

House Bill 865 (AS PASSED HOUSE AND SENATE)

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

A BILL TO BE ENTITLED
AN ACT

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

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 PART I
17 The Georgia Motor Carrier Act.
18 SECTION 1.

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

21 "ARTICLE 3

22 Part 1

23 40-1-50.

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

25 40-1-51.

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

34 40-1-52.

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

45 40-1-53.

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

48 40-1-54.

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

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

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

56 40-1-55.

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

63 40-1-56.

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

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

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

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

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

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

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

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

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

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

120 (A) In violation of constitutional or statutory provisions;
121 (B) In excess of the statutory authority of the commission department;
122 (C) Made upon unlawful procedure;

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

130 40-1-57.
 131 Rules, orders, and regulations previously adopted which relate to functions performed by
 132 the Pubic Service Commission which were transferred under this Article to the Department
 133 of Public Safety shall remain of full force and effect as rules, orders, and regulations of the
 134 Department of Public Safety until amended, repealed, or superseded by rules or regulations
 135 adopted by the department.

136 Part 2

137 40-1-100.

138 As used in this part, the term:

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

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

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

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

147 (5) 'Exempt rideshare' means:

148 (A) Government endorsed rideshare programs;

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

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

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

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

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

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

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

177 (10) 'Motor carrier' means:

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

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

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

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

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

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

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

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

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

216 (viii) Ambulances.

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

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

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

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

234 40-1-101.

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

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

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

243 (d) All motor carriers shall:

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

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

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

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

252 40-1-102.

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

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

263 40-1-103.

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

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

274 40-1-104.

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

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

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

290 40-1-105.

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

293 40-1-106.

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

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

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

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

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

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

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

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

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

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

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

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

321 40-1-107.

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

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

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

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

333 40-1-108.

334 Any motor carrier subject to the jurisdiction of the commissioner that transports passengers
335 shall comply with the provisions of Code Section 3-3-23, concerning consumption of
336 alcoholic beverages by persons under the age of 21. The commissioner shall provide to all
337 motor carriers, at the time of registration or renewal of a certificate, an informational
338 packet emphasizing the prohibition on alcohol consumption by persons under the age of
339 21 while being transported by the motor carrier.

340 40-1-109.

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

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

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

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

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

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

356 40-1-110.

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

363 40-1-111.

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

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

370 40-1-112.

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

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

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

390 40-1-113.

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

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

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

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

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

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

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

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

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

414 40-1-114.

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

435 40-1-115.

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

442 40-1-116.

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

446 40-1-117.

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

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

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

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

479 40-1-118.

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

491 40-1-119.

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

500 40-1-120.

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

509 40-1-121.

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

517 40-1-122.

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

526 40-1-123.

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

533 40-1-124.

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

538 40-1-125.

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

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

545 40-1-126.

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

555 40-1-127.

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

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

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

588 40-1-128.

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

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

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

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

605 40-1-129.

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

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

626 40-1-130.

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

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

638 Part 3

639 40-1-150.

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

641 40-1-151.

642 As used in this part, the term:

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

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

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

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

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

659 (A) Limousines;

660 (B) Extended limousines;

661 (C) Sedans;

662 (D) Extended sedans;

663 (E) Sport utility vehicles;

664 (F) Extended sport utility vehicles;

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

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

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

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

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

679 40-1-152.

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

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

685 40-1-153.

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

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

696 40-1-154.

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

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

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

706 40-1-155.

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

709 40-1-156.

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

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

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

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

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

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

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

723 40-1-157.

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

726 40-1-158.

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

730 40-1-159.

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

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

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

740 40-1-160.

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

747 40-1-161.

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

755 40-1-162.

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

769 40-1-163.

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

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

779 40-1-164.

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

783 40-1-165.

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

793 40-1-166.

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

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

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

807 40-1-167.

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

815 40-1-168.

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

819 40-1-169.

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

824 40-1-170.

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

828 **SECTION 2.**

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

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

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

846 **SECTION 3.**

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

849 "40-5-39.

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

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

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

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

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

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

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

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

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

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

891

PART II

892

Conformity of Cross-References.

893

SECTION 4.

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

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

903 **SECTION 5.**

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

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

909 **SECTION 6.**

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

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

918 **SECTION 7.**

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

922 "ARTICLE 5

923 35-2-100.

924 There is shall be created and established a division of the Department of Public Safety to
925 be known as the Motor Carrier Compliance Division, and within the division shall be
926 created a section to be known as the Motor Carrier Compliance Enforcement Section.
927 Except as provided in Code Section 35-2-102, the members of the Motor Carrier
928 Compliance ~~Division~~ Enforcement Section shall be known and designated as 'law
929 enforcement officers.'

