
 1001 division, and designating said article as reserved.

1002 **SECTION 7.**

1003 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
 1004 amended in Code Section 40-2-1, relating to definitions applicable to registration and
 1005 licensing of motor vehicles, by revising paragraph (4) as follows:

1006 "(4) 'Motor carrier' means:

1007 (A) Any entity subject to the terms of the Unified Carrier Registration Agreement
 1008 pursuant to 49 U.S.C. Section 14504a whether engaged in interstate or intrastate
 1009 commerce, or both; or

1010 (B) Any entity defined by the commissioner; or commissioner of public safety; ~~or~~
 1011 ~~Public Service Commission~~ who operates or controls commercial motor vehicles as

1012 defined in 49 C.F.R. Section 390.5, ~~Title 46~~, or this chapter whether operated in
1013 interstate or intrastate commerce, or both."

1014 **SECTION 8.**

1015 Said title is further amended in Code Section 40-2-162, relating to formulas, rules, and
1016 apportionment of cost of annual license fees of motor buses to motor common carriers of
1017 passengers for hire operating partially outside state, by revising subsection (a) as follows:

1018 "(a) The commissioner shall apportion the cost of the annual fees for the licensing of motor
1019 buses to motor common carriers of passengers for hire operating a fleet of two or more
1020 motor buses either interstate, or both interstate and intrastate, under the authority of the
1021 ~~Interstate Commerce Commission or under authority of both the Interstate Commerce~~
1022 ~~Commission~~ Federal Motor Carrier Safety Administration and the ~~Public Service~~
1023 ~~Commission~~ Department of Public Safety of this state. The apportionment shall be done
1024 so that the total cost of the fees shall bear the same proportion to the annual fees for motor
1025 buses as the total number of miles traveled by the fleet of the carrier in this state in both
1026 interstate and intrastate operations during the preceding year bears to the total number of
1027 miles traveled by the fleet during the year in both interstate and intrastate operations."

1028 **SECTION 9.**

1029 Said title is further amended in Code Section 40-6-248.1, relating to securing loads on
1030 vehicles, by revising subsection (c) as follows:

1031 "(c) Nothing in this Code section nor any regulations based thereon shall conflict with
1032 federal, ~~Georgia Public Service Commission~~, Georgia Department of Public Safety, or
1033 Georgia Board of Public Safety regulations applying to the securing of loads on motor
1034 vehicles."

1035 **SECTION 10.**

1036 Said title is further amended in Code Section 40-16-2, relating to the primary responsibilities
1037 of the Department of Driver Services, by revising subsection (b) as follows:

1038 "(b) Responsibility for the following functions formerly exercised by the Department of
1039 Motor Vehicle Safety is transferred as follows:

1040 (1) Promulgation of regulations relating to the size and the weights of motor vehicles,
1041 trailers, and loads as provided for in Article 2 of Chapter 6 of Title 32 shall be vested in
1042 the Department of Transportation; and administrative enforcement of such regulations
1043 and the law enforcement function of apprehending and citing violators of such laws and
1044 regulations are transferred to the Department of Public Safety, as well as the function of
1045 promulgating regulations relative to its enforcement function;

- 1046 (2) Enforcement of laws and regulations relating to licensing and fuel tax registration
 1047 requirements is transferred to the Department of Public Safety;
 1048 (3) Administration of laws and regulations relating to certification of motor carriers and
 1049 limousine carriers is transferred to the ~~Public Service Commission~~ Department of Public
 1050 Safety and administration of laws and regulations relating to carrier registration and
 1051 registration and titling of vehicles is transferred to the Department of Revenue;"

1052 SECTION 11.

1053 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by
 1054 revising Code Section 44-1-13, relating to removal of improperly parked cars or trespassing
 1055 on personal property, as follows:

1056 "44-1-13.

1057 (a) As used in this Code section, the term:

1058 (1) '~~Commission~~ Department' means the ~~Public Service Commission~~ Department of
 1059 Public Safety.

1060 (2) 'Private property' means any parcel or space of private real property.

