

The House Committee on Motor Vehicles offers the following substitute to HB 865:

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 Official Code of Georgia  
8 Annotated, so as to conform certain cross-references, remove duplication of provisions, and  
9 remove such functions from current provisions; to provide for related matters; to provide an  
10 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 Chapter 2  
35 of Title 35, the members of the Motor Carrier Compliance Enforcement Section shall be  
36 known and designated as law enforcement officers. The Motor Carrier Regulation  
37 Compliance Section shall be responsible for the regulation of the operation of motor  
38 carriers and limousine carriers in accordance with this article and motor carrier safety and  
39 the transportation of hazardous materials as provided in Code Section 40-1-8 and Article  
40 2 of 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 (c) A court shall take judicial notice of all rules and regulations promulgated by the  
51 department pursuant to this Code section.

52 40-1-55.

53 Every officer, agent, or employee of any corporation and every person who violates or fails  
54 to comply with this article relating to the regulation of motor carriers and limousine carriers  
55 or any order, rule, or regulation of the Department of Public Safety, or who procures, aids,  
56 or abets therein, shall be guilty of a misdemeanor. Misdemeanor violations of this article  
57 may be prosecuted, handled, and disposed of in the manner provided for by Chapter 13 of  
58 this title.

59 40-1-56.

60 (a) Any motor carrier or limousine carrier subject to the provisions of Part 2 or Part 3 of  
61 this article that fails to register as a motor carrier or limousine carrier with the department  
62 or that is subject to the jurisdiction of the department and willfully violates any law  
63 administered by the department or any duly promulgated regulation issued thereunder, or  
64 that fails, neglects, or refuses to comply with any order after notice thereof, shall be liable  
65 for a penalty not to exceed \$15,000.00 for such violation and an additional penalty not to  
66 exceed \$10,000.00 for each day during which such violation continues.

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

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

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

85 (2) Proceedings for review shall be instituted by filing a petition within 30 days after the  
86 service of the final decision of the department or, if a rehearing is requested, within 30  
87 days after the decision thereon. A motion for rehearing or reconsideration after a final

88 decision by the department shall not be a prerequisite to the filing of a petition for review.  
89 Copies of the petition shall be served upon the department and all parties of record before  
90 the department.

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

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

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

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

116 (A) In violation of constitutional or statutory provisions;  
117 (B) In excess of the statutory authority of the commission department;  
118 (C) Made upon unlawful procedure;  
119 (D) Clearly not supported by any reliable, probative, and substantial evidence on the  
120 record as a whole; or  
121 (E) Arbitrary or capricious.

122 (7) A party aggrieved by an order of the court in a proceeding authorized under  
123 subsection (b) of this Code section may appeal to the Supreme Court of Georgia or to the

124 Court of Appeals of Georgia in accordance with Article 2 of Chapter 6 of Title 5, the  
 125 'Appellate Practice Act.'

126 40-1-57.

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

132 Part 2

133 40-1-100.

134 As used in this part, the term:

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

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

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

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

143 (5) 'Exempt rideshare' means:

144 (A) Government endorsed rideshare programs;

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

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

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

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

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

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

173 (10) 'Motor carrier' means:

174 (A) Every person owning, controlling, operating, or managing any motor vehicle,  
 175 including the lessees, receivers, or trustees of such persons or receivers appointed by  
 176 any court, used in the business of transporting for hire persons or household goods, or  
 177 both, or engaged in the activity of nonconsensual towing pursuant to Code Section  
 178 44-1-13 for hire over any public highway in this state.

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

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

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

188 (iii) Limousine carriers as provided for in Part 3 of this article;

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

191 (v) Motor vehicles operated not for profit with a capacity of 15 persons or less when  
 192 they are used exclusively to transport elderly and disabled passengers or employees  
 193 under a corporate sponsored van pool program, except that a vehicle owned by the  
 194 driver may be operated for profit when such driver is traveling to and from his or her

195 place of work provided each such vehicle carrying more than nine passengers  
 196 maintains liability insurance in an amount of not less than \$100,000.00 per person and  
 197 \$300,000.00 per accident and \$50,000.00 property damage. For the purposes of this  
 198 part, elderly and disabled passengers are defined as individuals over the age of 60  
 199 years or who, by reason of illness, injury, age, congenital malfunction, or other  
 200 permanent or temporary incapacity or disability, are unable to utilize mass  
 201 transportation facilities as effectively as persons who are not so affected;

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

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

212 (viii) Ambulances.

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

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

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

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

230 40-1-101.

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

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

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

239 (d) All motor carriers shall:

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

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

243 (3) Act in compliance with Georgia's workers' compensation laws as provided in Chapter  
 244 9 of Title 34 of the Official Code of Georgia Annotated; and

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

248 40-1-102.

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

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

258 40-1-103.

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

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



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

269 40-1-104.

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

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

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

285 40-1-105.

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

288 40-1-106.

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

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

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

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

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

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

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

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

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

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

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

316 40-1-107.

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

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

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

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

328 40-1-108.

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

333 packet emphasizing the prohibition on alcohol consumption by persons under the age of  
334 21 while being transported by the motor carrier.

335 40-1-109.

336 The commissioner shall collect the following one-time fees upon initial application of a  
337 motor carrier pursuant to this part:

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

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

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

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

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

351 40-1-110.

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

358 40-1-111.

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

365 40-1-112.

366 (a) No motor carrier of household goods or passengers shall be issued a motor carrier  
 367 certificate unless there is filed with the department a certificate of insurance for such  
 368 applicant or holder on forms prescribed by the commissioner evidencing a policy of  
 369 indemnity insurance by an insurance company licensed to do business in this state, which  
 370 policy must provide for the protection, in case of passenger vehicles, of passengers and the  
 371 public against injury proximately caused by the negligence of such motor carrier, its  
 372 servants, or its agents; and, in the case of vehicles transporting household goods, to secure  
 373 the owner or person entitled to recover against loss or damage to such household goods for  
 374 which the motor common carrier may be legally liable. The department shall determine  
 375 and fix the amounts of such indemnity insurance and shall prescribe the provisions and  
 376 limitations thereof. The insurer shall file such certificate. The failure to file any form  
 377 required by the department shall not diminish the rights of any person to pursue an action  
 378 directly against a motor carrier's insurer.

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

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

385 40-1-113.

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

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

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

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

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

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

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

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

409 40-1-114.