930 35-2-101.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

967 (1) Be authorized to carry firearms;

968 (2) Exercise arrest powers;

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

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

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

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

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

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

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

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

1003 (C) The commissioner has specifically approved, in writing, the individual use of the
1004 vehicle by the employee.

1005 (2) At no time will an off-duty employee be allowed use of a department motor vehicle
1006 at any political function of any kind.

1007 35-2-102.

1008 (a) The commissioner is authorized to establish a position to be known as 'weight
1009 inspector' within the Motor Carrier Compliance ~~Division~~ Enforcement Section of the
1010 Department of Public Safety. Weight inspectors shall be assigned to fixed scales facilities
1011 and shall not be authorized to operate outside such facilities. The number of such positions
1012 shall be determined by the commissioner within the limits set by available appropriations.

1013 Weight inspectors may be divided into such ranks as the commissioner deems appropriate.

1014 (b) The commissioner shall ensure that a weight inspector is properly trained regarding
1015 laws governing commercial motor vehicle weight, registration, size, and load, including,
1016 but not limited to, commercial motor vehicle provisions in Article 2 of Chapter 6 of Title
1017 32 and safety standards for commercial motor vehicles and such motor vehicle
1018 components. The training required in the areas required by this subsection shall be
1019 equivalent to training provided to certified officers in the Motor Carrier Compliance
1020 ~~Division~~ Enforcement Section.

1021 (c) A weight inspector, at the fixed scales facility, shall be authorized to:

1022 (1) Enforce noncriminal provisions relating to commercial motor vehicle weight,
1023 registration, size, and load and assess a civil penalty for a violation of such provisions;
1024 and

1025 (2) Detain a commercial motor vehicle that:

1026 (A) Has a safety defect which is critical to the continued safe operation of the vehicle;

1027 (B) Is being operated in violation of any criminal law; or

1028 (C) Is being operated in violation of an out-of-service order as reported on the federal
1029 Safety and Fitness Electronic Records data base.

1030 The detention authorized by this paragraph shall be for the purpose of contacting a
1031 certified member of the Motor Carrier Compliance ~~Division~~ Enforcement Section or
1032 Georgia State Patrol. A certified officer shall report to the scene of a detained vehicle
1033 and take any further action deemed appropriate including completing the inspection and
1034 investigation, making an arrest, or bringing criminal or civil charges.

1035 (d) A weight inspector is not a peace officer and shall not be authorized to carry a firearm
1036 or exercise any power of arrest other than a citizen's arrest in accordance with Code
1037 Sections 17-4-60 and 17-4-61. At all times while a weight inspector is on duty, there shall
1038 be a supervisor over the weight inspector also on duty who shall be a certified peace
1039 officer."

SECTION 8.

1040
 1041 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
 1042 amended by revising paragraph (4) of Code Section 40-2-1, relating to definitions applicable
 1043 to registration and licensing of motor vehicles, as follows:

1044 "(4) 'Motor carrier' means:

1045 (A) Any entity subject to the terms of the Unified Carrier Registration Agreement
 1046 pursuant to 49 U.S.C. Section 14504a whether engaged in interstate or intrastate
 1047 commerce, or both; or

1048 (B) Any entity defined by the commissioner; or commissioner of public safety; ~~or~~
 1049 ~~Public Service Commission~~ who operates or controls commercial motor vehicles as
 1050 defined in 49 C.F.R. Section 390.5, ~~Title 46~~, or this chapter whether operated in
 1051 interstate or intrastate commerce, or both."

SECTION 9.

1052
 1053 Said title is further amended by revising subsection (a) of Code Section 40-2-162, relating
 1054 to formulas, rules, and apportionment of cost of annual license fees of motor buses to motor
 1055 common carriers of passengers for hire operating partially outside state, as follows:

1056 "(a) The commissioner shall apportion the cost of the annual fees for the licensing of motor
 1057 buses to motor common carriers of passengers for hire operating a fleet of two or more
 1058 motor buses either interstate, or both interstate and intrastate, under the authority of the
 1059 ~~Interstate Commerce Commission or under authority of both the Interstate Commerce~~
 1060 ~~Commission~~ Federal Motor Carrier Safety Administration and the ~~Public Service~~
 1061 ~~Commission~~ Department of Public Safety of this state. The apportionment shall be done
 1062 so that the total cost of the fees shall bear the same proportion to the annual fees for motor
 1063 buses as the total number of miles traveled by the fleet of the carrier in this state in both
 1064 interstate and intrastate operations during the preceding year bears to the total number of
 1065 miles traveled by the fleet during the year in both interstate and intrastate operations."