1061 (a.1) Any person or his or her authorized agent entitled to the possession of any private
 1062 property shall have the right to remove or cause to be removed from the property any
 1063 vehicle or trespassing personal property thereon which is not authorized to be at the place
 1064 where it is found and to store or cause to be stored such vehicle or trespassing personal
 1065 property, provided that there shall have been conspicuously posted on the private property
 1066 notice that any vehicle or trespassing personal property which is not authorized to be at the
 1067 place where it is found may be removed at the expense of the owner of the vehicle or
 1068 trespassing personal property. Such notice shall also include information as to the location
 1069 where the vehicle or personal property can be recovered, the cost of said recovery, and
 1070 information as to the form of payment; provided, however, that the owner of residential
 1071 private property containing not more than four residential units shall not be required to
 1072 comply with the posting requirements of this subsection. Only towing and storage firms
 1073 issued permits or licenses by the local governing authority of the jurisdiction in which they
 1074 operate or by the ~~commission~~ department, and having a secure impoundment facility, shall
 1075 be permitted to remove trespassing property and trespassing personal property at the
 1076 request of the owner or authorized agent of the private property.

1077 (b)(1) The ~~commission~~ department shall have the authorization to regulate and control
 1078 the towing of trespassing vehicles on private property if such towing is performed
 1079 without the prior consent or authorization of the owner or operator of the vehicle,
 1080 including the authority to set just and reasonable rates, fares, and charges for services
 1081 related to the removal, storage, and required notification to owners of such towed

1082 vehicles. No storage fees shall be charged for the first 24 hour period which begins at the
 1083 time the vehicle is removed from the property, and no such fees shall be allowed for the
 1084 removal and storage of vehicles removed by towing and storage firms found to be in
 1085 violation of this Code section. The ~~commission~~ department is authorized to impose a
 1086 civil penalty for any violation of this Code section in an amount not to exceed \$2,500.00.

1087 (2) In accordance with subsection (d) of this Code section, the governing authority of a
 1088 municipality may require towing and storage operators to charge lower maximum rates
 1089 on traffic moving between points within such municipality than those provided by the
 1090 ~~commission~~ department's maximum rate tariff and may require higher public liability
 1091 insurance limits and cargo insurance limits than those required by the ~~commission~~
 1092 department. The governing authority of a municipality shall not provide for higher
 1093 maximum costs of removal, relocation, or storage than is provided for by the ~~commission~~
 1094 department.

1095 (c) In all municipalities, except a consolidated city-county government, having a
 1096 population of 100,000 or more according to the United States decennial census of 1970 or
 1097 any future such census a person entitled to the possession of an off-street parking area or
 1098 vacant lot within an area zoned commercial by the municipality shall have the right to
 1099 remove any vehicle or trespassing personal property parked thereon after the regular
 1100 activity on such property is concluded for the day only if access to such property from the
 1101 public way is blocked by a sturdy chain, cable, or rope stretched at least 18 inches above
 1102 grade across all driveways or other ways providing access to the off-street parking area or
 1103 vacant lot and there is conspicuously posted in the area a notice, the location of which must
 1104 be approved by the municipality's police department, that any vehicle or trespassing
 1105 personal property parked thereon which is not authorized to be in such area may be
 1106 removed at the expense of the owner along with information as to where the vehicle or
 1107 trespassing personal property may be recovered, the cost of said recovery, and information
 1108 regarding the form of payment.

1109 (d)(1) In addition to the regulatory jurisdiction of the ~~commission~~ department, the
 1110 governing authority of each municipality having towing and storage firms operating
 1111 within its territorial boundaries may require and issue a license or permit to engage in
 1112 private trespass towing within its corporate municipal limits pursuant to this Code section
 1113 to any firm meeting the qualifications imposed by said governing authority. The fee for
 1114 the license or permit shall be set by such governing authority. The maximum reasonable
 1115 costs of removal, relocation, and storage pursuant to the provisions of this Code section
 1116 shall be compensatory, as such term is used in the public utility rate-making procedures,
 1117 and shall be established annually by the governing authority of each municipality having
 1118 towing and storage firms operating within its territorial boundaries; provided, however,

1119 that no storage fees shall be charged for the first 24 hour period which begins at the time
 1120 the vehicle is removed from the property, and no such fees shall be allowed for the
 1121 removal and storage of vehicles removed by towing and storage firms found to be in
 1122 violation of this Code section.