410 Notwithstanding any other provision of law to the contrary, in order to authorize the  
 411 provision of passenger or household goods service for which there is an immediate and  
 412 urgent need to a point or points, or within a territory, with respect to which there is no  
 413 motor carrier service capable of meeting such need, upon receipt of an application for  
 414 temporary emergency authority and upon payment of the appropriate fee as fixed by  
 415 statute, the department may, in its discretion and without a hearing or other prior  
 416 proceeding, grant to any person temporary motor carrier authority for such service. The  
 417 order granting such authority shall contain the department's findings supporting its  
 418 determination that there is an unmet immediate and urgent need for such service and shall  
 419 contain such conditions as the commissioner finds necessary with respect to such authority.  
 420 Emergency temporary motor carrier authority, unless suspended or revoked for good cause  
 421 within such period, shall be valid for such time as the department shall specify but not for  
 422 more than an aggregate of 30 days. Such authority shall in no case be renewed and shall  
 423 create no presumption that corresponding permanent authority will be granted thereafter,  
 424 except that, where a motor carrier granted temporary emergency motor carrier authority  
 425 under the provisions of this Code section makes application during the period of said  
 426 temporary emergency authority for permanent motor carrier authority corresponding to that  
 427 authorized in its temporary emergency authority, the temporary emergency motor carrier  
 428 authority will be extended to the finalization of the permanent authority application unless  
 429 sooner suspended or revoked for good cause within the extended period.

430 40-1-115.

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

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

437 40-1-116.

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

441 40-1-117.

442 (a) Each nonresident motor carrier shall, before any permit is issued to it under this part  
443 or at the time of registering as required by Code Section 40-2-140, designate and maintain  
444 in this state an agent or agents upon whom may be served all summonses or other lawful  
445 processes in any action or proceeding against such motor carrier growing out of its carrier  
446 operations; and service of process upon or acceptance or acknowledgment of such service  
447 by any such agent shall have the same legal force and validity as if duly served upon such  
448 nonresident carrier personally. Such designation shall be in writing, shall give the name  
449 and address of such agent or agents, and shall be filed in the office of the state revenue  
450 commissioner. Upon failure of any nonresident motor carrier to file such designation with  
451 the state revenue commissioner or to maintain such an agent in this state at the address  
452 given, such nonresident carrier shall be conclusively deemed to have designated the  
453 Secretary of State and his or her successors in office as such agent; and service of process  
454 upon or acceptance or acknowledgment of such service by the Secretary of State shall have  
455 the same legal force and validity as if duly served upon such nonresident carrier personally,  
456 provided that notice of such service and a copy of the process are immediately sent by  
457 registered or certified mail or statutory overnight delivery by the Secretary of State or his  
458 or her successor in office to such nonresident carrier, if its address be known. Service of  
459 such process upon the Secretary of State shall be made by delivering to his or her office  
460 two copies of such process with a fee of \$10.00.

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

469 venue prescribed by this Code section shall be cumulative of any other venue provided by  
470 law.

471 40-1-118.

472 The commissioner shall prescribe just and reasonable rates, fares, and charges for  
473 transportation by motor carriers of household goods and for all services rendered by motor  
474 carriers in connection therewith. The tariffs therefor shall be in such form and shall be  
475 filed and published in such manner and on such notice as the department may prescribe.  
476 Such tariffs shall also be subject to change on such notice and in such manner as the  
477 department may prescribe. In order to carry out the purposes of this Code section, including  
478 the publication and maintenance of just, reasonable, and nondiscriminatory rates and  
479 charges, the department shall establish a rate-making procedure for all carriers of  
480 household goods. Failure on the part of any motor carrier to comply with this Code section  
481 or the rules and regulations promulgated under this Code section may result in suspension  
482 or cancellation of said carrier's operating authority by the department.

483 40-1-119.

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

492 40-1-120.

493 Motor carriers of passengers shall not be compelled to carry baggage of passengers, except  
494 hand baggage, the character, amount, and size of which the motor carrier may limit by its  
495 rules and regulations, subject to the approval of the department; and the department may  
496 by rule or regulation limit the amount of the liability of the motor carrier therefor. If a  
497 motor carrier shall elect to carry the personal baggage of passengers, other than hand  
498 baggage, the department shall prescribe just and reasonable rates therefor and such other  
499 rules and regulations with respect thereto as may be reasonable and just, and may by rule  
500 or regulation limit the amount of the liability of the motor carrier therefor.

501 40-1-121.

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

509 40-1-122.

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

518 40-1-123.

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

525 40-1-124.

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

530 40-1-125.

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



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

537 40-1-126.

538 In circumstances where a motor carrier is engaged in both interstate and intrastate  
539 commerce, it shall nevertheless be subject to all the provisions of this part so far as it  
540 separately relates to commerce carried on exclusively in this state. It is not intended that  
541 the department shall have the power of regulating the interstate commerce of such motor  
542 carrier, except to the extent expressly authorized by this part as to such commerce. The  
543 provisions of this part do not apply to purely interstate commerce nor to carriers  
544 exclusively engaged in interstate commerce. When a motor carrier is engaged in both  
545 intrastate and interstate commerce, it shall be subject to all the provisions of this part so far  
546 as they separately relate to commerce carried on in this state.

547 40-1-127.

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

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

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

568 paid. A carrier must issue any bill for charges in addition to those originally billed within  
 569 180 days of the original bill in order to have the right to collect such charges;

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

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

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

580 40-1-128.

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

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

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

597 40-1-129.

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

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

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

618 40-1-130.

619 In any advertisement for a motor carrier, whether by print, radio, television, other  
620 broadcast, or electronic media including but not limited to Internet advertising and any  
621 listing or sites on any website, the motor carrier shall include the motor carrier  
622 authorization number issued to it by the Department of Public Safety. The requirements  
623 of this Code section shall not apply to nonconsensual towing motor carriers providing  
624 services pursuant to Code Section 44-1-13. The department shall be required to issue a  
625 motor carrier authorization number to each registered motor carrier. Whenever the  
626 department, after a hearing conducted in accordance with the provisions of Code Section  
627 40-1-56, finds that any person is advertising in violation of this Code section, the  
628 department may impose a fine of not more than \$500.00 for an initial violation and not  
629 more than \$15,000.00 for a second or subsequent violation.

630 Part 3

631 40-1-150.

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

633 40-1-151.

634 As used in this part, the term:

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

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

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

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

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

651 (A) Limousines;

652 (B) Extended limousines;

653 (C) Sedans;

654 (D) Extended sedans;

655 (E) Sport utility vehicles;

656 (F) Extended sport utility vehicles;

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

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

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

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

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

671 40-1-152.

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

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

677 40-1-153.

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

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

688 40-1-154.

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

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

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

698 40-1-155.

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

701 40-1-156.