SECTION 10.

1066
 1067 Said title is further amended by revising subsection (c) of Code Section 40-6-248.1, relating
 1068 to securing loads on vehicles, as follows:

1069 "(c) Nothing in this Code section nor any regulations based thereon shall conflict with
 1070 federal; ~~Georgia Public Service Commission~~; Georgia Department of Public Safety; or
 1071 Georgia Board of Public Safety regulations applying to the securing of loads on motor
 1072 vehicles."

1073 **SECTION 11.**

1074 Said title is further amended by revising subsection (b) of Code Section 40-16-2, relating to
 1075 the primary responsibilities of the Department of Driver Services, as follows:

1076 "(b) Responsibility for the following functions formerly exercised by the Department of
 1077 Motor Vehicle Safety is transferred as follows:

1078 (1) Promulgation of regulations relating to the size and the weights of motor vehicles,
 1079 trailers, and loads as provided for in Article 2 of Chapter 6 of Title 32 shall be vested in
 1080 the Department of Transportation; and administrative enforcement of such regulations
 1081 and the law enforcement function of apprehending and citing violators of such laws and
 1082 regulations are transferred to the Department of Public Safety, as well as the function of
 1083 promulgating regulations relative to its enforcement function;

1084 (2) Enforcement of laws and regulations relating to licensing and fuel tax registration
 1085 requirements is transferred to the Department of Public Safety;

1086 (3) Administration of laws and regulations relating to certification of motor carriers and
 1087 limousine carriers is transferred to the ~~Public Service Commission~~ Department of Public
 1088 Safety and administration of laws and regulations relating to carrier registration and
 1089 registration and titling of vehicles is transferred to the Department of Revenue;"

1090 **SECTION 12.**

1091 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by
 1092 revising Code Section 44-1-13, relating to removal of improperly parked cars or trespassing
 1093 on personal property, as follows:

1094 "44-1-13.

1095 (a) As used in this Code section, the term:

1096 (1) '~~Commission~~ Department' means the ~~Public Service Commission~~ Department of
 1097 Public Safety.

1098 (2) 'Private property' means any parcel or space of private real property.

1099 (a.1) Any person or his or her authorized agent entitled to the possession of any private
 1100 property shall have the right to remove or cause to be removed from the property any
 1101 vehicle or trespassing personal property thereon which is not authorized to be at the place
 1102 where it is found and to store or cause to be stored such vehicle or trespassing personal
 1103 property, provided that there shall have been conspicuously posted on the private property
 1104 notice that any vehicle or trespassing personal property which is not authorized to be at the
 1105 place where it is found may be removed at the expense of the owner of the vehicle or
 1106 trespassing personal property. Such notice shall also include information as to the location
 1107 where the vehicle or personal property can be recovered, the cost of said recovery, and
 1108 information as to the form of payment; provided, however, that the owner of residential

1109 private property containing not more than four residential units shall not be required to
1110 comply with the posting requirements of this subsection. Only towing and storage firms
1111 issued permits or licenses by the local governing authority of the jurisdiction in which they
1112 operate or by the ~~commission~~ department, and having a secure impoundment facility, shall
1113 be permitted to remove trespassing property and trespassing personal property at the
1114 request of the owner or authorized agent of the private property.

1115 (b)(1) The ~~commission~~ department shall have the authorization to regulate and control
1116 the towing of trespassing vehicles on private property if such towing is performed
1117 without the prior consent or authorization of the owner or operator of the vehicle,
1118 including the authority to set just and reasonable rates, fares, and charges for services
1119 related to the removal, storage, and required notification to owners of such towed
1120 vehicles. No storage fees shall be charged for the first 24 hour period which begins at the
1121 time the vehicle is removed from the property, and no such fees shall be allowed for the
1122 removal and storage of vehicles removed by towing and storage firms found to be in
1123 violation of this Code section. The ~~commission~~ department is authorized to impose a
1124 civil penalty for any violation of this Code section in an amount not to exceed \$2,500.00.

1125 (2) In accordance with subsection (d) of this Code section, the governing authority of a
1126 municipality may require towing and storage operators to charge lower maximum rates
1127 on traffic moving between points within such municipality than those provided by the
1128 ~~commission~~ department's maximum rate tariff and may require higher public liability
1129 insurance limits and cargo insurance limits than those required by the ~~commission~~
1130 department. The governing authority of a municipality shall not provide for higher
1131 maximum costs of removal, relocation, or storage than is provided for by the ~~commission~~
1132 department.