1123 (2) Towing and storage firms operating within a municipality's corporate limits shall
 1124 obtain a nonconsensual towing permit from the ~~commission~~ department and shall file its
 1125 registered agent's name and address with the ~~commission~~ department.

1126 (e) Any person who suffers injury or damages as a result of a violation of this Code section
 1127 may bring an action in any court of competent jurisdiction for actual damages, which shall
 1128 be presumed to be not less than \$100.00, together with court costs. A court shall award
 1129 three times actual damages for an intentional violation of this Code section.

1130 (f) It shall be unlawful and punishable by a fine of \$1,000.00 for any towing and storage
 1131 firm, permitted or unpermitted, licensed or unlicensed, to enter into any agreement with
 1132 any person in possession of private property to provide automatic or systematic
 1133 surveillance of such property for purposes of removal and relocation of any such vehicle
 1134 or trespassing personal property except upon call by such person in possession of such
 1135 private property to such towing and storage firm for each individual case of trespass;
 1136 provided, further, that it shall be unlawful and punishable by a fine of \$1,000.00 for any
 1137 towing and storage firm to pay to any private property owner or one in possession of
 1138 private property any fee or emolument, directly or indirectly, for the right to remove a
 1139 vehicle or trespassing personal property from said private property."

1140 **SECTION 12.**

1141 Said title is further amended by revising Code Section 44-7-59, relating to removal of
 1142 transportable housing from lands subject to writ of possession, as follows:

1143 "44-7-59.

1144 If the court issues a writ of possession to property upon which the tenant has placed a
 1145 manufactured home, mobile home, trailer, or other type of transportable housing and the
 1146 tenant does not move the same within ten days after a final order is entered, the landlord
 1147 shall be entitled to have such transportable housing moved from the property at the expense
 1148 of the tenant by a motor common carrier licensed by the ~~Public Service Commission~~
 1149 Department of Public Safety for the transportation of manufactured housing. There shall
 1150 be a lien upon such transportable housing to the extent of moving fees and storage expenses
 1151 in favor of the person performing such services. Such lien may be claimed and foreclosed
 1152 in the same manner as special liens on personalty by mechanics under Code Sections
 1153 44-14-363 and 44-14-550, except that storage fees not to exceed \$4.00 per day shall be
 1154 expressly allowed."

SECTION 13.

1155
1156 Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public
1157 transportation, is amended by revising Code Section 46-1-1, relating to definitions,
1158 exclusions, and Georgia Forest Product Trucking Rules, as follows:

1159 "46-1-1.

1160 As used in this title, the term:

1161 ~~(1) 'Carrier' means a person who undertakes the transporting of goods or passengers for~~
1162 ~~compensation.~~

1163 ~~(2)~~(1) 'Certificate' means a certificate of public convenience and necessity issued
1164 pursuant to this title.

1165 ~~(3)~~(2) 'Commission' means the Public Service Commission.

1166 ~~(4)~~(3) 'Company' shall include a corporation, a firm, a partnership, an association, or an
1167 individual.

1168 ~~(5)~~(4) 'Electric utility' means any retail supplier of electricity whose rates are fixed by
1169 the commission.

1170 ~~(5.1) 'Exempt rideshare' means:~~

1171 ~~(A) Government endorsed rideshare programs;~~

1172 ~~(B) Rideshare programs in which a rideshare driver seeks reimbursement for, or the~~
1173 ~~rideshare participants pool or otherwise share, rideshare costs such as fuel; or~~

1174 ~~(C) The leasing or rental of a vehicle, in the ordinary course of the lessor's or rentor's~~
1175 ~~business, for rideshare purposes as part of a government endorsed rideshare program,~~
1176 ~~or for rideshare under a contract requiring compliance with subparagraph (B) of this~~
1177 ~~paragraph.~~