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

- 704 (1) The violation of any of the provisions of this part;  
 705 (2) The violation of an order, decision, rule, regulation, or requirement established by the  
 706 department;  
 707 (3) Failure of a limousine carrier to pay a fee imposed on the carrier within the time  
 708 required by law or by the department;  
 709 (4) Failure of a limousine carrier to maintain required insurance in full force and effect;  
 710 and  
 711 (5) Failure of a limousine carrier to operate and perform reasonable services.  
 712 (b) After the cancellation or revocation of a certificate or during the period of its  
 713 suspension, it is unlawful for a limousine carrier to conduct any operations as such a  
 714 carrier.

715 40-1-157.

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

718 40-1-158.

719 Pursuant to rules and regulations prescribed by the commissioner of driver services, each  
 720 chauffeur employed by a limousine carrier shall secure from the Department of Driver  
 721 Services a limousine chauffeur authorization and license endorsement.

722 40-1-159.

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

- 725 (1) A fee of \$75.00 to accompany each application for a certificate, or amendment to an  
 726 existing certificate, where the applicant owns or operates fewer than six limousines;  
 727 (2) A fee of \$150.00 to accompany each application for a certificate, or amendment to  
 728 an existing certificate, where the applicant owns or operates six to 15 limousines;  
 729 (3) A fee of \$200.00 to accompany each application for a certificate, or amendment to  
 730 an existing certificate, where the applicant owns or operates more than 15 limousines; and  
 731 (4) A fee of \$75.00 to accompany each application for transfer of a certificate.

732 40-1-160.

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

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

739 40-1-161.

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

747 40-1-162.

748 The State of Georgia fully occupies and preempts the entire field of regulation over  
749 limousine carriers as regulated by this part; provided, however, that the governing authority  
750 of any county or municipal airport shall be authorized to permit any limousine carrier doing  
751 business at any such airport and may establish fees as part of such permitting process;  
752 provided, further, that such fees shall not exceed the airport's approximate cost of  
753 permitting and regulating limousine carriers; and provided, further, that such governing  
754 authorities of such airports shall accept a chauffeur's endorsement issued by the  
755 Department of Driver Services to the driver and evidence of a certificate issued to the  
756 limousine carrier by the Department of Public Safety as adequate evidence of sufficient  
757 criminal background investigations and shall not require any fee for any further criminal  
758 background investigation. The list of licensed limousine carriers on the website of the  
759 Department of Public Safety shall be sufficient evidence that a limousine carrier has a  
760 certificate issued by the Department of Public Safety.

761 40-1-163.

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

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

771 40-1-164.

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

775 40-1-165.

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

785 40-1-166.

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

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

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

799 40-1-167.

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



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

807 40-1-168.

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

811 40-1-169.

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

816 40-1-170.

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

820 **SECTION 2.**

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

823 "40-5-39.

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

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

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

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

838 or the criminal offense was committed against a victim who was a minor at the time of  
 839 the offense;

840 (4) Submit at least one set of classifiable electronically recorded fingerprints to the  
 841 department in accordance with the fingerprint system of identification established by the  
 842 director of the Federal Bureau of Investigation. The department shall transmit the  
 843 fingerprints to the Georgia Crime Information Center, which shall submit the fingerprints  
 844 to the Federal Bureau of Investigation for a search of bureau records and an appropriate  
 845 report and promptly conduct a search of state records based upon the fingerprints. After  
 846 receiving the report from the Georgia Crime Information Center and the Federal Bureau  
 847 of Investigation, the department shall determine whether the applicant may be certified;  
 848 and

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

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

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

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

## 865 PART II

### 866 Conformity of Cross-References.

#### 867 SECTION 3.

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

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

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

877 **SECTION 4.**

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

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

883 **SECTION 5.**

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

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

892 **SECTION 6.**

893 Chapter 2 of Title 35 of the Official Code of Georgia Annotated, relating to the Department  
 894 of Public Safety, is amended by revising Article 5, relating to the Motor Carrier Compliance  
 895 Division, as follows:

896 "ARTICLE 5

897 35-2-100.

898 There ~~is~~ shall be created and established a division of the Department of Public Safety to  
 899 be known as the Motor Carrier Compliance Division, and within the division shall be  
 900 created a section to be known as the Motor Carrier Compliance Enforcement Section.  
 901 Except as provided in Code Section 35-2-102, the members of the Motor Carrier  
 902 Compliance ~~Division~~ Enforcement Section shall be known and designated as 'law  
 903 enforcement officers.'

904 35-2-101.

905 (a) The Motor Carrier Compliance ~~Division~~ Enforcement Section of the department shall  
906 have jurisdiction throughout this state with such duties and powers as are prescribed by  
907 law.

908 (b) The primary duties of the Motor Carrier Compliance ~~Division~~ Enforcement Section  
909 shall be as follows:

910 (1) Enforcement of laws and regulations relating to the size and the weights of motor  
911 vehicles, trailers, and loads as provided for in Article 2 of Chapter 6 of Title 32;

912 (2) Enforcement of laws and regulations relating to licensing and fuel tax registration  
913 requirements and the reporting of violations thereof to the Department of Revenue;

914 (3) Enforcement of safety standards for motor vehicles and motor vehicle components;

915 (4) Enforcement of laws relating to hazardous materials carriers;

916 (5) Enforcement of all state laws on the following properties owned or controlled by the  
917 Department of Transportation or the State Road and Tollway Authority: rest areas,  
918 truck-weighing stations or checkpoints, wayside parks, parking facilities, toll facilities,  
919 and any buildings and grounds for public equipment and personnel used for or engaged  
920 in administration, construction, or maintenance of the public roads or research pertaining  
921 thereto;

922 (6) Enforcement of Code Section 16-10-24, relating to obstructing or hindering law  
923 enforcement officers;

924 (7) Directing and controlling traffic on any public road which is part of the state highway  
925 system but only in areas where maintenance and construction activities are being  
926 performed and at scenes of accidents and emergencies until local police officers or  
927 Georgia State Patrol officers arrive and have the situation under control;

928 (8) Enforcement of Code Sections 32-9-4 and 40-6-54, relating to designation of  
929 restricted travel lanes;

930 (9) Enforcement of Code Section 16-11-43, relating to obstructing highways, streets,  
931 sidewalks, or other public passages, on any public road which is part of the state highway  
932 system;

933 (10) Enforcement of Code Section 16-7-43, relating to littering public or private property  
934 or waters, on any public road which is part of the state highway system;

935 (11) Enforcement of Code Section 16-7-24, relating to interference with government  
936 property, on any public road which is part of the state highway system; and

937 (12) Enforcement of any state law when ordered to do so by the commissioner.