1133 (c) In all municipalities, except a consolidated city-county government, having a
1134 population of 100,000 or more according to the United States decennial census of 1970 or
1135 any future such census a person entitled to the possession of an off-street parking area or
1136 vacant lot within an area zoned commercial by the municipality shall have the right to
1137 remove any vehicle or trespassing personal property parked thereon after the regular
1138 activity on such property is concluded for the day only if access to such property from the
1139 public way is blocked by a sturdy chain, cable, or rope stretched at least 18 inches above
1140 grade across all driveways or other ways providing access to the off-street parking area or
1141 vacant lot and there is conspicuously posted in the area a notice, the location of which must
1142 be approved by the municipality's police department, that any vehicle or trespassing
1143 personal property parked thereon which is not authorized to be in such area may be
1144 removed at the expense of the owner along with information as to where the vehicle or

1145 trespassing personal property may be recovered, the cost of said recovery, and information
1146 regarding the form of payment.

1147 (d)(1) In addition to the regulatory jurisdiction of the ~~commission~~ department, the
1148 governing authority of each municipality having towing and storage firms operating
1149 within its territorial boundaries may require and issue a license or permit to engage in
1150 private trespass towing within its corporate municipal limits pursuant to this Code section
1151 to any firm meeting the qualifications imposed by said governing authority. The fee for
1152 the license or permit shall be set by such governing authority. The maximum reasonable
1153 costs of removal, relocation, and storage pursuant to the provisions of this Code section
1154 shall be compensatory, as such term is used in the public utility rate-making procedures,
1155 and shall be established annually by the governing authority of each municipality having
1156 towing and storage firms operating within its territorial boundaries; provided, however,
1157 that no storage fees shall be charged for the first 24 hour period which begins at the time
1158 the vehicle is removed from the property, and no such fees shall be allowed for the
1159 removal and storage of vehicles removed by towing and storage firms found to be in
1160 violation of this Code section.

1161 (2) Towing and storage firms operating within a municipality's corporate limits shall
1162 obtain a nonconsensual towing permit from the ~~commission~~ department and shall file its
1163 registered agent's name and address with the ~~commission~~ department.

1164 (e) Any person who suffers injury or damages as a result of a violation of this Code section
1165 may bring an action in any court of competent jurisdiction for actual damages, which shall
1166 be presumed to be not less than \$100.00, together with court costs. A court shall award
1167 three times actual damages for an intentional violation of this Code section.

1168 (f) It shall be unlawful and punishable by a fine of \$1,000.00 for any towing and storage
1169 firm, permitted or unpermitted, licensed or unlicensed, to enter into any agreement with
1170 any person in possession of private property to provide automatic or systematic
1171 surveillance of such property for purposes of removal and relocation of any such vehicle
1172 or trespassing personal property except upon call by such person in possession of such
1173 private property to such towing and storage firm for each individual case of trespass;
1174 provided, further, that it shall be unlawful and punishable by a fine of \$1,000.00 for any
1175 towing and storage firm to pay to any private property owner or one in possession of
1176 private property any fee or emolument, directly or indirectly, for the right to remove a
1177 vehicle or trespassing personal property from said private property."

1178 **SECTION 13.**

1179 Said title is further amended by revising Code Section 44-7-59, relating to removal of
1180 transportable housing from lands subject to writ of possession, as follows:

1181 "44-7-59.
 1182 If the court issues a writ of possession to property upon which the tenant has placed a
 1183 manufactured home, mobile home, trailer, or other type of transportable housing and the
 1184 tenant does not move the same within ten days after a final order is entered, the landlord
 1185 shall be entitled to have such transportable housing moved from the property at the expense
 1186 of the tenant by a motor common carrier licensed by the ~~Public Service Commission~~
 1187 Department of Public Safety for the transportation of manufactured housing. There shall
 1188 be a lien upon such transportable housing to the extent of moving fees and storage expenses
 1189 in favor of the person performing such services. Such lien may be claimed and foreclosed
 1190 in the same manner as special liens on personalty by mechanics under Code Sections
 1191 44-14-363 and 44-14-550, except that storage fees not to exceed \$4.00 per day shall be
 1192 expressly allowed."

1193 SECTION 14.

1194 Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public
 1195 transportation, is amended by revising Code Section 46-1-1, relating to definitions,
 1196 exclusions, and Georgia Forest Product Trucking Rules, as follows:

1197 "46-1-1.

1198 As used in this title, the term:

1199 ~~(1) 'Carrier' means a person who undertakes the transporting of goods or passengers for~~
 1200 ~~compensation.~~

1201 ~~(2)~~(1) 'Certificate' means a certificate of public convenience and necessity issued
 1202 pursuant to this title.