1178 ~~(6) 'For compensation' or 'for hire' means an activity wherein for payment or other~~
1179 ~~compensation a motor vehicle and driver are furnished to a person by another person,~~
1180 ~~acting directly or knowingly and willfully acting with another to provide the combined~~
1181 ~~service of the vehicle and driver, and includes every person acting in concert with, under~~
1182 ~~the control of, or under common control with a motor carrier who shall offer to furnish~~
1183 ~~transportation for compensation or for hire, provided that no exempt rideshare shall be~~
1184 ~~deemed to involve any element of transportation for compensation or for hire.~~

1185 ~~(6.1)~~(5) 'Gas company' means any person certificated under Article 2 of Chapter 4 of this
1186 title to construct or operate any pipeline or distribution system, or any extension thereof,
1187 for the transportation, distribution, or sale of natural or manufactured gas.

1188 ~~(6.2) 'Government endorsed rideshare program' means a vanpool, carpool, or similar~~
1189 ~~rideshare operation conducted by or under the auspices of a state or local governmental~~
1190 ~~transit instrumentality, such as GRTA, a transportation management association, or a~~
1191 ~~community improvement district, or conducted under the auspices of such transit~~

1192 agencies, including through any form of contract between such transit instrumentality and
 1193 private persons or businesses.

1194 ~~(6.3) 'GRTA' means the Georgia Regional Transportation Authority, which is itself~~
 1195 ~~exempt from regulation as a carrier under Code Section 50-32-71.~~

1196 ~~(7) 'Household goods' means any personal effects and property used or to be used in a~~
 1197 ~~dwelling when a part of the equipment or supplies of such dwelling and such other~~
 1198 ~~similar property as the commission may provide for by regulation; provided, however,~~
 1199 ~~that such term shall not include property being moved from a factory or store except~~
 1200 ~~when such property has been purchased by a householder with the intent to use such~~
 1201 ~~property in a dwelling and such property is transported at the request of, and with~~
 1202 ~~transportation charges paid by, the householder.~~

1203 ~~(8) Reserved.~~

1204 ~~(9) 'Motor contract carrier and motor common carrier' means as follows:~~

1205 ~~(A) 'Motor contract carrier' means every person, except common carriers, owning,~~
 1206 ~~controlling, operating, or managing any motor propelled vehicle including the lessees~~
 1207 ~~or trustees of such persons or receivers appointed by any court used in the business of~~
 1208 ~~transporting persons or household goods or engaged in the activity of nonconsensual~~
 1209 ~~towing pursuant to Code Section 44-1-13 for hire over any public highway in this state.~~
 1210 ~~Vehicles and the drivers thereof operating within the corporate limits of any city shall~~
 1211 ~~be subject to the safety regulations adopted by the commissioner of public safety~~
 1212 ~~pursuant to Code Section 40-1-8.~~

1213 ~~(B) 'Motor common carrier' means every person owning, controlling, operating, or~~
 1214 ~~managing any motor propelled vehicle, and the lessees, receivers, or trustees of such~~
 1215 ~~person, used in the business of transporting for hire of persons or household goods, or~~
 1216 ~~both, or engaged in the activity of nonconsensual towing pursuant to Code Section~~
 1217 ~~44-1-13, otherwise than over permanent rail tracks, on the public highways of Georgia~~
 1218 ~~as a common carrier. The term includes, but is not limited to, limousine carriers as~~
 1219 ~~defined in paragraph (5) of Code Section 46-7-85.1.~~

1220 ~~(C) Except as otherwise provided in this subparagraph, the terms 'motor common~~
 1221 ~~carrier' and 'motor contract carrier' shall not include:~~

1222 ~~(i) Motor vehicles engaged solely in transporting school children and teachers to and~~
 1223 ~~from public schools and private schools;~~

1224 ~~(ii) Taxicabs which operate within the corporate limits of municipalities and are~~
 1225 ~~subject to regulation by the governing authorities of such municipalities; the~~
 1226 ~~provisions of this division notwithstanding, vehicles and the drivers thereof operating~~
 1227 ~~within the corporate limits of any city shall be subject to the safety regulations~~
 1228 ~~adopted by the commissioner of public safety pursuant to Code Section 40-1-8;~~

1229 ~~(iii) Hotel passenger or baggage motor vehicles when used exclusively for patrons~~
 1230 ~~and employees of such hotel;~~