938 (c) In performance of the duties specified in subsection (b) of this Code section, certified  
939 law enforcement officers employed by the department or designated by the commissioner  
940 shall:

- 941 (1) Be authorized to carry firearms;
- 942 (2) Exercise arrest powers;
- 943 (3) Have the power to stop, enter upon, and inspect all motor vehicles using the public  
944 highways for purposes of determining whether such vehicles have complied with and are  
945 complying with laws, the administration or enforcement of which is the responsibility of  
946 the department;
- 947 (4) Have the power to examine the facilities where motor vehicles are housed or  
948 maintained and the books and records of motor carriers for purposes of determining  
949 compliance with laws, the administration or enforcement of which is the responsibility  
950 of the department; and
- 951 (5) Exercise the powers generally authorized for law enforcement officers in the  
952 performance of their duties or otherwise to the extent needed to protect any life or  
953 property when the circumstances demand action.
- 954 (d) The commissioner shall authorize law enforcement officers of the Motor Carrier  
955 Compliance ~~Division~~ Enforcement Section to make use of dogs trained for the purpose of  
956 detection of drugs and controlled substances while such officers are engaged in the  
957 performance of their authorized duties. If such authorized use of such a dog indicates  
958 probable cause to indicate the presence of contraband, the officer or officers shall in those  
959 circumstances have the full authority of peace officers to enforce the provisions of Article  
960 2 of Chapter 13 of Title 16, the 'Georgia Controlled Substances Act,' and Article 3 of  
961 Chapter 13 of Title 16, the 'Dangerous Drug Act'; provided, however, that the department  
962 must immediately notify the local law enforcement agency and district attorney of the  
963 jurisdiction where a seizure is made.
- 964 (e)(1) Certified law enforcement officers employed by the Motor Carrier Compliance  
965 ~~Division~~ Enforcement Section may use a department motor vehicle while working an  
966 approved off-duty job, provided that:
- 967 (A) The off-duty employment is of a general nature that is the subject of a contract  
968 between the off-duty employer and the department and is service in which the use of  
969 the department motor vehicle is a benefit to the department or is in furtherance of the  
970 department's mission;
- 971 (B) The off-duty employer agrees to pay and does pay to the department an amount  
972 determined by the commissioner to be sufficient to reimburse the department for the use  
973 of the vehicle and to pay the off-duty employee sufficient compensation. Pursuant to  
974 such contract, the department shall pay the employee of the department the  
975 compensation earned on off-duty employment whenever such employee performs such  
976 service in a department motor vehicle; and

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

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

981 35-2-102.

982 (a) The commissioner is authorized to establish a position to be known as 'weight  
983 inspector' within the Motor Carrier Compliance ~~Division~~ Enforcement Section of the  
984 Department of Public Safety. Weight inspectors shall be assigned to fixed scales facilities  
985 and shall not be authorized to operate outside such facilities. The number of such positions  
986 shall be determined by the commissioner within the limits set by available appropriations.  
987 Weight inspectors may be divided into such ranks as the commissioner deems appropriate.

988 (b) The commissioner shall ensure that a weight inspector is properly trained regarding  
989 laws governing commercial motor vehicle weight, registration, size, and load, including,  
990 but not limited to, commercial motor vehicle provisions in Article 2 of Chapter 6 of Title  
991 32 and safety standards for commercial motor vehicles and such motor vehicle  
992 components. The training required in the areas required by this subsection shall be  
993 equivalent to training provided to certified officers in the Motor Carrier Compliance  
994 ~~Division~~ Enforcement Section.

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

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

999 (2) Detain a commercial motor vehicle that:

- 1000 (A) Has a safety defect which is critical to the continued safe operation of the vehicle;  
1001 (B) Is being operated in violation of any criminal law; or  
1002 (C) Is being operated in violation of an out-of-service order as reported on the federal  
1003 Safety and Fitness Electronic Records data base.

1004 The detention authorized by this paragraph shall be for the purpose of contacting a  
1005 certified member of the Motor Carrier Compliance ~~Division~~ Enforcement Section or  
1006 Georgia State Patrol. A certified officer shall report to the scene of a detained vehicle  
1007 and take any further action deemed appropriate including completing the inspection and  
1008 investigation, making an arrest, or bringing criminal or civil charges.

1009 (d) A weight inspector is not a peace officer and shall not be authorized to carry a firearm  
1010 or exercise any power of arrest other than a citizen's arrest in accordance with Code  
1011 Sections 17-4-60 and 17-4-61. At all times while a weight inspector is on duty, there shall

1012 be a supervisor over the weight inspector also on duty who shall be a certified peace  
1013 officer.

1014 **SECTION 7.**

1015 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is  
1016 amended in Code Section 40-2-1, relating to definitions applicable to registration and  
1017 licensing of motor vehicles, by revising paragraph (4) as follows:

1018 "(4) 'Motor carrier' means:

1019 (A) Any entity subject to the terms of the Unified Carrier Registration Agreement  
1020 pursuant to 49 U.S.C. Section 14504a whether engaged in interstate or intrastate  
1021 commerce, or both; or

1022 (B) Any entity defined by the commissioner, or commissioner of public safety, ~~or~~  
1023 ~~Public Service Commission~~ who operates or controls commercial motor vehicles as  
1024 defined in 49 C.F.R. Section 390.5, ~~Title 46~~, or this chapter whether operated in  
1025 interstate or intrastate commerce, or both."

1026 **SECTION 8.**

1027 Said title is further amended in Code Section 40-2-162, relating to formulas, rules, and  
1028 apportionment of cost of annual license fees of motor buses to motor common carriers of  
1029 passengers for hire operating partially outside state, by revising subsection (a) as follows:

1030 "(a) The commissioner shall apportion the cost of the annual fees for the licensing of motor  
1031 buses to motor common carriers of passengers for hire operating a fleet of two or more  
1032 motor buses either interstate, or both interstate and intrastate, under the authority of the  
1033 ~~Interstate Commerce Commission or under authority of both the Interstate Commerce~~  
1034 ~~Commission~~ Federal Motor Carrier Safety Administration and the ~~Public Service~~  
1035 ~~Commission~~ Department of Public Safety of this state. The apportionment shall be done  
1036 so that the total cost of the fees shall bear the same proportion to the annual fees for motor  
1037 buses as the total number of miles traveled by the fleet of the carrier in this state in both  
1038 interstate and intrastate operations during the preceding year bears to the total number of  
1039 miles traveled by the fleet during the year in both interstate and intrastate operations."