1203 ~~(3)~~(2) 'Commission' means the Public Service Commission.

1204 ~~(4)~~(3) 'Company' shall include a corporation, a firm, a partnership, an association, or an
 1205 individual.

1206 ~~(5)~~(4) 'Electric utility' means any retail supplier of electricity whose rates are fixed by
 1207 the commission.

1208 ~~(5.1) 'Exempt rideshare' means:~~

1209 ~~(A) Government endorsed rideshare programs;~~

1210 ~~(B) Rideshare programs in which a rideshare driver seeks reimbursement for, or the~~
 1211 ~~rideshare participants pool or otherwise share, rideshare costs such as fuel; or~~

1212 ~~(C) The leasing or rental of a vehicle, in the ordinary course of the lessor's or rentor's~~
 1213 ~~business, for rideshare purposes as part of a government endorsed rideshare program,~~
 1214 ~~or for rideshare under a contract requiring compliance with subparagraph (B) of this~~
 1215 ~~paragraph.~~

1216 ~~(6) 'For compensation' or 'for hire' means an activity wherein for payment or other~~
 1217 ~~compensation a motor vehicle and driver are furnished to a person by another person,~~
 1218 ~~acting directly or knowingly and willfully acting with another to provide the combined~~
 1219 ~~service of the vehicle and driver, and includes every person acting in concert with, under~~
 1220 ~~the control of, or under common control with a motor carrier who shall offer to furnish~~
 1221 ~~transportation for compensation or for hire, provided that no exempt rideshare shall be~~
 1222 ~~deemed to involve any element of transportation for compensation or for hire.~~

1223 ~~(6.1)(5) 'Gas company' means any person certificated under Article 2 of Chapter 4 of this~~
 1224 ~~title to construct or operate any pipeline or distribution system, or any extension thereof,~~
 1225 ~~for the transportation, distribution, or sale of natural or manufactured gas.~~

1226 ~~(6.2) 'Government endorsed rideshare program' means a vanpool, carpool, or similar~~
 1227 ~~rideshare operation conducted by or under the auspices of a state or local governmental~~
 1228 ~~transit instrumentality, such as GRTA, a transportation management association, or a~~
 1229 ~~community improvement district, or conducted under the auspices of such transit~~
 1230 ~~agencies, including through any form of contract between such transit instrumentality and~~
 1231 ~~private persons or businesses.~~

1232 ~~(6.3) 'GRTA' means the Georgia Regional Transportation Authority, which is itself~~
 1233 ~~exempt from regulation as a carrier under Code Section 50-32-71.~~

1234 ~~(7) 'Household goods' means any personal effects and property used or to be used in a~~
 1235 ~~dwelling when a part of the equipment or supplies of such dwelling and such other~~
 1236 ~~similar property as the commission may provide for by regulation; provided, however,~~
 1237 ~~that such term shall not include property being moved from a factory or store except~~
 1238 ~~when such property has been purchased by a householder with the intent to use such~~
 1239 ~~property in a dwelling and such property is transported at the request of, and with~~
 1240 ~~transportation charges paid by, the householder.~~

1241 ~~(8) Reserved.~~

1242 ~~(9) 'Motor contract carrier and motor common carrier' means as follows:~~

1243 ~~(A) 'Motor contract carrier' means every person, except common carriers, owning,~~
 1244 ~~controlling, operating, or managing any motor propelled vehicle including the lessees~~
 1245 ~~or trustees of such persons or receivers appointed by any court used in the business of~~
 1246 ~~transporting persons or household goods or engaged in the activity of nonconsensual~~
 1247 ~~towing pursuant to Code Section 44-1-13 for hire over any public highway in this state.~~
 1248 ~~Vehicles and the drivers thereof operating within the corporate limits of any city shall~~
 1249 ~~be subject to the safety regulations adopted by the commissioner of public safety~~
 1250 ~~pursuant to Code Section 40-1-8.~~

1251 ~~(B) 'Motor common carrier' means every person owning, controlling, operating, or~~
 1252 ~~managing any motor propelled vehicle, and the lessees, receivers, or trustees of such~~

1253 ~~person, used in the business of transporting for hire of persons or household goods, or~~
 1254 ~~both, or engaged in the activity of nonconsensual towing pursuant to Code Section~~
 1255 ~~44-1-13, otherwise than over permanent rail tracks, on the public highways of Georgia~~
 1256 ~~as a common carrier. The term includes, but is not limited to, limousine carriers as~~
 1257 ~~defined in paragraph (5) of Code Section 46-7-85.1.~~

