

The Senate Transportation Committee offered the following substitute to HB 865:

A BILL TO BE ENTITLED
AN ACT

1 To enact the "Georgia Motor Common Carrier Act of 2012"; to amend Chapter 1 of Title 40
2 of the Official Code of Georgia Annotated, relating to the identification and regulation of
3 motor vehicles, so as to transfer the functions of regulating motor carriers and limousine
4 carriers from the Georgia Public Service Commission to the Georgia Department of Public
5 Safety; to amend Code Section 40-3-26 of the Official Code of Georgia Annotated, relating
6 to delivery of certificate, notice to junior security interest holders and lienholders, and
7 disposition of certificate when first lien or security interest satisfied, so as to provide for the
8 electronic delivery of notices of recordings of security interests and liens; to amend Article
9 2 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers'
10 licenses, so as to authorize chauffeur endorsements on driver's licenses; to modify, amend,
11 and repeal provisions of the Official Code of Georgia Annotated, so as to conform certain
12 cross-references, remove duplication of provisions, and remove such functions from current
13 provisions; to provide for related matters; to provide an effective date; to repeal conflicting
14 laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

The Georgia Motor Carrier Act.

SECTION 1.

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

21 "ARTICLE 3

22 Part 1

23 40-1-50.

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

25 40-1-51.

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

34 40-1-52.

35 There is created and established a division within the Department of Public Safety to be
36 known as the Motor Carrier Compliance Division. The Motor Carrier Compliance
37 Division shall consist of two sections, the Motor Carrier Compliance Enforcement Section
38 and the Motor Carrier Regulation Compliance Section. Except as provided in Chapter 2
39 of Title 35, the members of the Motor Carrier Compliance Enforcement Section shall be
40 known and designated as law enforcement officers. The Motor Carrier Regulation
41 Compliance Section shall be responsible for the regulation of the operation of motor
42 carriers and limousine carriers in accordance with this article and motor carrier safety and
43 the transportation of hazardous materials as provided in Code Section 40-1-8 and Article
44 2 of this chapter.

45 40-1-53.

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

48 40-1-54.

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

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

54 (c) A court shall take judicial notice of all rules and regulations promulgated by the
55 department pursuant to this Code section.

56 40-1-55.

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

63 40-1-56.

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

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

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

85 (c)(1) Any party who has exhausted all administrative remedies available before the
86 department and who is aggrieved by a final decision of the department in a proceeding

87 described in subsection (b) of this Code section may seek judicial review of the final
88 order of the department in the Superior Court of Fulton County.

89 (2) Proceedings for review shall be instituted by filing a petition within 30 days after the
90 service of the final decision of the department or, if a rehearing is requested, within 30
91 days after the decision thereon. A motion for rehearing or reconsideration after a final
92 decision by the department shall not be a prerequisite to the filing of a petition for review.
93 Copies of the petition shall be served upon the department and all parties of record before
94 the department.

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

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

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

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

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

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

122 (C) Made upon unlawful procedure;

123 (D) Clearly not supported by any reliable, probative, and substantial evidence on the
 124 record as a whole; or
 125 (E) Arbitrary or capricious.
 126 (7) A party aggrieved by an order of the court in a proceeding authorized under
 127 subsection (b) of this Code section may appeal to the Supreme Court of Georgia or to the
 128 Court of Appeals of Georgia in accordance with Article 2 of Chapter 6 of Title 5, the
 129 'Appellate Practice Act.'

130 40-1-57.

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

136 Part 2

137 40-1-100.

138 As used in this part, the term:

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

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

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

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

147 (5) 'Exempt rideshare' means:

148 (A) Government endorsed rideshare programs;

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

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

155 (6) 'For compensation' or 'for hire' means an activity wherein for payment or other
 156 compensation a motor vehicle and driver are furnished to a person by another person.

157 acting directly or knowingly and willfully acting with another to provide the combined
 158 service of the vehicle and driver, and includes every person acting in concert with, under
 159 the control of, or under common control with a motor carrier who shall offer to furnish
 160 transportation for compensation or for hire, provided that no exempt rideshare shall be
 161 deemed to involve any element of transportation for compensation or for hire.

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

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

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

177 (10) 'Motor carrier' means:

178 (A) Every person owning, controlling, operating, or managing any motor vehicle,
 179 including the lessees, receivers, or trustees of such persons or receivers appointed by
 180 any court, used in the business of transporting for hire persons or household goods, or
 181 both, or engaged in the activity of nonconsensual towing pursuant to Code Section
 182 44-1-13 for hire over any public highway in this state.

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

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

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

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

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

195 (v) Motor vehicles operated not for profit with a capacity of 15 persons or less when
 196 they are used exclusively to transport elderly and disabled passengers or employees
 197 under a corporate sponsored van pool program, except that a vehicle owned by the
 198 driver may be operated for profit when such driver is traveling to and from his or her
 199 place of work provided each such vehicle carrying more than nine passengers
 200 maintains liability insurance in an amount of not less than \$100,000.00 per person and
 201 \$300,000.00 per accident and \$50,000.00 property damage. For the purposes of this
 202 part, elderly and disabled passengers are defined as individuals over the age of 60
 203 years or who, by reason of illness, injury, age, congenital malfunction, or other
 204 permanent or temporary incapacity or disability, are unable to utilize mass
 205 transportation facilities as effectively as persons who are not so affected;

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

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

216 (viii) Ambulances.

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

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

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

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

234 40-1-101.

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

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

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

243 (d) All motor carriers shall:

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

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

247 (3) Act in compliance with Georgia's workers' compensation laws as provided in Chapter
248 9 of Title 34 of the Official Code of Georgia Annotated; and

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

252 40-1-102.

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

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

262 40-1-103.

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

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

273 40-1-104.

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

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

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

289 40-1-105.

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

292 40-1-106.

293 (a) The commissioner shall issue a motor carrier certificate to a person authorizing
294 transportation as a motor carrier of passengers or household goods subject to the
295 jurisdiction of the department if the commissioner finds that the person is fit, willing, and

296 able to provide the transportation to be authorized by the certificate and to comply with
 297 regulations of the department. Fitness encompasses three factors:

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

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

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

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

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

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

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

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

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

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

320 40-1-107.