1040 **SECTION 9.**

1041 Said title is further amended in Code Section 40-6-248.1, relating to securing loads on  
1042 vehicles, by revising subsection (c) as follows:

1043 "(c) Nothing in this Code section nor any regulations based thereon shall conflict with  
1044 federal, ~~Georgia Public Service Commission~~, Georgia Department of Public Safety, or

1045 Georgia Board of Public Safety regulations applying to the securing of loads on motor  
1046 vehicles."

1047 **SECTION 10.**

1048 Said title is further amended in Code Section 40-16-2, relating to the primary responsibilities  
1049 of the Department of Driver Services, by revising subsection (b) as follows:

1050 "(b) Responsibility for the following functions formerly exercised by the Department of  
1051 Motor Vehicle Safety is transferred as follows:

1052 (1) Promulgation of regulations relating to the size and the weights of motor vehicles,  
1053 trailers, and loads as provided for in Article 2 of Chapter 6 of Title 32 shall be vested in  
1054 the Department of Transportation; and administrative enforcement of such regulations  
1055 and the law enforcement function of apprehending and citing violators of such laws and  
1056 regulations are transferred to the Department of Public Safety, as well as the function of  
1057 promulgating regulations relative to its enforcement function;

1058 (2) Enforcement of laws and regulations relating to licensing and fuel tax registration  
1059 requirements is transferred to the Department of Public Safety;

1060 (3) Administration of laws and regulations relating to certification of motor carriers and  
1061 limousine carriers is transferred to the ~~Public Service Commission~~ Department of Public  
1062 Safety and administration of laws and regulations relating to carrier registration and  
1063 registration and titling of vehicles is transferred to the Department of Revenue;"

1064 **SECTION 11.**

1065 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by  
1066 revising Code Section 44-1-13, relating to removal of improperly parked cars or trespassing  
1067 on personal property, as follows:

1068 "44-1-13.

1069 (a) As used in this Code section, the term:

1070 (1) '~~Commission~~ Department' means the ~~Public Service Commission~~ Department of  
1071 Public Safety.

1072 (2) 'Private property' means any parcel or space of private real property.

1073 (a.1) Any person or his or her authorized agent entitled to the possession of any private  
1074 property shall have the right to remove or cause to be removed from the property any  
1075 vehicle or trespassing personal property thereon which is not authorized to be at the place  
1076 where it is found and to store or cause to be stored such vehicle or trespassing personal  
1077 property, provided that there shall have been conspicuously posted on the private property  
1078 notice that any vehicle or trespassing personal property which is not authorized to be at the  
1079 place where it is found may be removed at the expense of the owner of the vehicle or



1080 trespassing personal property. Such notice shall also include information as to the location  
1081 where the vehicle or personal property can be recovered, the cost of said recovery, and  
1082 information as to the form of payment; provided, however, that the owner of residential  
1083 private property containing not more than four residential units shall not be required to  
1084 comply with the posting requirements of this subsection. Only towing and storage firms  
1085 issued permits or licenses by the local governing authority of the jurisdiction in which they  
1086 operate or by the ~~commission~~ department, and having a secure impoundment facility, shall  
1087 be permitted to remove trespassing property and trespassing personal property at the  
1088 request of the owner or authorized agent of the private property.

1089 (b)(1) The ~~commission~~ department shall have the authorization to regulate and control  
1090 the towing of trespassing vehicles on private property if such towing is performed  
1091 without the prior consent or authorization of the owner or operator of the vehicle,  
1092 including the authority to set just and reasonable rates, fares, and charges for services  
1093 related to the removal, storage, and required notification to owners of such towed  
1094 vehicles. No storage fees shall be charged for the first 24 hour period which begins at the  
1095 time the vehicle is removed from the property, and no such fees shall be allowed for the  
1096 removal and storage of vehicles removed by towing and storage firms found to be in  
1097 violation of this Code section. The ~~commission~~ department is authorized to impose a  
1098 civil penalty for any violation of this Code section in an amount not to exceed \$2,500.00.

1099 (2) In accordance with subsection (d) of this Code section, the governing authority of a  
1100 municipality may require towing and storage operators to charge lower maximum rates  
1101 on traffic moving between points within such municipality than those provided by the  
1102 ~~commission~~ department's maximum rate tariff and may require higher public liability  
1103 insurance limits and cargo insurance limits than those required by the ~~commission~~  
1104 department. The governing authority of a municipality shall not provide for higher  
1105 maximum costs of removal, relocation, or storage than is provided for by the ~~commission~~  
1106 department.

1107 (c) In all municipalities, except a consolidated city-county government, having a  
1108 population of 100,000 or more according to the United States decennial census of 1970 or  
1109 any future such census a person entitled to the possession of an off-street parking area or  
1110 vacant lot within an area zoned commercial by the municipality shall have the right to  
1111 remove any vehicle or trespassing personal property parked thereon after the regular  
1112 activity on such property is concluded for the day only if access to such property from the  
1113 public way is blocked by a sturdy chain, cable, or rope stretched at least 18 inches above  
1114 grade across all driveways or other ways providing access to the off-street parking area or  
1115 vacant lot and there is conspicuously posted in the area a notice, the location of which must  
1116 be approved by the municipality's police department, that any vehicle or trespassing

1117 personal property parked thereon which is not authorized to be in such area may be  
1118 removed at the expense of the owner along with information as to where the vehicle or  
1119 trespassing personal property may be recovered, the cost of said recovery, and information  
1120 regarding the form of payment.

1121 (d)(1) In addition to the regulatory jurisdiction of the ~~commission~~ department, the  
1122 governing authority of each municipality having towing and storage firms operating  
1123 within its territorial boundaries may require and issue a license or permit to engage in  
1124 private trespass towing within its corporate municipal limits pursuant to this Code section  
1125 to any firm meeting the qualifications imposed by said governing authority. The fee for  
1126 the license or permit shall be set by such governing authority. The maximum reasonable  
1127 costs of removal, relocation, and storage pursuant to the provisions of this Code section  
1128 shall be compensatory, as such term is used in the public utility rate-making procedures,  
1129 and shall be established annually by the governing authority of each municipality having  
1130 towing and storage firms operating within its territorial boundaries; provided, however,  
1131 that no storage fees shall be charged for the first 24 hour period which begins at the time  
1132 the vehicle is removed from the property, and no such fees shall be allowed for the  
1133 removal and storage of vehicles removed by towing and storage firms found to be in  
1134 violation of this Code section.

1135 (2) Towing and storage firms operating within a municipality's corporate limits shall  
1136 obtain a nonconsensual towing permit from the ~~commission~~ department and shall file its  
1137 registered agent's name and address with the ~~commission~~ department.

1138 (e) Any person who suffers injury or damages as a result of a violation of this Code section  
1139 may bring an action in any court of competent jurisdiction for actual damages, which shall  
1140 be presumed to be not less than \$100.00, together with court costs. A court shall award  
1141 three times actual damages for an intentional violation of this Code section.