1258 ~~(C) Except as otherwise provided in this subparagraph, the terms 'motor common~~
 1259 ~~carrier' and 'motor contract carrier' shall not include:~~

1260 ~~(i) Motor vehicles engaged solely in transporting school children and teachers to and~~
 1261 ~~from public schools and private schools;~~

1262 ~~(ii) Taxicabs which operate within the corporate limits of municipalities and are~~
 1263 ~~subject to regulation by the governing authorities of such municipalities; the~~
 1264 ~~provisions of this division notwithstanding, vehicles and the drivers thereof operating~~
 1265 ~~within the corporate limits of any city shall be subject to the safety regulations~~
 1266 ~~adopted by the commissioner of public safety pursuant to Code Section 40-1-8;~~

1267 ~~(iii) Hotel passenger or baggage motor vehicles when used exclusively for patrons~~
 1268 ~~and employees of such hotel;~~

1269 ~~(iv) Motor vehicles operated not for profit with a capacity of 15 persons or less when~~
 1270 ~~they are used exclusively to transport elderly and disabled passengers or employees~~
 1271 ~~under a corporate sponsored van pool program, except that a vehicle owned by the~~
 1272 ~~driver may be operated for profit when such driver is traveling to and from his or her~~
 1273 ~~place of work provided each such vehicle carrying more than nine passengers~~
 1274 ~~maintains liability insurance in an amount of not less than \$100,000.00 per person and~~
 1275 ~~\$300,000.00 per accident and \$50,000.00 property damage. For the purposes of this~~
 1276 ~~division, elderly and disabled passengers are defined as individuals over the age of 60~~
 1277 ~~years or who, by reason of illness, injury, age, congenital malfunction, or other~~
 1278 ~~permanent or temporary incapacity or disability, are unable to utilize mass~~
 1279 ~~transportation facilities as effectively as persons who are not so affected;~~

1280 ~~(v) Reserved;~~

1281 ~~(vi) Reserved;~~

1282 ~~(vii) Reserved;~~

1283 ~~(viii) Motor vehicles owned and operated exclusively by the United States~~
 1284 ~~government or by this state or any subdivision thereof;~~

1285 ~~(ix) Reserved;~~

1286 ~~(x) Reserved;~~

1287 ~~(xi) Reserved;~~

1288 ~~(xii) Reserved;~~

1289 ~~(xiii) Vehicles, owned or operated by the federal or state government, or by any~~
 1290 ~~agency, instrumentality, or political subdivision of the federal or state government,~~
 1291 ~~or privately owned and operated for profit or not for profit, capable of transporting not~~
 1292 ~~more than ten persons for hire when such vehicles are used exclusively to transport~~
 1293 ~~persons who are elderly, disabled, en route to receive medical care or prescription~~
 1294 ~~medication, or returning after receiving medical care or prescription medication. For~~
 1295 ~~the purpose of this division, elderly and disabled persons shall have the same meaning~~
 1296 ~~as in division (iv) of this subparagraph;~~

1297 ~~(xiv) Reserved; or~~

1298 ~~(xv) Ambulances.~~

1299 ~~(10) 'Passenger' means a person who travels in a public conveyance by virtue of a~~
 1300 ~~contract, either express or implied, with the carrier as to the payment of the fare or that~~
 1301 ~~which is accepted as an equivalent therefor. The prepayment of fare is not necessary to~~
 1302 ~~establish the relationship of passenger and carrier; although a carrier may demand~~
 1303 ~~prepayment of fare if persons enter his or her vehicle by his or her permission with the~~
 1304 ~~intention of being carried; in the absence of such a demand, an obligation to pay fare is~~
 1305 ~~implied on the part of the passenger, and the reciprocal obligation of carriage of the~~
 1306 ~~carrier arises upon the entry of the passenger.~~

1307 ~~(11) Reserved.~~

1308 ~~(12)(6)~~ 'Person' means any individual, partnership, trust, private or public corporation,
 1309 municipality, county, political subdivision, public authority, cooperative, association, or
 1310 public or private organization of any character.

1311 ~~(13) Reserved.~~

1312 ~~(14) 'Public highway' means every public street, road, highway, or thoroughfare of any~~
 1313 ~~kind in this state.~~

1314 ~~(15)(7)~~ 'Railroad corporation' or 'railroad company' means all corporations, companies,
 1315 or individuals owning or operating any railroad in this state. This title shall apply to all
 1316 persons, firms, and companies, and to all associations of persons, whether incorporated
 1317 or otherwise, that engage in business as common carriers upon any of the lines of railroad
 1318 in this state, as well as to railroad corporations and railroad companies as defined in this
 1319 Code section.