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

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

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

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

332 40-1-108.

333 Any motor carrier subject to the jurisdiction of the commissioner that transports passengers
334 shall comply with the provisions of Code Section 3-3-23, concerning consumption of
335 alcoholic beverages by persons under the age of 21. The commissioner shall provide to all
336 motor carriers, at the time of registration or renewal of a certificate, an informational
337 packet emphasizing the prohibition on alcohol consumption by persons under the age of
338 21 while being transported by the motor carrier.

339 40-1-109.

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

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

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

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

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

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

355 40-1-110.

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

362 40-1-111.

363 When an application for a motor carrier certificate under this part has been in whole or in
364 part denied by the commissioner, or has been granted by the commissioner, and the order
365 of the commissioner granting same has been quashed or set aside by a court of competent

366 jurisdiction, a new application by the same petitioner or applicant therefor shall not be
 367 again considered by the department within three months from the date of the order denying
 368 the same or the judgment of the court quashing or setting aside the order.

369 40-1-112.

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

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

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

389 40-1-113.

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

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

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

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

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

398 Motor carrier transportation contract shall not include the Uniform Intermodal
 399 Interchange and Facilities Access Agreement administered by the Intermodal Association

400 of North America or other agreements providing for the interchange, use, or possession
401 of intermodal chassis, containers, or other intermodal equipment.

402 (2) 'Promisee' means the person promising to provide transportation of property and any
403 agents, employees, servants, or independent contractors who are directly responsible to
404 such person but shall not include a motor carrier party to a motor carrier transportation
405 contract with such person and such motor carrier's agents, employees, servants, or
406 independent contractors directly responsible to such motor carrier.

407 (b) Notwithstanding any provision of law to the contrary, a provision, clause, covenant,
408 or agreement contained in, collateral to, or affecting a motor carrier transportation contract
409 that purports to indemnify, defend, or hold harmless, or has the effect of indemnifying,
410 defending, or holding harmless, the promisee from or against any liability for loss or
411 damage resulting from the negligence or intentional acts or omissions of the promisee is
412 against the public policy of this state and is void and unenforceable.

413 40-1-114.

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

434 40-1-115.

435 A motor carrier of passengers may discontinue its entire service on any route upon 30 days'
436 published notice to be prescribed by the department, and thereupon its certificate therefor
437 shall be canceled. A motor carrier of passengers may discontinue any part of its service
438 on any route upon 30 days' published notice, subject, however, to the right of the
439 department to withdraw its certificate for such route if, in the opinion of the commissioner,
440 such diminished service is not adequate or is no longer compatible with the public interest.

441 40-1-116.

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

445 40-1-117.

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

465 (b) Except in those cases where the Constitution requires otherwise, any action against any
466 resident or nonresident motor carrier for damages by reason of any breach of duty, whether
467 contractual or otherwise, or for any violation of this article or of any order, decision, rule,
468 regulation, direction, demand, or other requirement established by the state revenue

469 commissioner, may be brought in the county where the cause of action or some part thereof
470 arose; and if the motor carrier or its agent shall not be found for service in the county where
471 the action is instituted, a second original may issue and service be made in any other county
472 where the service can be made upon the motor carrier or its agent. The venue prescribed
473 by this Code section shall be cumulative of any other venue provided by law.

474 (c) Except in those cases where the Constitution requires otherwise, any action against any
475 resident motor carrier engaged exclusively in the transportation of agricultural or dairy
476 products, or both, between farm, market, gin, warehouse, or mill for damages by reason of
477 any breach of duty, whether contractual or otherwise, or for any violation of this article or
478 of any order, decision, rule, regulation, direction, demand, or other requirement established
479 by the commissioner shall be brought in the county where the owner or operator of the
480 carrier resides.

481 40-1-118.

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

493 40-1-119.

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

502 40-1-120.

503 Motor carriers of passengers shall not be compelled to carry baggage of passengers, except
504 hand baggage, the character, amount, and size of which the motor carrier may limit by its
505 rules and regulations, subject to the approval of the department; and the department may
506 by rule or regulation limit the amount of the liability of the motor carrier therefor. If a
507 motor carrier shall elect to carry the personal baggage of passengers, other than hand
508 baggage, the department shall prescribe just and reasonable rates therefor and such other
509 rules and regulations with respect thereto as may be reasonable and just, and may by rule
510 or regulation limit the amount of the liability of the motor carrier therefor.

511 40-1-121.

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

519 40-1-122.

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

528 40-1-123.

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

535 40-1-124.

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

540 40-1-125.

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

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

547 40-1-126.

548 In circumstances where a motor carrier is engaged in both interstate and intrastate
549 commerce, it shall nevertheless be subject to all the provisions of this part so far as it
550 separately relates to commerce carried on exclusively in this state. It is not intended that
551 the department shall have the power of regulating the interstate commerce of such motor
552 carrier, except to the extent expressly authorized by this part as to such commerce. The
553 provisions of this part do not apply to purely interstate commerce nor to carriers
554 exclusively engaged in interstate commerce. When a motor carrier is engaged in both
555 intrastate and interstate commerce, it shall be subject to all the provisions of this part so far
556 as they separately relate to commerce carried on in this state.

557 40-1-127.

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

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

- 568 (1) A motor carrier of property shall provide to the shipper, upon request of the shipper,
 569 a written or electronic copy of the rate, classification, rules, and practices upon which any
 570 rate agreed to between the shipper and carrier may have been based. When the
 571 applicability or reasonableness of the rates and related provisions billed by a carrier is
 572 challenged by the person paying the freight charges, the commissioner of public safety
 573 shall determine whether such rates and provisions are reasonable or applicable based on
 574 the record before it. In cases where a carrier other than a carrier providing transportation
 575 of household goods seeks to collect charges in addition to those billed and collected
 576 which are contested by the payor, the carrier may request that the commissioner of public
 577 safety determine whether any additional charges over those billed and collected must be
 578 paid. A carrier must issue any bill for charges in addition to those originally billed within
 579 180 days of the original bill in order to have the right to collect such charges;
- 580 (2) If a shipper seeks to contest the charges originally billed by a motor carrier of
 581 property, the shipper may request that the commissioner of public safety determine
 582 whether the charges originally billed must be paid. A shipper must contest the original
 583 bill within 180 days in order to have the right to contest such charges; and
- 584 (3) Claims for loss of or damage to property for which any motor carrier of property may
 585 be liable must be filed within nine months after the delivery of the property, except that
 586 claims for failure to make delivery must be filed within nine months after a reasonable
 587 time for delivery has elapsed.
- 588 (c) The commissioner of public safety shall adopt rules regarding rates, charges, and
 589 claims for loss or damage applicable to carriers of household goods.