1231 ~~(iv) Motor vehicles operated not for profit with a capacity of 15 persons or less when~~
 1232 ~~they are used exclusively to transport elderly and disabled passengers or employees~~
 1233 ~~under a corporate sponsored van pool program, except that a vehicle owned by the~~
 1234 ~~driver may be operated for profit when such driver is traveling to and from his or her~~
 1235 ~~place of work provided each such vehicle carrying more than nine passengers~~
 1236 ~~maintains liability insurance in an amount of not less than \$100,000.00 per person and~~
 1237 ~~\$300,000.00 per accident and \$50,000.00 property damage. For the purposes of this~~
 1238 ~~division, elderly and disabled passengers are defined as individuals over the age of 60~~
 1239 ~~years or who, by reason of illness, injury, age, congenital malfunction, or other~~
 1240 ~~permanent or temporary incapacity or disability, are unable to utilize mass~~
 1241 ~~transportation facilities as effectively as persons who are not so affected;~~

1242 ~~(v) Reserved;~~

1243 ~~(vi) Reserved;~~

1244 ~~(vii) Reserved;~~

1245 ~~(viii) Motor vehicles owned and operated exclusively by the United States~~
 1246 ~~government or by this state or any subdivision thereof;~~

1247 ~~(ix) Reserved;~~

1248 ~~(x) Reserved;~~

1249 ~~(xi) Reserved;~~

1250 ~~(xii) Reserved;~~

1251 ~~(xiii) Vehicles, owned or operated by the federal or state government, or by any~~
 1252 ~~agency, instrumentality, or political subdivision of the federal or state government,~~
 1253 ~~or privately owned and operated for profit or not for profit, capable of transporting not~~
 1254 ~~more than ten persons for hire when such vehicles are used exclusively to transport~~
 1255 ~~persons who are elderly, disabled, en route to receive medical care or prescription~~
 1256 ~~medication, or returning after receiving medical care or prescription medication. For~~
 1257 ~~the purpose of this division, elderly and disabled persons shall have the same meaning~~
 1258 ~~as in division (iv) of this subparagraph;~~

1259 ~~(xiv) Reserved; or~~

1260 ~~(xv) Ambulances.~~

1261 ~~(10) 'Passenger' means a person who travels in a public conveyance by virtue of a~~
 1262 ~~contract, either express or implied, with the carrier as to the payment of the fare or that~~
 1263 ~~which is accepted as an equivalent therefor. The prepayment of fare is not necessary to~~
 1264 ~~establish the relationship of passenger and carrier; although a carrier may demand~~
 1265 ~~prepayment of fare if persons enter his or her vehicle by his or her permission with the~~

1266 ~~intention of being carried; in the absence of such a demand, an obligation to pay fare is~~
 1267 ~~implied on the part of the passenger, and the reciprocal obligation of carriage of the~~
 1268 ~~carrier arises upon the entry of the passenger.~~

1269 ~~(11) Reserved.~~

1270 ~~(12)(6)~~ 'Person' means any individual, partnership, trust, private or public corporation,
 1271 municipality, county, political subdivision, public authority, cooperative, association, or
 1272 public or private organization of any character.

1273 ~~(13) Reserved.~~

1274 ~~(14) 'Public highway' means every public street, road, highway, or thoroughfare of any~~
 1275 ~~kind in this state.~~

1276 ~~(15)(7)~~ 'Railroad corporation' or 'railroad company' means all corporations, companies,
 1277 or individuals owning or operating any railroad in this state. This title shall apply to all
 1278 persons, firms, and companies, and to all associations of persons, whether incorporated
 1279 or otherwise, that engage in business as common carriers upon any of the lines of railroad
 1280 in this state, as well as to railroad corporations and railroad companies as defined in this
 1281 Code section.

1282 ~~(16)(8)~~ 'Rate,' when used in this title with respect to an electric utility, means any rate,
 1283 charge, classification, or service of an electric utility or any rule or regulation relating
 1284 thereto.

1285 ~~(17)(9)~~ 'Utility' means any person who is subject in any way to the lawful jurisdiction of
 1286 the commission.

