SENATE SUBSTITUTE TO HB 865

AS PASSED SENATE

A BILL TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I
The Georgia Motor Carrier Act.
SECTION 1.

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

"ARTICLE 3

Part 1

40-1-50.

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

40-1-51.

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

40-1-52.

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

40-1-53.

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

40-1-54.

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

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

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

40-1-55.

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

40-1-56.

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

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

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

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

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

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

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

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

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

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

(A) In violation of constitutional or statutory provisions;

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

(C) Made upon unlawful procedure;

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

(E) Arbitrary or capricious.

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

40-1-57.

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

Part 2

40-1-100.

As used in this part, the term:

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

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

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

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

(5) 'Exempt rideshare' means:

(A) Government endorsed rideshare programs;

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

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

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

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

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

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

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

(10) 'Motor carrier' means:

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

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

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

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

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

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

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

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

(vii) 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 part, elderly and disabled persons shall have the same meaning as in division (iv) of this subparagraph; or

(viii) Ambulances.

(11) '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.

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

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

40-1-101.

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

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

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

(d) All motor carriers shall:

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

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

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

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

40-1-102.

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

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

40-1-103.

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

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

40-1-104.

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

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

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

40-1-105.

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

40-1-106.

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

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

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

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

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

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

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

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

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

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

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

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

40-1-107.

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

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

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

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

40-1-108.

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

40-1-109.

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

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

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

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

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

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

40-1-110.

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

40-1-111.

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

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

40-1-112.

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

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

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

40-1-113.

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

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

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

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

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

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

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

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

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

40-1-114.

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

40-1-115.

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

40-1-116.

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

40-1-117.

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

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

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

(c) Except in those cases where the Constitution requires otherwise, for the purposes of venue only, any truck engaged exclusively in the transportation of agricultural or dairy products, or both, between farm, market, gin, warehouse, or mill shall not be classified as a motor common or contract carrier.

40-1-118.

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

40-1-119.

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

40-1-120.

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

40-1-121.

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

40-1-122.

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

40-1-123.

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

40-1-124.

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

40-1-125.

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

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

40-1-126.

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

40-1-127.

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

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

(1) A motor carrier of property shall provide to the shipper, upon request of the shipper, a written or electronic copy of the rate, classification, rules, and practices upon which any rate agreed to between the shipper and carrier may have been based. When the applicability or reasonableness of the rates and related provisions billed by a carrier is challenged by the person paying the freight charges, the commissioner of public safety shall determine whether such rates and provisions are reasonable or applicable based on the record before it. In cases where a carrier other than a carrier providing transportation of household goods seeks to collect charges in addition to those billed and collected which are contested by the payor, the carrier may request that the commissioner of public safety determine whether any additional charges over those billed and collected must be paid. A carrier must issue any bill for charges in addition to those originally billed within 180 days of the original bill in order to have the right to collect such charges;

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

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

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

40-1-128.

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

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

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

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

40-1-129.

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

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

40-1-130.

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

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

Part 3

40-1-150.

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

40-1-151.

As used in this part, the term:

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

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

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

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

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

(A) Limousines;

(B) Extended limousines;

(C) Sedans;

(D) Extended sedans;

(E) Sport utility vehicles;

(F) Extended sport utility vehicles;

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

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

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

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

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

40-1-152.

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

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

40-1-153.

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

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

40-1-154.

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

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

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

40-1-155.

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

40-1-156.

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

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

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

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

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

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

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

40-1-157.

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

40-1-158.

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

40-1-159.

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

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

(2) A fee of $150.00 to accompany each application for a certificate, or amendment to an existing certificate, where the applicant owns or operates six to 15 limousines;

(3) A fee of $200.00 to accompany each application for a certificate, or amendment to an existing certificate, where the applicant owns or operates more than 15 limousines; and

(4) A fee of $75.00 to accompany each application for transfer of a certificate.

40-1-160.

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

40-1-161.

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

40-1-162.

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

40-1-163.

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

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

40-1-164.

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

40-1-165.

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

40-1-166.

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

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

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

40-1-167.

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

40-1-168.

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

40-1-169.

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

40-1-170.

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

SECTION 2.

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

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

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

SECTION 3.

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

″40-5-39.

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

(1) Be at least 18 years of age;

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

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

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

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

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

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

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

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

PART II

Conformity of Cross-References.

SECTION 4.

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

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

SECTION 5.

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:

"(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."

SECTION 6.

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:

"(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"

SECTION 7.

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:

"ARTICLE 5

35-2-100.

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. 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.'

35-2-101.

(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.

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

(1) Enforcement of laws and 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;

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

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

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

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

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

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

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

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

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

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

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

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

(1) Be authorized to carry firearms;

(2) Exercise arrest powers;

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

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

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

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

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

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

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

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

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

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

35-2-102.

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

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

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

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

(2) Detain a commercial motor vehicle that:

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

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

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

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

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

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~~,~~ <u>or</u> 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~~ <u>Federal Motor Carrier Safety Administration</u> and the ~~Public Service Commission~~ <u>Department of Public Safety</u> 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,~~ <u>Georgia Department of Public Safety,</u> or Georgia Board of Public Safety regulations applying to the securing of loads on motor vehicles."

SECTION 11.

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:

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

(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;

(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;"

SECTION 12.

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

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

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

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

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

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

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

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

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

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

SECTION 13.

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

"44-7-59.

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

SECTION 14.

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

"46-1-1.

As used in this title, the term:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(8) Reserved.~~

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

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

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

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

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

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

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

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

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

~~(v) Reserved;~~

~~(vi) Reserved;~~

~~(vii) Reserved;~~

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

~~(ix) Reserved;~~

~~(x) Reserved;~~

~~(xi) Reserved;~~

~~(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.

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

SECTION 15.

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

″46-3-38.

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

SECTION 16.

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

SECTION 17.

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

SECTION 18.

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

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

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

SECTION 19.

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

″48-8-93.

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

SECTION 20.

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

″48-8-107.

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

SECTION 21.

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

″48-8-117.

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

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

SECTION 22.

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

″48-8-208.

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

SECTION 23.

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

″48-8-253.

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

SECTION 24.

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

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

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

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

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

SECTION 25.

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

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

SECTION 26.

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

"50-32-71.

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

PART III

Effective Date and Repealer.

SECTION 27.

This Act shall become effective on July 1, 2012.

SECTION 28.

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