590 40-1-128.

- 591 (a) Any officer, agent, or employee of any corporation, and any other person, who
 592 knowingly accepts or receives any rebate or drawback from the rates, fares, or charges
 593 established or approved by the department for motor carriers of passengers or household
 594 goods, or who procures, aids, or abets therein, or who uses or accepts from such motor
 595 carrier any free pass or free transportation not authorized or permitted by law or by the
 596 orders, rules, or regulations of the department, or who procures, aids, or abets therein, shall
 597 be guilty of a misdemeanor.
- 598 (b) The possession of goods, wares, or merchandise loaded on a motor vehicle consigned
 599 to any person, firm, or corporation, being transported or having been transported over the
 600 public highways in this state, without the authority of a permit or certificate for so
 601 transporting having been issued by the department under this article, shall be prima-facie
 602 evidence that such transportation of such goods, wares, or merchandise was an intentional

603 violation of the law regulating the transportation of persons and property over the public
604 highways in this state.

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

607 40-1-129.

608 (a) Whenever the department, after a hearing conducted in accordance with the provisions
609 of Code Section 40-1-56, finds that any person, firm, or corporation is operating as a
610 household goods carrier for hire without a valid certificate issued by the department or is
611 holding itself out as such a carrier without such a certificate in violation of this part, the
612 department may impose a fine of not more than \$5,000.00 for each violation. The
613 department may assess the person, firm, or corporation an amount sufficient to cover the
614 reasonable expense of investigation incurred by the department. The department may also
615 assess interest at the rate specified in Code Section 40-1-56 on any fine or assessment
616 imposed, to commence on the day the fine or assessment becomes delinquent. All fines,
617 assessments, and interest collected by the department shall be paid into the general fund
618 of the state treasury. Any party aggrieved by a decision of the department under this
619 subsection may seek judicial review as provided in Code section 40-1-56.

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

628 40-1-130.

629 In any advertisement for a motor carrier, whether by print, radio, television, other
630 broadcast, or electronic media including but not limited to Internet advertising and any
631 listing or sites on any website, the motor carrier shall include the motor carrier
632 authorization number issued to it by the Department of Public Safety. The requirements
633 of this Code section shall not apply to nonconsensual towing motor carriers providing
634 services pursuant to Code Section 44-1-13. The department shall be required to issue a
635 motor carrier authorization number to each registered motor carrier. Whenever the
636 department, after a hearing conducted in accordance with the provisions of Code Section
637 40-1-56, finds that any person is advertising in violation of this Code section, the

638 department may impose a fine of not more than \$500.00 for an initial violation and not
 639 more than \$15,000.00 for a second or subsequent violation.

640 Part 3

641 40-1-150.

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

643 40-1-151.

644 As used in this part, the term:

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

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

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

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

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

661 (A) Limousines;

662 (B) Extended limousines;

663 (C) Sedans;

664 (D) Extended sedans;

665 (E) Sport utility vehicles;

666 (F) Extended sport utility vehicles;

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

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

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

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

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

681 40-1-152.

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

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

687 40-1-153.

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

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

698 40-1-154.

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

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

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

708 40-1-155.

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

711 40-1-156.

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

714 (1) The violation of any of the provisions of this part;

715 (2) The violation of an order, decision, rule, regulation, or requirement established by the
716 department;

717 (3) Failure of a limousine carrier to pay a fee imposed on the carrier within the time
718 required by law or by the department;

719 (4) Failure of a limousine carrier to maintain required insurance in full force and effect;
720 and

721 (5) Failure of a limousine carrier to operate and perform reasonable services.

722 (b) After the cancellation or revocation of a certificate or during the period of its
723 suspension, it is unlawful for a limousine carrier to conduct any operations as such a
724 carrier.

725 40-1-157.

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

728 40-1-158.

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

732 40-1-159.

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

735 (1) A fee of \$75.00 to accompany each application for a certificate, or amendment to an
736 existing certificate, where the applicant owns or operates fewer than six limousines;

- 737 (2) A fee of \$150.00 to accompany each application for a certificate, or amendment to
738 an existing certificate, where the applicant owns or operates six to 15 limousines;
739 (3) A fee of \$200.00 to accompany each application for a certificate, or amendment to
740 an existing certificate, where the applicant owns or operates more than 15 limousines; and
741 (4) A fee of \$75.00 to accompany each application for transfer of a certificate.

742 40-1-160.

743 Any limousine carrier subject to the jurisdiction of the commissioner that transports
744 passengers shall comply with the provisions of paragraph (1) of subsection (a) of Code
745 Section 3-3-23 and Code Section 3-9-6, concerning consumption of alcoholic beverages.
746 The commissioner shall provide to all such limousine carriers, at the time of registration
747 a certificate, an informational packet emphasizing the prohibition on alcohol consumption
748 by persons under the age of 21 while being transported by the limousine carrier.

749 40-1-161.

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

757 40-1-162.

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

771 40-1-163.

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

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

781 40-1-164.

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

785 40-1-165.

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

795 40-1-166.

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

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

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

809 40-1-167.

810 Each limousine carrier which registers any vehicle under this article shall, for each such
 811 certificated vehicle, affix to the center of the front bumper of each such certificated vehicle
 812 a standard size license plate bearing the following information: (1) limousine carrier name,
 813 (2) city and state of principal domicile, (3) company telephone number, and (4) the vehicle
 814 classification, IE-1. The cost for such license plate shall be the sole responsibility of the
 815 limousine carrier and must be placed on each certificated vehicle prior to said vehicle being
 816 placed in service.

817 40-1-168.

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

821 40-1-169.

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

826 40-1-170.