1320 ~~(16)(8)~~ 'Rate,' when used in this title with respect to an electric utility, means any rate,
 1321 charge, classification, or service of an electric utility or any rule or regulation relating
 1322 thereto.

1323 ~~(17)(9)~~ 'Utility' means any person who is subject in any way to the lawful jurisdiction of
 1324 the commission.

1325 (18) ~~'Vehicle' or 'motor vehicle' means any vehicle, machine, tractor, trailer, or~~
 1326 ~~semitrailer propelled or drawn by mechanical power and used upon the highways in the~~
 1327 ~~transportation of passengers or property, or any combination thereof, determined by the~~
 1328 ~~commission."~~

1329 **SECTION 15.**

1330 Said title is further amended by revising Code Section 46-3-38, relating to applicability of
 1331 part to moving or transportation of houses or buildings, as follows:

1332 "46-3-38.

1333 In addition to the exceptions set forth in Code Section 46-3-37, this part shall not be
 1334 construed as applying to and shall not apply to the moving or transportation of houses or
 1335 buildings or parts thereof when such moving is under the jurisdiction of, and is undertaken
 1336 pursuant to authority granted by, the ~~Georgia Public Service Commission~~ Department of
 1337 Public Safety."

1338 **SECTION 16.**

1339 Said title is further amended by repealing Chapter 7, relating to motor carriers, and
 1340 designating said chapter as reserved.

1341 **SECTION 17.**

1342 Said title is further amended by repealing Code Section 46-9-6, relating to limitations of
 1343 actions against carriers for recovery of overcharges, requirements regarding rates, charges,
 1344 and claims for loss or damage, and designating said Code section as reserved.

1345 **SECTION 18.**

1346 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 1347 amended by revising division (5)(B)(ii) of Code Section 48-8-3, relating to exemptions from
 1348 the state sales and use tax, as follows:

1349 "(ii) 'Urban transit system' means a public transit system primarily urban in character
 1350 which is operated by a street railroad company or a motor ~~common~~ carrier, is subject
 1351 to the jurisdiction of the ~~Public Service Commission~~ Department of Public Safety, and
 1352 whose fares and charges are regulated by the ~~Public Service Commission~~ Department
 1353 of Public Safety, or is operated pursuant to a franchise contract with a municipality
 1354 of this state so that its fares and charges are regulated by or are subject to the approval
 1355 of the municipality. An urban transit system certificate shall be issued by the ~~Public~~
 1356 ~~Service Commission~~ Department of Public Safety, or by the municipality which has
 1357 regulatory authority, upon an affirmative showing that the applicant operates an urban

1358 transit system. The certificate shall be obtained and filed with the commissioner and
 1359 shall continue in effect so long as the holder of such certificate qualifies as an urban
 1360 transit system. Any urban transit system certificate granted prior to January 1, 2002,
 1361 shall be deemed valid as of the date it was issued;"

1362 **SECTION 19.**

1363 Said title is further amended by revising Code Section 48-8-93, relating to nonimposition of
 1364 tax on property ordered by and delivered to a purchaser outside a special district and
 1365 conditions of delivery, as follows:

1366 "48-8-93.

1367 No tax provided for in Code Section 48-8-82 shall be imposed upon the sale of tangible
 1368 personal property which is ordered by and delivered to the purchaser at a point outside the
 1369 geographical area of the special district in which the joint tax is imposed regardless of the
 1370 point at which title passes, if the delivery is made by the seller's vehicle, United States mail,
 1371 or common carrier or by private or contract carrier licensed by the ~~Interstate Commerce~~
 1372 ~~Commission~~ Federal Motor Carrier Safety Administration or the Georgia ~~Public Service~~
 1373 ~~Commission~~ Department of Public Safety."

1374 **SECTION 20.**

1375 Said title is further amended by revising Code Section 48-8-107, relating to property ordered
 1376 by and delivered to a purchaser at a point outside the geographical area of a special district
 1377 in which tax is imposed, as follows:

1378 "48-8-107.

1379 No sales and use tax provided for in Code Section 48-8-102 shall be imposed upon the sale
 1380 of tangible personal property which is ordered by and delivered to the purchaser at a point
 1381 outside the geographical area of the special district in which the sales and use tax is
 1382 imposed under this article regardless of the point at which title passes, if the delivery is
 1383 made by the seller's vehicle, United States mail, or common carrier or by private or contract
 1384 carrier licensed by the ~~Interstate Commerce Commission~~ Federal Motor Carrier Safety
 1385 Administration or the Georgia ~~Public Service Commission~~ Department of Public Safety."