1142 (f) It shall be unlawful and punishable by a fine of \$1,000.00 for any towing and storage  
1143 firm, permitted or unpermitted, licensed or unlicensed, to enter into any agreement with  
1144 any person in possession of private property to provide automatic or systematic  
1145 surveillance of such property for purposes of removal and relocation of any such vehicle  
1146 or trespassing personal property except upon call by such person in possession of such  
1147 private property to such towing and storage firm for each individual case of trespass;  
1148 provided, further, that it shall be unlawful and punishable by a fine of \$1,000.00 for any  
1149 towing and storage firm to pay to any private property owner or one in possession of  
1150 private property any fee or emolument, directly or indirectly, for the right to remove a  
1151 vehicle or trespassing personal property from said private property."

1152 **SECTION 12.**

1153 Said title is further amended by revising Code Section 44-7-59, relating to removal of  
1154 transportable housing from lands subject to writ of possession, as follows:

1155 "44-7-59.

1156 If the court issues a writ of possession to property upon which the tenant has placed a  
1157 manufactured home, mobile home, trailer, or other type of transportable housing and the  
1158 tenant does not move the same within ten days after a final order is entered, the landlord  
1159 shall be entitled to have such transportable housing moved from the property at the expense  
1160 of the tenant by a motor common carrier licensed by the ~~Public Service Commission~~  
1161 Department of Public Safety for the transportation of manufactured housing. There shall  
1162 be a lien upon such transportable housing to the extent of moving fees and storage expenses  
1163 in favor of the person performing such services. Such lien may be claimed and foreclosed  
1164 in the same manner as special liens on personalty by mechanics under Code Sections  
1165 44-14-363 and 44-14-550, except that storage fees not to exceed \$4.00 per day shall be  
1166 expressly allowed."

1167 **SECTION 13.**

1168 Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public  
1169 transportation, is amended by revising Code Section 46-1-1, relating to definitions,  
1170 exclusions, and Georgia Forest Product Trucking Rules, as follows:

1171 "46-1-1.

1172 As used in this title, the term:

1173 ~~(1) 'Carrier' means a person who undertakes the transporting of goods or passengers for~~  
1174 ~~compensation.~~

1175 ~~(2)~~(1) 'Certificate' means a certificate of public convenience and necessity issued  
1176 pursuant to this title.

1177 ~~(3)~~(2) 'Commission' means the Public Service Commission.

1178 ~~(4)~~(3) 'Company' shall include a corporation, a firm, a partnership, an association, or an  
1179 individual.

1180 ~~(5)~~(4) 'Electric utility' means any retail supplier of electricity whose rates are fixed by  
1181 the commission.

1182 ~~(5.1) 'Exempt rideshare' means:~~

1183 ~~(A) Government endorsed rideshare programs;~~

1184 ~~(B) Rideshare programs in which a rideshare driver seeks reimbursement for, or the~~  
1185 ~~rideshare participants pool or otherwise share, rideshare costs such as fuel; or~~

1186 ~~(C) The leasing or rental of a vehicle, in the ordinary course of the lessor's or rentor's~~  
1187 ~~business, for rideshare purposes as part of a government endorsed rideshare program;~~

1188 ~~or for rideshare under a contract requiring compliance with subparagraph (B) of this~~  
 1189 ~~paragraph.~~

1190 ~~(6) 'For compensation' or 'for hire' means an activity wherein for payment or other~~  
 1191 ~~compensation a motor vehicle and driver are furnished to a person by another person,~~  
 1192 ~~acting directly or knowingly and willfully acting with another to provide the combined~~  
 1193 ~~service of the vehicle and driver, and includes every person acting in concert with, under~~  
 1194 ~~the control of, or under common control with a motor carrier who shall offer to furnish~~  
 1195 ~~transportation for compensation or for hire, provided that no exempt rideshare shall be~~  
 1196 ~~deemed to involve any element of transportation for compensation or for hire.~~

1197 ~~(6.1)(5) 'Gas company' means any person certificated under Article 2 of Chapter 4 of this~~  
 1198 ~~title to construct or operate any pipeline or distribution system, or any extension thereof,~~  
 1199 ~~for the transportation, distribution, or sale of natural or manufactured gas.~~

1200 ~~(6.2) 'Government endorsed rideshare program' means a vanpool, carpool, or similar~~  
 1201 ~~rideshare operation conducted by or under the auspices of a state or local governmental~~  
 1202 ~~transit instrumentality, such as GRTA, a transportation management association, or a~~  
 1203 ~~community improvement district, or conducted under the auspices of such transit~~  
 1204 ~~agencies, including through any form of contract between such transit instrumentality and~~  
 1205 ~~private persons or businesses.~~

1206 ~~(6.3) 'GRTA' means the Georgia Regional Transportation Authority, which is itself~~  
 1207 ~~exempt from regulation as a carrier under Code Section 50-32-71.~~

1208 ~~(7) 'Household goods' means any personal effects and property used or to be used in a~~  
 1209 ~~dwelling when a part of the equipment or supplies of such dwelling and such other~~  
 1210 ~~similar property as the commission may provide for by regulation; provided, however,~~  
 1211 ~~that such term shall not include property being moved from a factory or store except~~  
 1212 ~~when such property has been purchased by a householder with the intent to use such~~  
 1213 ~~property in a dwelling and such property is transported at the request of, and with~~  
 1214 ~~transportation charges paid by, the householder.~~

1215 ~~(8) Reserved.~~

1216 ~~(9) 'Motor contract carrier and motor common carrier' means as follows:~~

1217 ~~(A) 'Motor contract carrier' means every person, except common carriers, owning,~~  
 1218 ~~controlling, operating, or managing any motor propelled vehicle including the lessees~~  
 1219 ~~or trustees of such persons or receivers appointed by any court used in the business of~~  
 1220 ~~transporting persons or household goods or engaged in the activity of nonconsensual~~  
 1221 ~~towing pursuant to Code Section 44-1-13 for hire over any public highway in this state.~~  
 1222 ~~Vehicles and the drivers thereof operating within the corporate limits of any city shall~~  
 1223 ~~be subject to the safety regulations adopted by the commissioner of public safety~~  
 1224 ~~pursuant to Code Section 40-1-8.~~

1225 ~~(B) 'Motor common carrier' means every person owning, controlling, operating, or~~  
 1226 ~~managing any motor propelled vehicle, and the lessees, receivers, or trustees of such~~  
 1227 ~~person, used in the business of transporting for hire of persons or household goods, or~~  
 1228 ~~both, or engaged in the activity of nonconsensual towing pursuant to Code Section~~  
 1229 ~~44-1-13, otherwise than over permanent rail tracks, on the public highways of Georgia~~  
 1230 ~~as a common carrier. The term includes, but is not limited to, limousine carriers as~~  
 1231 ~~defined in paragraph (5) of Code Section 46-7-85.1.~~