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

830 **SECTION 2.**

831 Code Section 40-3-26 of the Official Code of Georgia Annotated, relating to delivery of
 832 certificate, notice to junior security interest holders and lienholders, and disposition of
 833 certificate when first lien or security interest satisfied, is amended by revising paragraph (2)
 834 of subsection (a) as follows:

835 "(2) The commissioner may enter into agreements with any such security interest holder
 836 or lienholder to provide a means of delivery by secure electronic measures of a notice of

837 the recording of such security interest or lien. On or after January 1, 2013, the
 838 commissioner shall require that security interest holders and lienholders receive notice
 839 of recordings of security interests and liens electronically. Such requirement may be
 840 phased in based on criteria designated by the commissioner through duly adopted rules
 841 and regulations. Such security interest or lien shall remain on the official records of the
 842 department until such time as the security interest or lien is released by secure electronic
 843 measures or affidavit of lien or security interest release; after which release, or at the
 844 request of the lienholder or security interest holder, the certificate of title may be printed
 845 and mailed or delivered to the next lienholder or security interest holder or as otherwise
 846 provided by paragraph (1) of this subsection without payment of any fee provided by
 847 Code Section 40-3-38."

848

SECTION 3.

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

851 "40-5-39.

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

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

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

858 (3) Not have been convicted, been on probation or parole, or served time on a sentence
 859 for a period of ten years previous to the date of application for any felony or any other
 860 crime of moral turpitude or a pattern of misdemeanors that evidences a disregard for the
 861 law unless he or she has received a pardon and can produce evidence of same. For the
 862 purposes of this paragraph, a plea of nolo contendere shall be considered to be a
 863 conviction, and a conviction for which a person has been free from custody and free from
 864 supervision for at least ten years shall not be considered a conviction unless the
 865 conviction is for a dangerous sexual offense which is contained in Code Section 42-1-12
 866 or the criminal offense was committed against a victim who was a minor at the time of
 867 the offense;

868 (4) Submit at least one set of classifiable electronically recorded fingerprints to the
 869 department in accordance with the fingerprint system of identification established by the
 870 director of the Federal Bureau of Investigation. The department shall transmit the
 871 fingerprints to the Georgia Crime Information Center, which shall submit the fingerprints
 872 to the Federal Bureau of Investigation for a search of bureau records and an appropriate

873 report and promptly conduct a search of state records based upon the fingerprints. After
 874 receiving the report from the Georgia Crime Information Center and the Federal Bureau
 875 of Investigation, the department shall determine whether the applicant may be certified;
 876 and

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

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

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

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

893 **PART II**
 894 **Conformity of Cross-References.**

895 **SECTION 4.**

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

899 "(b) No educational institution receiving state funds shall enter into an agreement with a
 900 motor carrier or contract carrier for the purpose of transporting students without first
 901 verifying that such carrier is certified by the ~~Public Service Commission~~ Department of
 902 Public Safety as required by ~~Article 1 of Chapter 7 of Title 46~~ Article 5 of Chapter 2 of
 903 Title 35, the Federal Motor Carrier Safety Administration, or any other similarly required
 904 certifying agency."

905

SECTION 5.

906

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

907

908

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

909

910

911

SECTION 6.

912

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

913

914

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

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916

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918

919

920

SECTION 7.

921

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

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924

"ARTICLE 5

925

35-2-100.

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There is ~~shall be~~ created and established a division of the Department of Public Safety to be known as the Motor Carrier Compliance Division, and within the division shall be created a section to be known as the Motor Carrier Compliance Enforcement Section.

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Except as provided in Code Section 35-2-102, the members of the Motor Carrier Compliance ~~Division~~ Enforcement Section shall be known and designated as 'law enforcement officers.'

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35-2-101.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

969 (1) Be authorized to carry firearms;

970 (2) Exercise arrest powers;

971 (3) Have the power to stop, enter upon, and inspect all motor vehicles using the public
972 highways for purposes of determining whether such vehicles have complied with and are

973 complying with laws, the administration or enforcement of which is the responsibility of
974 the department;

975 (4) Have the power to examine the facilities where motor vehicles are housed or
976 maintained and the books and records of motor carriers for purposes of determining
977 compliance with laws, the administration or enforcement of which is the responsibility
978 of the department; and

979 (5) Exercise the powers generally authorized for law enforcement officers in the
980 performance of their duties or otherwise to the extent needed to protect any life or
981 property when the circumstances demand action.

982 (d) The commissioner shall authorize law enforcement officers of the Motor Carrier
983 Compliance ~~Division~~ Enforcement Section to make use of dogs trained for the purpose of
984 detection of drugs and controlled substances while such officers are engaged in the
985 performance of their authorized duties. If such authorized use of such a dog indicates
986 probable cause to indicate the presence of contraband, the officer or officers shall in those
987 circumstances have the full authority of peace officers to enforce the provisions of Article
988 2 of Chapter 13 of Title 16, the 'Georgia Controlled Substances Act,' and Article 3 of
989 Chapter 13 of Title 16, the 'Dangerous Drug Act'; provided, however, that the department
990 must immediately notify the local law enforcement agency and district attorney of the
991 jurisdiction where a seizure is made.

992 (e)(1) Certified law enforcement officers employed by the Motor Carrier Compliance
993 ~~Division~~ Enforcement Section may use a department motor vehicle while working an
994 approved off-duty job, provided that:

995 (A) The off-duty employment is of a general nature that is the subject of a contract
996 between the off-duty employer and the department and is service in which the use of
997 the department motor vehicle is a benefit to the department or is in furtherance of the
998 department's mission;

999 (B) The off-duty employer agrees to pay and does pay to the department an amount
1000 determined by the commissioner to be sufficient to reimburse the department for the use
1001 of the vehicle and to pay the off-duty employee sufficient compensation. Pursuant to
1002 such contract, the department shall pay the employee of the department the
1003 compensation earned on off-duty employment whenever such employee performs such
1004 service in a department motor vehicle; and

1005 (C) The commissioner has specifically approved, in writing, the individual use of the
1006 vehicle by the employee.

1007 (2) At no time will an off-duty employee be allowed use of a department motor vehicle
1008 at any political function of any kind.

1009 35-2-102.