1386 **SECTION 21.**

1387 Said title is further amended by revising Code Section 48-8-117, relating inapplicability of
 1388 tax to certain sales of tangible personal property outside the taxing county, as follows:

1389 "48-8-117.

1390 No tax provided for in this article shall be imposed upon the sale of tangible personal
 1391 property which is ordered by and delivered to the purchaser at a point outside the

1392 geographical area of the county in which the tax is imposed regardless of the point at which
 1393 title passes, if the delivery is made by the seller's vehicle, United States mail, or common
 1394 carrier or by private or contract carrier licensed by the ~~Interstate Commerce Commission~~
 1395 Federal Motor Carrier Safety Administration or the ~~Georgia Public Service Commission~~
 1396 Georgia Department of Public Safety."

1397 **SECTION 22.**

1398 Said title is further amended by revising Code Section 48-8-208, relating to no tax on
 1399 products ordered and delivered outside geographical area of a municipality, as follows:

1400 "48-8-208.

1401 No tax provided for in this article shall be imposed upon the sale of tangible personal
 1402 property which is ordered by and delivered to the purchaser at a point outside the
 1403 geographical area of the municipality in which the tax is imposed regardless of the point
 1404 at which title passes, if the delivery is made by the seller's vehicle, United States mail, or
 1405 common carrier or by private or contract carrier licensed by the ~~Federal Highway~~
 1406 Administration Federal Motor Carrier Safety Administration or the ~~Georgia Public Service~~
 1407 Commission Georgia Department of Public Safety."

1408 **SECTION 23.**

1409 Said title is further amended by revising Code Section 48-8-253, relating to nonimposition
 1410 of tax on property ordered by and delivered to purchaser outside special district and
 1411 conditions on delivery, as follows:

1412 "48-8-253.

1413 No tax provided for in this article shall be imposed upon the sale of tangible personal
 1414 property which is ordered by and delivered to the purchaser at a point outside the
 1415 geographical area of the special district in which the tax is imposed regardless of the point
 1416 at which title passes, if the delivery is made by the seller's vehicle, United States mail, or
 1417 common carrier or by private or contract carrier licensed by the ~~Surface Transportation~~
 1418 Board Federal Motor Carrier Safety Administration or the ~~Georgia Public Service~~
 1419 Commission Georgia Department of Public Safety."

1420 **SECTION 24.**

1421 Said title is further amended by revising subsection (a) of Code Section 48-13-16, relating
 1422 to excluded businesses or practitioners and other laws on occupation taxes or registration fees
 1423 of local governments not repealed, as follows:

1424 "(a) The following businesses or practitioners shall be excluded from occupation tax,
 1425 registration fees, or regulatory fees under the provisions of this article but shall be subject
 1426 to taxation and regulation as otherwise provided by general law and municipal charters:

1427 (1) Those businesses regulated by the Georgia Public Service Commission and the
 1428 Georgia Department of Public Safety;

1429 (2) Those electrical service businesses organized under Chapter 3 of Title 46; and

1430 (3) Any farm operation for the production from or on the land of agricultural products,
 1431 but not including any agribusiness."

1432 **SECTION 25.**

1433 Said title is further amended by revising subsection (b) of Code Section 48-13-18, relating
 1434 to levy by municipalities of occupation taxes on licensed businesses, trades, and professions
 1435 and prohibition of municipal licensing or taxation of businesses, trades, or operations
 1436 operating registered vehicles, as follows:

1437 "(b) Nothing contained in this Code section shall be construed to authorize the municipal
 1438 licensing or taxation of businesses, trades, or occupations operating motor vehicles required
 1439 to be registered with the ~~Public Service Commission~~ Department of Public Safety of this
 1440 state."

1441 **SECTION 26.**

1442 Article 6 of Chapter 32 of Title 50 of the Official Code of Georgia Annotated, relating to
 1443 construction of Chapter 32, the "Georgia Regional Transportation Authority Act," is
 1444 amended by revising Code Section 50-32-71, relating to exemption of buses, motor vehicles,
 1445 and rapid rail systems of the authority from motor carrier regulations, as follows:

1446 "50-32-71.

1447 No provision of ~~Chapter 7 of Title 46~~ Chapter 1 of Title 40 shall apply to any bus, other
 1448 motor vehicle, or rapid rail system of the authority which provides transit services."

1449 **PART III**

1450 **Effective Date and Repealer.**

1451 **SECTION 27.**

1452 This Act shall become effective on July 1, 2012.

1453 **SECTION 28.**

1454 All laws and parts of laws in conflict with this Act are repealed.