1287 ~~(18) 'Vehicle' or 'motor vehicle' means any vehicle, machine, tractor, trailer, or~~
 1288 ~~semitrailer propelled or drawn by mechanical power and used upon the highways in the~~
 1289 ~~transportation of passengers or property, or any combination thereof, determined by the~~
 1290 ~~commission."~~

1291 **SECTION 14.**

1292 Said title is further amended by revising Code Section 46-3-38, relating to applicability of
 1293 part to moving or transportation of houses or buildings, as follows:

1294 "46-3-38.

1295 In addition to the exceptions set forth in Code Section 46-3-37, this part shall not be
 1296 construed as applying to and shall not apply to the moving or transportation of houses or
 1297 buildings or parts thereof when such moving is under the jurisdiction of, and is undertaken
 1298 pursuant to authority granted by, the ~~Georgia Public Service Commission~~ Department of
 1299 Public Safety."

1300 **SECTION 15.**

1301 Said title is further amended by repealing Chapter 7, relating to motor carriers, and
1302 designating said chapter as reserved.

1303 **SECTION 16.**

1304 Said title is further amended by repealing Code Section 46-9-6, relating to limitations of
1305 actions against carriers for recovery of overcharges, requirements regarding rates, charges,
1306 and claims for loss or damage, and designating said Code section as reserved.

1307 **SECTION 17.**

1308 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
1309 amended by revising division (5)(B)(ii) of Code Section 48-8-3, relating to exemptions from
1310 the state sales and use tax, as follows:

1311 "(ii) 'Urban transit system' means a public transit system primarily urban in character
1312 which is operated by a street railroad company or a motor common carrier, is subject
1313 to the jurisdiction of the ~~Public Service Commission~~ Department of Public Safety, and
1314 whose fares and charges are regulated by the ~~Public Service Commission~~ Department
1315 of Public Safety, or is operated pursuant to a franchise contract with a municipality
1316 of this state so that its fares and charges are regulated by or are subject to the approval
1317 of the municipality. An urban transit system certificate shall be issued by the ~~Public~~
1318 ~~Service Commission~~ Department of Public Safety, or by the municipality which has
1319 regulatory authority, upon an affirmative showing that the applicant operates an urban
1320 transit system. The certificate shall be obtained and filed with the commissioner and
1321 shall continue in effect so long as the holder of such certificate qualifies as an urban
1322 transit system. Any urban transit system certificate granted prior to January 1, 2002,
1323 shall be deemed valid as of the date it was issued;"

1324 **SECTION 18.**

1325 Said title is further amended by revising Code Section 48-8-93, relating to nonimposition of
1326 tax on property ordered by and delivered to a purchaser outside a special district and
1327 conditions of delivery, as follows:

1328 "48-8-93.

1329 No tax provided for in Code Section 48-8-82 shall be imposed upon the sale of tangible
1330 personal property which is ordered by and delivered to the purchaser at a point outside the
1331 geographical area of the special district in which the joint tax is imposed regardless of the
1332 point at which title passes, if the delivery is made by the seller's vehicle, United States mail,
1333 or common carrier or by private or contract carrier licensed by the ~~Interstate Commerce~~

1334 ~~Commission~~ Federal Motor Carrier Safety Administration or the Georgia ~~Public Service~~
 1335 ~~Commission~~ Department of Public Safety."

1336 **SECTION 19.**

1337 Said title is further amended by revising Code Section 48-8-107, relating to property ordered
 1338 by and delivered to a purchaser at a point outside the geographical area of a special district
 1339 in which tax is imposed, as follows:

1340 "48-8-107.

1341 No sales and use tax provided for in Code Section 48-8-102 shall be imposed upon the sale
 1342 of tangible personal property which is ordered by and delivered to the purchaser at a point
 1343 outside the geographical area of the special district in which the sales and use tax is
 1344 imposed under this article regardless of the point at which title passes, if the delivery is
 1345 made by the seller's vehicle, United States mail, or common carrier or by private or contract
 1346 carrier licensed by the ~~Interstate Commerce Commission~~ Federal Motor Carrier Safety
 1347 Administration or the Georgia ~~Public Service Commission~~ Department of Public Safety."