1010 (a) The commissioner is authorized to establish a position to be known as 'weight
1011 inspector' within the Motor Carrier Compliance ~~Division~~ Enforcement Section of the
1012 Department of Public Safety. Weight inspectors shall be assigned to fixed scales facilities
1013 and shall not be authorized to operate outside such facilities. The number of such positions
1014 shall be determined by the commissioner within the limits set by available appropriations.
1015 Weight inspectors may be divided into such ranks as the commissioner deems appropriate.

1016 (b) The commissioner shall ensure that a weight inspector is properly trained regarding
1017 laws governing commercial motor vehicle weight, registration, size, and load, including,
1018 but not limited to, commercial motor vehicle provisions in Article 2 of Chapter 6 of Title
1019 32 and safety standards for commercial motor vehicles and such motor vehicle
1020 components. The training required in the areas required by this subsection shall be
1021 equivalent to training provided to certified officers in the Motor Carrier Compliance
1022 ~~Division~~ Enforcement Section.

1023 (c) A weight inspector, at the fixed scales facility, shall be authorized to:

1024 (1) Enforce noncriminal provisions relating to commercial motor vehicle weight,
1025 registration, size, and load and assess a civil penalty for a violation of such provisions;
1026 and

1027 (2) Detain a commercial motor vehicle that:

1028 (A) Has a safety defect which is critical to the continued safe operation of the vehicle;

1029 (B) Is being operated in violation of any criminal law; or

1030 (C) Is being operated in violation of an out-of-service order as reported on the federal
1031 Safety and Fitness Electronic Records data base.

1032 The detention authorized by this paragraph shall be for the purpose of contacting a
1033 certified member of the Motor Carrier Compliance ~~Division~~ Enforcement Section or
1034 Georgia State Patrol. A certified officer shall report to the scene of a detained vehicle
1035 and take any further action deemed appropriate including completing the inspection and
1036 investigation, making an arrest, or bringing criminal or civil charges.

1037 (d) A weight inspector is not a peace officer and shall not be authorized to carry a firearm
1038 or exercise any power of arrest other than a citizen's arrest in accordance with Code
1039 Sections 17-4-60 and 17-4-61. At all times while a weight inspector is on duty, there shall
1040 be a supervisor over the weight inspector also on duty who shall be a certified peace
1041 officer."

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SECTION 8.

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

"(4) 'Motor carrier' means:

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

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

SECTION 9.

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

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

SECTION 10.

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

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

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SECTION 11.

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

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

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

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

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

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SECTION 12.

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

"44-1-13.

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

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

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

(a.1) Any person or his or her authorized agent entitled to the possession of any private property shall have the right to remove or cause to be removed from the property any vehicle or trespassing personal property thereon which is not authorized to be at the place where it is found and to store or cause to be stored such vehicle or trespassing personal property, provided that there shall have been conspicuously posted on the private property notice that any vehicle or trespassing personal property which is not authorized to be at the place where it is found may be removed at the expense of the owner of the vehicle or trespassing personal property. Such notice shall also include information as to the location where the vehicle or personal property can be recovered, the cost of said recovery, and information as to the form of payment; provided, however, that the owner of residential

1111 private property containing not more than four residential units shall not be required to
1112 comply with the posting requirements of this subsection. Only towing and storage firms
1113 issued permits or licenses by the local governing authority of the jurisdiction in which they
1114 operate or by the ~~commission~~ department, and having a secure impoundment facility, shall
1115 be permitted to remove trespassing property and trespassing personal property at the
1116 request of the owner or authorized agent of the private property.

1117 (b)(1) The ~~commission~~ department shall have the authorization to regulate and control
1118 the towing of trespassing vehicles on private property if such towing is performed
1119 without the prior consent or authorization of the owner or operator of the vehicle,
1120 including the authority to set just and reasonable rates, fares, and charges for services
1121 related to the removal, storage, and required notification to owners of such towed
1122 vehicles. No storage fees shall be charged for the first 24 hour period which begins at the
1123 time the vehicle is removed from the property, and no such fees shall be allowed for the
1124 removal and storage of vehicles removed by towing and storage firms found to be in
1125 violation of this Code section. The ~~commission~~ department is authorized to impose a
1126 civil penalty for any violation of this Code section in an amount not to exceed \$2,500.00.

1127 (2) In accordance with subsection (d) of this Code section, the governing authority of a
1128 municipality may require towing and storage operators to charge lower maximum rates
1129 on traffic moving between points within such municipality than those provided by the
1130 ~~commission~~ department's maximum rate tariff and may require higher public liability
1131 insurance limits and cargo insurance limits than those required by the ~~commission~~
1132 department. The governing authority of a municipality shall not provide for higher
1133 maximum costs of removal, relocation, or storage than is provided for by the commission
1134 department.

1135 (c) In all municipalities, except a consolidated city-county government, having a
1136 population of 100,000 or more according to the United States decennial census of 1970 or
1137 any future such census a person entitled to the possession of an off-street parking area or
1138 vacant lot within an area zoned commercial by the municipality shall have the right to
1139 remove any vehicle or trespassing personal property parked thereon after the regular
1140 activity on such property is concluded for the day only if access to such property from the
1141 public way is blocked by a sturdy chain, cable, or rope stretched at least 18 inches above
1142 grade across all driveways or other ways providing access to the off-street parking area or
1143 vacant lot and there is conspicuously posted in the area a notice, the location of which must
1144 be approved by the municipality's police department, that any vehicle or trespassing
1145 personal property parked thereon which is not authorized to be in such area may be
1146 removed at the expense of the owner along with information as to where the vehicle or

1147 trespassing personal property may be recovered, the cost of said recovery, and information
1148 regarding the form of payment.

1149 (d)(1) In addition to the regulatory jurisdiction of the ~~commission~~ department, the
1150 governing authority of each municipality having towing and storage firms operating
1151 within its territorial boundaries may require and issue a license or permit to engage in
1152 private trespass towing within its corporate municipal limits pursuant to this Code section
1153 to any firm meeting the qualifications imposed by said governing authority. The fee for
1154 the license or permit shall be set by such governing authority. The maximum reasonable
1155 costs of removal, relocation, and storage pursuant to the provisions of this Code section
1156 shall be compensatory, as such term is used in the public utility rate-making procedures,
1157 and shall be established annually by the governing authority of each municipality having
1158 towing and storage firms operating within its territorial boundaries; provided, however,
1159 that no storage fees shall be charged for the first 24 hour period which begins at the time
1160 the vehicle is removed from the property, and no such fees shall be allowed for the
1161 removal and storage of vehicles removed by towing and storage firms found to be in
1162 violation of this Code section.