1232 ~~(C) Except as otherwise provided in this subparagraph, the terms 'motor common~~  
 1233 ~~carrier' and 'motor contract carrier' shall not include:~~

1234 ~~(i) Motor vehicles engaged solely in transporting school children and teachers to and~~  
 1235 ~~from public schools and private schools;~~

1236 ~~(ii) Taxicabs which operate within the corporate limits of municipalities and are~~  
 1237 ~~subject to regulation by the governing authorities of such municipalities; the~~  
 1238 ~~provisions of this division notwithstanding, vehicles and the drivers thereof operating~~  
 1239 ~~within the corporate limits of any city shall be subject to the safety regulations~~  
 1240 ~~adopted by the commissioner of public safety pursuant to Code Section 40-1-8;~~

1241 ~~(iii) Hotel passenger or baggage motor vehicles when used exclusively for patrons~~  
 1242 ~~and employees of such hotel;~~

1243 ~~(iv) Motor vehicles operated not for profit with a capacity of 15 persons or less when~~  
 1244 ~~they are used exclusively to transport elderly and disabled passengers or employees~~  
 1245 ~~under a corporate sponsored van pool program, except that a vehicle owned by the~~  
 1246 ~~driver may be operated for profit when such driver is traveling to and from his or her~~  
 1247 ~~place of work provided each such vehicle carrying more than nine passengers~~  
 1248 ~~maintains liability insurance in an amount of not less than \$100,000.00 per person and~~  
 1249 ~~\$300,000.00 per accident and \$50,000.00 property damage. For the purposes of this~~  
 1250 ~~division, elderly and disabled passengers are defined as individuals over the age of 60~~  
 1251 ~~years or who, by reason of illness, injury, age, congenital malfunction, or other~~  
 1252 ~~permanent or temporary incapacity or disability, are unable to utilize mass~~  
 1253 ~~transportation facilities as effectively as persons who are not so affected;~~

1254 ~~(v) Reserved;~~

1255 ~~(vi) Reserved;~~

1256 ~~(vii) Reserved;~~

1257 ~~(viii) Motor vehicles owned and operated exclusively by the United States~~  
 1258 ~~government or by this state or any subdivision thereof;~~

1259 ~~(ix) Reserved;~~

1260 ~~(x) Reserved;~~

1261 ~~(xi) Reserved;~~

1262 ~~(xii) Reserved;~~

1263 ~~(xiii) Vehicles, owned or operated by the federal or state government, or by any~~  
 1264 ~~agency, instrumentality, or political subdivision of the federal or state government,~~  
 1265 ~~or privately owned and operated for profit or not for profit, capable of transporting not~~  
 1266 ~~more than ten persons for hire when such vehicles are used exclusively to transport~~  
 1267 ~~persons who are elderly, disabled, en route to receive medical care or prescription~~  
 1268 ~~medication, or returning after receiving medical care or prescription medication. For~~  
 1269 ~~the purpose of this division, elderly and disabled persons shall have the same meaning~~  
 1270 ~~as in division (iv) of this subparagraph;~~

1271 ~~(xiv) Reserved; or~~

1272 ~~(xv) Ambulances.~~

1273 ~~(10) 'Passenger' means a person who travels in a public conveyance by virtue of a~~  
 1274 ~~contract, either express or implied, with the carrier as to the payment of the fare or that~~  
 1275 ~~which is accepted as an equivalent therefor. The prepayment of fare is not necessary to~~  
 1276 ~~establish the relationship of passenger and carrier, although a carrier may demand~~  
 1277 ~~prepayment of fare if persons enter his or her vehicle by his or her permission with the~~  
 1278 ~~intention of being carried; in the absence of such a demand, an obligation to pay fare is~~  
 1279 ~~implied on the part of the passenger, and the reciprocal obligation of carriage of the~~  
 1280 ~~carrier arises upon the entry of the passenger.~~

1281 ~~(11) Reserved.~~

1282 ~~(12)(6) 'Person' means any individual, partnership, trust, private or public corporation,~~  
 1283 ~~municipality, county, political subdivision, public authority, cooperative, association, or~~  
 1284 ~~public or private organization of any character.~~

1285 ~~(13) Reserved.~~

1286 ~~(14) 'Public highway' means every public street, road, highway, or thoroughfare of any~~  
 1287 ~~kind in this state.~~

1288 ~~(15)(7) 'Railroad corporation' or 'railroad company' means all corporations, companies,~~  
 1289 ~~or individuals owning or operating any railroad in this state. This title shall apply to all~~  
 1290 ~~persons, firms, and companies, and to all associations of persons, whether incorporated~~  
 1291 ~~or otherwise, that engage in business as common carriers upon any of the lines of railroad~~  
 1292 ~~in this state, as well as to railroad corporations and railroad companies as defined in this~~  
 1293 ~~Code section.~~

1294 ~~(16)(8) 'Rate,' when used in this title with respect to an electric utility, means any rate,~~  
 1295 ~~charge, classification, or service of an electric utility or any rule or regulation relating~~  
 1296 ~~thereto.~~

1297 ~~(17)(9) 'Utility' means any person who is subject in any way to the lawful jurisdiction of~~  
 1298 ~~the commission.~~

1299 (18) ~~'Vehicle' or 'motor vehicle' means any vehicle, machine, tractor, trailer, or~~  
 1300 ~~semitrailer propelled or drawn by mechanical power and used upon the highways in the~~  
 1301 ~~transportation of passengers or property, or any combination thereof, determined by the~~  
 1302 ~~commission."~~

1303 **SECTION 14.**

1304 Said title is further amended by revising Code Section 46-3-38, relating to applicability of  
 1305 part to moving or transportation of houses or buildings, as follows:

1306 "46-3-38.

1307 In addition to the exceptions set forth in Code Section 46-3-37, this part shall not be  
 1308 construed as applying to and shall not apply to the moving or transportation of houses or  
 1309 buildings or parts thereof when such moving is under the jurisdiction of, and is undertaken  
 1310 pursuant to authority granted by, the ~~Georgia Public Service Commission~~ Department of  
 1311 Public Safety."

1312 **SECTION 15.**

1313 Said title is further amended by repealing Chapter 7, relating to motor carriers, and  
 1314 designating said chapter as reserved.

1315 **SECTION 16.**

1316 Said title is further amended by repealing Code Section 46-9-6, relating to limitations of  
 1317 actions against carriers for recovery of overcharges, requirements regarding rates, charges,  
 1318 and claims for loss or damage, and designating said Code section as reserved.