1348 **SECTION 20.**

1349 Said title is further amended by revising Code Section 48-8-117, relating inapplicability of
 1350 tax to certain sales of tangible personal property outside the taxing county, as follows:

1351 "48-8-117.

1352 No tax provided for in this article shall be imposed upon the sale of tangible personal
 1353 property which is ordered by and delivered to the purchaser at a point outside the
 1354 geographical area of the county in which the tax is imposed regardless of the point at which
 1355 title passes, if the delivery is made by the seller's vehicle, United States mail, or common
 1356 carrier or by private or contract carrier licensed by the ~~Interstate Commerce Commission~~
 1357 Federal Motor Carrier Safety Administration or the ~~Georgia Public Service Commission~~
 1358 Georgia Department of Public Safety."

1359 **SECTION 21.**

1360 Said title is further amended by revising Code Section 48-8-208, relating to no tax on
 1361 products ordered and delivered outside geographical area of a municipality, as follows:

1362 "48-8-208.

1363 No tax provided for in this article shall be imposed upon the sale of tangible personal
 1364 property which is ordered by and delivered to the purchaser at a point outside the
 1365 geographical area of the municipality in which the tax is imposed regardless of the point
 1366 at which title passes, if the delivery is made by the seller's vehicle, United States mail, or
 1367 common carrier or by private or contract carrier licensed by the ~~Federal Highway~~

1368 ~~Administration~~ Federal Motor Carrier Safety Administration or the ~~Georgia Public Service~~
 1369 ~~Commission~~ Georgia Department of Public Safety."

1370 **SECTION 22.**

1371 Said title is further amended by revising Code Section 48-8-253, relating to nonimposition
 1372 of tax on property ordered by and delivered to purchaser outside special district and
 1373 conditions on delivery, as follows:

1374 "48-8-253.

1375 No tax provided for in this article shall be imposed upon the sale of tangible personal
 1376 property which is ordered by and delivered to the purchaser at a point outside the
 1377 geographical area of the special district in which the tax is imposed regardless of the point
 1378 at which title passes, if the delivery is made by the seller's vehicle, United States mail, or
 1379 common carrier or by private or contract carrier licensed by the ~~Surface Transportation~~
 1380 ~~Board~~ Federal Motor Carrier Safety Administration or the ~~Georgia Public Service~~
 1381 ~~Commission~~ Georgia Department of Public Safety."

1382 **SECTION 23.**

1383 Said title is further amended by revising subsection (a) of Code Section 48-13-16, relating
 1384 to excluded businesses or practitioners and other laws on occupation taxes or registration fees
 1385 of local governments not repealed, as follows:

1386 "(a) The following businesses or practitioners shall be excluded from occupation tax,
 1387 registration fees, or regulatory fees under the provisions of this article but shall be subject
 1388 to taxation and regulation as otherwise provided by general law and municipal charters:

- 1389 (1) Those businesses regulated by the Georgia Public Service Commission and the
 1390 Georgia Department of Public Safety pursuant to Article 5 of Chapter 2 of Title 35;
 1391 (2) Those electrical service businesses organized under Chapter 3 of Title 46; and
 1392 (3) Any farm operation for the production from or on the land of agricultural products,
 1393 but not including any agribusiness."

1394 **SECTION 24.**

1395 Said title is further amended by revising subsection (b) of Code Section 48-13-18, relating
 1396 to levy by municipalities of occupation taxes on licensed businesses, trades, and professions
 1397 and prohibition of municipal licensing or taxation of businesses, trades, or operations
 1398 operating registered vehicles, as follows:

1399 "(b) Nothing contained in this Code section shall be construed to authorize the municipal
 1400 licensing or taxation of businesses, trades, or occupations operating motor vehicles required

1401 to be registered with the ~~Public Service Commission~~ Department of Public Safety of this
1402 state."

1403 **PART III**

1404 **Effective Date and Repealer.**

1405 **SECTION 25.**

1406 This Act shall become effective on July 1, 2012.

1407 **SECTION 26.**

1408 All laws and parts of laws in conflict with this Act are repealed.