1163 (2) Towing and storage firms operating within a municipality's corporate limits shall
1164 obtain a nonconsensual towing permit from the ~~commission~~ department and shall file its
1165 registered agent's name and address with the ~~commission~~ department.

1166 (e) Any person who suffers injury or damages as a result of a violation of this Code section
1167 may bring an action in any court of competent jurisdiction for actual damages, which shall
1168 be presumed to be not less than \$100.00, together with court costs. A court shall award
1169 three times actual damages for an intentional violation of this Code section.

1170 (f) It shall be unlawful and punishable by a fine of \$1,000.00 for any towing and storage
1171 firm, permitted or unpermitted, licensed or unlicensed, to enter into any agreement with
1172 any person in possession of private property to provide automatic or systematic
1173 surveillance of such property for purposes of removal and relocation of any such vehicle
1174 or trespassing personal property except upon call by such person in possession of such
1175 private property to such towing and storage firm for each individual case of trespass;
1176 provided, further, that it shall be unlawful and punishable by a fine of \$1,000.00 for any
1177 towing and storage firm to pay to any private property owner or one in possession of
1178 private property any fee or emolument, directly or indirectly, for the right to remove a
1179 vehicle or trespassing personal property from said private property."

1180 SECTION 13.

1181 Said title is further amended by revising Code Section 44-7-59, relating to removal of
1182 transportable housing from lands subject to writ of possession, as follows:

1183 "44-7-59.

1184 If the court issues a writ of possession to property upon which the tenant has placed a
 1185 manufactured home, mobile home, trailer, or other type of transportable housing and the
 1186 tenant does not move the same within ten days after a final order is entered, the landlord
 1187 shall be entitled to have such transportable housing moved from the property at the expense
 1188 of the tenant by a motor common carrier licensed by the ~~Public Service Commission~~
 1189 Department of Public Safety for the transportation of manufactured housing. There shall
 1190 be a lien upon such transportable housing to the extent of moving fees and storage expenses
 1191 in favor of the person performing such services. Such lien may be claimed and foreclosed
 1192 in the same manner as special liens on personalty by mechanics under Code Sections
 1193 44-14-363 and 44-14-550, except that storage fees not to exceed \$4.00 per day shall be
 1194 expressly allowed."

1195 SECTION 14.

1196 Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public
 1197 transportation, is amended by revising Code Section 46-1-1, relating to definitions,
 1198 exclusions, and Georgia Forest Product Trucking Rules, as follows:

1199 "46-1-1.

1200 As used in this title, the term:

1201 ~~(1) 'Carrier' means a person who undertakes the transporting of goods or passengers for~~
 1202 ~~compensation.~~

1203 ~~(2)~~(1) 'Certificate' means a certificate of public convenience and necessity issued
 1204 pursuant to this title.

1205 ~~(3)~~(2) 'Commission' means the Public Service Commission.

1206 ~~(4)~~(3) 'Company' shall include a corporation, a firm, a partnership, an association, or an
 1207 individual.

1208 ~~(5)~~(4) 'Electric utility' means any retail supplier of electricity whose rates are fixed by
 1209 the commission.

1210 ~~(5.1) 'Exempt rideshare' means:~~

1211 ~~(A) Government endorsed rideshare programs;~~

1212 ~~(B) Rideshare programs in which a rideshare driver seeks reimbursement for, or the~~
 1213 ~~rideshare participants pool or otherwise share, rideshare costs such as fuel; or~~

1214 ~~(C) The leasing or rental of a vehicle, in the ordinary course of the lessor's or rentor's~~
 1215 ~~business, for rideshare purposes as part of a government endorsed rideshare program,~~
 1216 ~~or for rideshare under a contract requiring compliance with subparagraph (B) of this~~
 1217 ~~paragraph.~~

1218 ~~(6) 'For compensation' or 'for hire' means an activity wherein for payment or other~~
 1219 ~~compensation a motor vehicle and driver are furnished to a person by another person,~~
 1220 ~~acting directly or knowingly and willfully acting with another to provide the combined~~
 1221 ~~service of the vehicle and driver, and includes every person acting in concert with, under~~
 1222 ~~the control of, or under common control with a motor carrier who shall offer to furnish~~
 1223 ~~transportation for compensation or for hire, provided that no exempt rideshare shall be~~
 1224 ~~deemed to involve any element of transportation for compensation or for hire.~~

1225 ~~(6.1)(5)~~ (5) 'Gas company' means any person certificated under Article 2 of Chapter 4 of this
 1226 title to construct or operate any pipeline or distribution system, or any extension thereof,
 1227 for the transportation, distribution, or sale of natural or manufactured gas.

1228 ~~(6.2) 'Government endorsed rideshare program' means a vanpool, carpool, or similar~~
 1229 ~~rideshare operation conducted by or under the auspices of a state or local governmental~~
 1230 ~~transit instrumentality, such as GRTA, a transportation management association, or a~~
 1231 ~~community improvement district, or conducted under the auspices of such transit~~
 1232 ~~agencies, including through any form of contract between such transit instrumentality and~~
 1233 ~~private persons or businesses.~~

1234 ~~(6.3) 'GRTA' means the Georgia Regional Transportation Authority, which is itself~~
 1235 ~~exempt from regulation as a carrier under Code Section 50-32-71.~~

1236 ~~(7) 'Household goods' means any personal effects and property used or to be used in a~~
 1237 ~~dwelling when a part of the equipment or supplies of such dwelling and such other~~
 1238 ~~similar property as the commission may provide for by regulation; provided, however,~~
 1239 ~~that such term shall not include property being moved from a factory or store except~~
 1240 ~~when such property has been purchased by a householder with the intent to use such~~
 1241 ~~property in a dwelling and such property is transported at the request of, and with~~
 1242 ~~transportation charges paid by, the householder.~~