1319 **SECTION 17.**

1320 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
 1321 amended by revising division (5)(B)(ii) of Code Section 48-8-3, relating to exemptions from  
 1322 the state sales and use tax, as follows:

1323 "(ii) 'Urban transit system' means a public transit system primarily urban in character  
 1324 which is operated by a street railroad company or a motor ~~common~~ carrier, is subject  
 1325 to the jurisdiction of the ~~Public Service Commission~~ Department of Public Safety, and  
 1326 whose fares and charges are regulated by the ~~Public Service Commission~~ Department  
 1327 of Public Safety, or is operated pursuant to a franchise contract with a municipality  
 1328 of this state so that its fares and charges are regulated by or are subject to the approval  
 1329 of the municipality. An urban transit system certificate shall be issued by the ~~Public~~  
 1330 ~~Service Commission~~ Department of Public Safety, or by the municipality which has  
 1331 regulatory authority, upon an affirmative showing that the applicant operates an urban

1332 transit system. The certificate shall be obtained and filed with the commissioner and  
 1333 shall continue in effect so long as the holder of such certificate qualifies as an urban  
 1334 transit system. Any urban transit system certificate granted prior to January 1, 2002,  
 1335 shall be deemed valid as of the date it was issued;"

1336 **SECTION 18.**

1337 Said title is further amended by revising Code Section 48-8-93, relating to nonimposition of  
 1338 tax on property ordered by and delivered to a purchaser outside a special district and  
 1339 conditions of delivery, as follows:

1340 "48-8-93.

1341 No tax provided for in Code Section 48-8-82 shall be imposed upon the sale of tangible  
 1342 personal property which is ordered by and delivered to the purchaser at a point outside the  
 1343 geographical area of the special district in which the joint tax is imposed regardless of the  
 1344 point at which title passes, if the delivery is made by the seller's vehicle, United States mail,  
 1345 or common carrier or by private or contract carrier licensed by the ~~Interstate Commerce~~  
 1346 ~~Commission~~ Federal Motor Carrier Safety Administration or the Georgia ~~Public Service~~  
 1347 ~~Commission~~ Department of Public Safety."

1348 **SECTION 19.**

1349 Said title is further amended by revising Code Section 48-8-107, relating to property ordered  
 1350 by and delivered to a purchaser at a point outside the geographical area of a special district  
 1351 in which tax is imposed, as follows:

1352 "48-8-107.

1353 No sales and use tax provided for in Code Section 48-8-102 shall be imposed upon the sale  
 1354 of tangible personal property which is ordered by and delivered to the purchaser at a point  
 1355 outside the geographical area of the special district in which the sales and use tax is  
 1356 imposed under this article regardless of the point at which title passes, if the delivery is  
 1357 made by the seller's vehicle, United States mail, or common carrier or by private or contract  
 1358 carrier licensed by the ~~Interstate Commerce Commission~~ Federal Motor Carrier Safety  
 1359 Administration or the Georgia ~~Public Service Commission~~ Department of Public Safety."

1360 **SECTION 20.**

1361 Said title is further amended by revising Code Section 48-8-117, relating inapplicability of  
 1362 tax to certain sales of tangible personal property outside the taxing county, as follows:

1363 "48-8-117.

1364 No tax provided for in this article shall be imposed upon the sale of tangible personal  
 1365 property which is ordered by and delivered to the purchaser at a point outside the



1366 geographical area of the county in which the tax is imposed regardless of the point at which  
 1367 title passes, if the delivery is made by the seller's vehicle, United States mail, or common  
 1368 carrier or by private or contract carrier licensed by the ~~Interstate Commerce Commission~~  
 1369 Federal Motor Carrier Safety Administration or the ~~Georgia Public Service Commission~~  
 1370 Georgia Department of Public Safety."

1371 **SECTION 21.**

1372 Said title is further amended by revising Code Section 48-8-208, relating to no tax on  
 1373 products ordered and delivered outside geographical area of a municipality, as follows:

1374 "48-8-208.

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 municipality 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 ~~Federal Highway~~  
 1380 Administration Federal Motor Carrier Safety Administration or the ~~Georgia Public Service~~  
 1381 Commission Georgia Department of Public Safety."

1382 **SECTION 22.**

1383 Said title is further amended by revising Code Section 48-8-253, relating to nonimposition  
 1384 of tax on property ordered by and delivered to purchaser outside special district and  
 1385 conditions on delivery, as follows:

1386 "48-8-253.

1387 No tax provided for in this article shall be imposed upon the sale of tangible personal  
 1388 property which is ordered by and delivered to the purchaser at a point outside the  
 1389 geographical area of the special district in which the tax is imposed regardless of the point  
 1390 at which title passes, if the delivery is made by the seller's vehicle, United States mail, or  
 1391 common carrier or by private or contract carrier licensed by the ~~Surface Transportation~~  
 1392 Board Federal Motor Carrier Safety Administration or the ~~Georgia Public Service~~  
 1393 Commission Georgia Department of Public Safety."

1394 **SECTION 23.**

1395 Said title is further amended by revising subsection (a) of Code Section 48-13-16, relating  
 1396 to excluded businesses or practitioners and other laws on occupation taxes or registration fees  
 1397 of local governments not repealed, as follows:

1398 "(a) The following businesses or practitioners shall be excluded from occupation tax,  
 1399 registration fees, or regulatory fees under the provisions of this article but shall be subject  
 1400 to taxation and regulation as otherwise provided by general law and municipal charters:  
 1401 (1) Those businesses regulated by the Georgia Public Service Commission and the  
 1402 Georgia Department of Public Safety;  
 1403 (2) Those electrical service businesses organized under Chapter 3 of Title 46; and  
 1404 (3) Any farm operation for the production from or on the land of agricultural products,  
 1405 but not including any agribusiness."

1406 **SECTION 24.**

1407 Said title is further amended by revising subsection (b) of Code Section 48-13-18, relating  
 1408 to levy by municipalities of occupation taxes on licensed businesses, trades, and professions  
 1409 and prohibition of municipal licensing or taxation of businesses, trades, or operations  
 1410 operating registered vehicles, as follows:

1411 "(b) Nothing contained in this Code section shall be construed to authorize the municipal  
 1412 licensing or taxation of businesses, trades, or occupations operating motor vehicles required  
 1413 to be registered with the ~~Public Service Commission~~ Department of Public Safety of this  
 1414 state."

1415 **PART III**

1416 **Effective Date and Repealer.**

1417 **SECTION 25.**

1418 This Act shall become effective on July 1, 2012.

1419 **SECTION 26.**

1420 All laws and parts of laws in conflict with this Act are repealed.