1243 ~~(8) Reserved.~~

1244 ~~(9) 'Motor contract carrier and motor common carrier' means as follows:~~

1245 ~~(A) 'Motor contract carrier' means every person, except common carriers, owning,~~
 1246 ~~controlling, operating, or managing any motor propelled vehicle including the lessees~~
 1247 ~~or trustees of such persons or receivers appointed by any court used in the business of~~
 1248 ~~transporting persons or household goods or engaged in the activity of nonconsensual~~
 1249 ~~towing pursuant to Code Section 44-1-13 for hire over any public highway in this state.~~
 1250 ~~Vehicles and the drivers thereof operating within the corporate limits of any city shall~~
 1251 ~~be subject to the safety regulations adopted by the commissioner of public safety~~
 1252 ~~pursuant to Code Section 40-1-8.~~

1253 ~~(B) 'Motor common carrier' means every person owning, controlling, operating, or~~
 1254 ~~managing any motor propelled vehicle, and the lessees, receivers, or trustees of such~~

1255 ~~person, used in the business of transporting for hire of persons or household goods, or~~
 1256 ~~both, or engaged in the activity of nonconsensual towing pursuant to Code Section~~
 1257 ~~44-1-13, otherwise than over permanent rail tracks, on the public highways of Georgia~~
 1258 ~~as a common carrier. The term includes, but is not limited to, limousine carriers as~~
 1259 ~~defined in paragraph (5) of Code Section 46-7-85.1.~~

1260 ~~(C) Except as otherwise provided in this subparagraph, the terms 'motor common~~
 1261 ~~carrier' and 'motor contract carrier' shall not include:~~

1262 ~~(i) Motor vehicles engaged solely in transporting school children and teachers to and~~
 1263 ~~from public schools and private schools;~~

1264 ~~(ii) Taxicabs which operate within the corporate limits of municipalities and are~~
 1265 ~~subject to regulation by the governing authorities of such municipalities; the~~
 1266 ~~provisions of this division notwithstanding, vehicles and the drivers thereof operating~~
 1267 ~~within the corporate limits of any city shall be subject to the safety regulations~~
 1268 ~~adopted by the commissioner of public safety pursuant to Code Section 40-1-8;~~

1269 ~~(iii) Hotel passenger or baggage motor vehicles when used exclusively for patrons~~
 1270 ~~and employees of such hotel;~~

1271 ~~(iv) Motor vehicles operated not for profit with a capacity of 15 persons or less when~~
 1272 ~~they are used exclusively to transport elderly and disabled passengers or employees~~
 1273 ~~under a corporate sponsored van pool program, except that a vehicle owned by the~~
 1274 ~~driver may be operated for profit when such driver is traveling to and from his or her~~
 1275 ~~place of work provided each such vehicle carrying more than nine passengers~~
 1276 ~~maintains liability insurance in an amount of not less than \$100,000.00 per person and~~
 1277 ~~\$300,000.00 per accident and \$50,000.00 property damage. For the purposes of this~~
 1278 ~~division, elderly and disabled passengers are defined as individuals over the age of 60~~
 1279 ~~years or who, by reason of illness, injury, age, congenital malfunction, or other~~
 1280 ~~permanent or temporary incapacity or disability, are unable to utilize mass~~
 1281 ~~transportation facilities as effectively as persons who are not so affected;~~

1282 ~~(v) Reserved;~~

1283 ~~(vi) Reserved;~~

1284 ~~(vii) Reserved;~~

1285 ~~(viii) Motor vehicles owned and operated exclusively by the United States~~
 1286 ~~government or by this state or any subdivision thereof;~~

1287 ~~(ix) Reserved;~~

1288 ~~(x) Reserved;~~

1289 ~~(xi) Reserved;~~

1290 ~~(xii) Reserved;~~

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

~~(xiv) Reserved; or~~

~~(xv) Ambulances.~~

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

~~(11) Reserved.~~

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

~~(13) Reserved.~~

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

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

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

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

1327 (18) ~~'Vehicle' or 'motor vehicle' means any vehicle, machine, tractor, trailer, or~~
 1328 ~~semitrailer propelled or drawn by mechanical power and used upon the highways in the~~
 1329 ~~transportation of passengers or property, or any combination thereof, determined by the~~
 1330 ~~commission."~~

1331 **SECTION 15.**

1332 Said title is further amended by revising Code Section 46-3-38, relating to applicability of
 1333 part to moving or transportation of houses or buildings, as follows:

1334 "46-3-38.

1335 In addition to the exceptions set forth in Code Section 46-3-37, this part shall not be
 1336 construed as applying to and shall not apply to the moving or transportation of houses or
 1337 buildings or parts thereof when such moving is under the jurisdiction of, and is undertaken
 1338 pursuant to authority granted by, the ~~Georgia Public Service Commission~~ Department of
 1339 Public Safety."

1340 **SECTION 16.**

1341 Said title is further amended by repealing Chapter 7, relating to motor carriers, and
 1342 designating said chapter as reserved.

1343 **SECTION 17.**

1344 Said title is further amended by repealing Code Section 46-9-6, relating to limitations of
 1345 actions against carriers for recovery of overcharges, requirements regarding rates, charges,
 1346 and claims for loss or damage, and designating said Code section as reserved.

1347 **SECTION 18.**

1348 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 1349 amended by revising division (5)(B)(ii) of Code Section 48-8-3, relating to exemptions from
 1350 the state sales and use tax, as follows:

1351 "(ii) 'Urban transit system' means a public transit system primarily urban in character
 1352 which is operated by a street railroad company or a motor ~~common~~ carrier, is subject
 1353 to the jurisdiction of the ~~Public Service Commission~~ Department of Public Safety, and
 1354 whose fares and charges are regulated by the ~~Public Service Commission~~ Department
 1355 of Public Safety, or is operated pursuant to a franchise contract with a municipality
 1356 of this state so that its fares and charges are regulated by or are subject to the approval
 1357 of the municipality. An urban transit system certificate shall be issued by the ~~Public~~
 1358 ~~Service Commission~~ Department of Public Safety, or by the municipality which has
 1359 regulatory authority, upon an affirmative showing that the applicant operates an urban

1360 transit system. The certificate shall be obtained and filed with the commissioner and
 1361 shall continue in effect so long as the holder of such certificate qualifies as an urban
 1362 transit system. Any urban transit system certificate granted prior to January 1, 2002,
 1363 shall be deemed valid as of the date it was issued;"

1364 **SECTION 19.**

1365 Said title is further amended by revising Code Section 48-8-93, relating to nonimposition of
 1366 tax on property ordered by and delivered to a purchaser outside a special district and
 1367 conditions of delivery, as follows:

1368 "48-8-93.

1369 No tax provided for in Code Section 48-8-82 shall be imposed upon the sale of tangible
 1370 personal property which is ordered by and delivered to the purchaser at a point outside the
 1371 geographical area of the special district in which the joint tax is imposed regardless of the
 1372 point at which title passes, if the delivery is made by the seller's vehicle, United States mail,
 1373 or common carrier or by private or contract carrier licensed by the ~~Interstate Commerce~~
 1374 ~~Commission~~ Federal Motor Carrier Safety Administration or the Georgia ~~Public Service~~
 1375 ~~Commission~~ Department of Public Safety."

1376 **SECTION 20.**

1377 Said title is further amended by revising Code Section 48-8-107, relating to property ordered
 1378 by and delivered to a purchaser at a point outside the geographical area of a special district
 1379 in which tax is imposed, as follows:

1380 "48-8-107.

1381 No sales and use tax provided for in Code Section 48-8-102 shall be imposed upon the sale
 1382 of tangible personal property which is ordered by and delivered to the purchaser at a point
 1383 outside the geographical area of the special district in which the sales and use tax is
 1384 imposed under this article regardless of the point at which title passes, if the delivery is
 1385 made by the seller's vehicle, United States mail, or common carrier or by private or contract
 1386 carrier licensed by the ~~Interstate Commerce Commission~~ Federal Motor Carrier Safety
 1387 Administration or the Georgia ~~Public Service Commission~~ Department of Public Safety."

1388 **SECTION 21.**

1389 Said title is further amended by revising Code Section 48-8-117, relating inapplicability of
 1390 tax to certain sales of tangible personal property outside the taxing county, as follows:

1391 "48-8-117.

1392 No tax provided for in this article shall be imposed upon the sale of tangible personal
 1393 property which is ordered by and delivered to the purchaser at a point outside the

1394 geographical area of the county in which the tax is imposed regardless of the point at which
 1395 title passes, if the delivery is made by the seller's vehicle, United States mail, or common
 1396 carrier or by private or contract carrier licensed by the ~~Interstate Commerce Commission~~
 1397 Federal Motor Carrier Safety Administration or the ~~Georgia Public Service Commission~~
 1398 Georgia Department of Public Safety."

1399 **SECTION 22.**

1400 Said title is further amended by revising Code Section 48-8-208, relating to no tax on
 1401 products ordered and delivered outside geographical area of a municipality, as follows:

1402 "48-8-208.

1403 No tax provided for in this article shall be imposed upon the sale of tangible personal
 1404 property which is ordered by and delivered to the purchaser at a point outside the
 1405 geographical area of the municipality in which the tax is imposed regardless of the point
 1406 at which title passes, if the delivery is made by the seller's vehicle, United States mail, or
 1407 common carrier or by private or contract carrier licensed by the ~~Federal Highway~~
 1408 Administration Federal Motor Carrier Safety Administration or the ~~Georgia Public Service~~
 1409 Commission Georgia Department of Public Safety."

1410 **SECTION 23.**

1411 Said title is further amended by revising Code Section 48-8-253, relating to nonimposition
 1412 of tax on property ordered by and delivered to purchaser outside special district and
 1413 conditions on delivery, as follows:

1414 "48-8-253.

1415 No tax provided for in this article shall be imposed upon the sale of tangible personal
 1416 property which is ordered by and delivered to the purchaser at a point outside the
 1417 geographical area of the special district in which the tax is imposed regardless of the point
 1418 at which title passes, if the delivery is made by the seller's vehicle, United States mail, or
 1419 common carrier or by private or contract carrier licensed by the ~~Surface Transportation~~
 1420 Board Federal Motor Carrier Safety Administration or the ~~Georgia Public Service~~
 1421 Commission Georgia Department of Public Safety."

1422 **SECTION 24.**

1423 Said title is further amended by revising subsection (a) of Code Section 48-13-16, relating
 1424 to excluded businesses or practitioners and other laws on occupation taxes or registration fees
 1425 of local governments not repealed, as follows:

1426 "(a) The following businesses or practitioners shall be excluded from occupation tax,
 1427 registration fees, or regulatory fees under the provisions of this article but shall be subject
 1428 to taxation and regulation as otherwise provided by general law and municipal charters:

1429 (1) Those businesses regulated by the Georgia Public Service Commission and the
 1430 Georgia Department of Public Safety;

1431 (2) Those electrical service businesses organized under Chapter 3 of Title 46; and

1432 (3) Any farm operation for the production from or on the land of agricultural products,
 1433 but not including any agribusiness."

1434 **SECTION 25.**

1435 Said title is further amended by revising subsection (b) of Code Section 48-13-18, relating
 1436 to levy by municipalities of occupation taxes on licensed businesses, trades, and professions
 1437 and prohibition of municipal licensing or taxation of businesses, trades, or operations
 1438 operating registered vehicles, as follows:

1439 "(b) Nothing contained in this Code section shall be construed to authorize the municipal
 1440 licensing or taxation of businesses, trades, or occupations operating motor vehicles required
 1441 to be registered with the ~~Public Service Commission~~ Department of Public Safety of this
 1442 state."

1443 **SECTION 26.**

1444 Article 6 of Chapter 32 of Title 50 of the Official Code of Georgia Annotated, relating to
 1445 construction of Chapter 32, the "Georgia Regional Transportation Authority Act," is
 1446 amended by revising Code Section 50-32-71, relating to exemption of buses, motor vehicles,
 1447 and rapid rail systems of the authority from motor carrier regulations, as follows:

1448 "50-32-71.

1449 No provision of ~~Chapter 7 of Title 46~~ Chapter 1 of Title 40 shall apply to any bus, other
 1450 motor vehicle, or rapid rail system of the authority which provides transit services."

1451 **PART III**

1452 **Effective Date and Repealer.**

1453 **SECTION 27.**

1454 This Act shall become effective on July 1, 2012.

1455 **SECTION 28.**

1456 All laws and parts of laws in conflict with this Act are repealed.