

House Bill 749

By: Representatives Duncan of the 26th, Tanner of the 9th, Martin of the 49th, Golick of the 40th, Pak of the 108th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated,
2 relating to theft, so as to provide for the crime of cargo theft; to provide for a definition; to
3 provide for penalties; to provide for the crime of unlawful possession or use of a fifth wheel;
4 to amend Code Section 35-3-4 of the Official Code of Georgia Annotated, relating to powers
5 and duties of the Georgia Bureau of Investigation generally, so as to provide the GBI with
6 jurisdiction with regard to cargo theft; to provide for related matters; to provide an effective
7 date and for applicability; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 1 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated, relating to theft,
11 is amended by adding new Code sections to read as follows:

12 "16-8-22.

13 (a) Notwithstanding any provision of this chapter to the contrary, a person commits the
14 offense of cargo theft when he or she unlawfully takes or, being in lawful possession
15 thereof, unlawfully appropriates:

16 (1) Any vehicle engaged in commercial transportation of cargo or any appurtenance
17 thereto, including, without limitation, any trailer, semitrailer, container, or other
18 associated equipment, or the cargo being transported therein or thereon; or

19 (2) Any trailer, semitrailer, container, or other associated equipment, or the cargo being
20 transported therein or thereon, which is deployed by or used by a law enforcement
21 agency,

22 which is the property of another with the intention of depriving such other person of the
23 property, regardless of the manner in which the property is taken or appropriated. For
24 purposes of this subsection, the term 'vehicle' includes, without limitation, any railcar.

25 (b)(1) If the property taken is one or more controlled substances as defined in Code
26 Section 16-13-21 with a collective value of less than \$10,000.00, a person convicted of
27 a violation of this Code section shall be punished by imprisonment for not less than one

28 nor more than ten years, a fine of not less than \$10,000.00 nor more than \$100,000.00,
29 or both.

30 (2) If the property taken is one or more controlled substances as defined in Code
31 Section 16-13-21 with a collective value of at least \$10,000.00 but less than \$1 million,
32 a person convicted of a violation of this Code section shall be punished by imprisonment
33 for not less than five nor more than 25 years, a fine of not less than \$50,000.00 nor more
34 than \$1 million, or both.

35 (3) If the property taken is one or more controlled substances as defined in Code
36 Section 16-13-21 with a collective value of \$1 million or more, a person convicted of a
37 violation of this Code section shall be punished by imprisonment for not less than ten nor
38 more than 30 years, a fine of not less than \$100,000.00 nor more than \$1 million, or both.

39 (c)(1) Except as otherwise provided in subsection (b) of this Code section, if the property
40 taken has a collective value of \$1,500.00 or less, a person convicted of a violation of this
41 Code section shall be punished as for a misdemeanor.

42 (2) Except as otherwise provided in subsection (b) of this Code section, if the property
43 taken has a collective value of more than \$1,500.00 but less than \$10,000.00, a person
44 convicted of a violation of this Code section shall be punished by imprisonment for not
45 less than one nor more than ten years, a fine of not less than \$10,000.00 nor more than
46 \$100,000.00, or both.

47 (3) Except as otherwise provided in subsection (b) of this Code section, if the property
48 taken has a collective value of at least \$10,000.00 but less than \$1 million, a person
49 convicted of a violation of this Code section shall be punished by imprisonment for not
50 less than five nor more than 20 years, a fine of not less than \$50,000.00 nor more than
51 \$1 million, or both.

52 (4) Except as otherwise provided in subsection (b) of this Code section, if the property
53 taken has a collective value of \$1 million or more, a person convicted of a violation of
54 this Code section shall be punished by imprisonment for not less than ten nor more than
55 20 years, a fine of not less than \$100,000.00 nor more than \$1 million, or both.

56 (d) Notwithstanding any other provision of this Code section, if the property taken is a
57 trailer, semitrailer, container, or other associated equipment, or the cargo being transported
58 therein or thereon, which is deployed by or used by a law enforcement agency, regardless
59 of its value, a person convicted of a violation of this Code section shall be punished by
60 imprisonment for not less than one nor more than ten years, a fine of not less than
61 \$10,000.00 nor more than \$100,000.00, or both.

62 (e) A person convicted of a violation of this Code section may also be punished by, if
63 applicable, the revocation of the defendant's commercial driver's license in accordance with
64 Code Section 40-5-151.

65 16-8-23.

66 (a) It shall be unlawful for any person to modify, alter, attempt to alter, and, if altered, sell,
 67 possess, offer for sale, move, or cause to be moved on the highways of this state a device
 68 known as a fifth wheel or the antitheft locking device attached to the fifth wheel with the
 69 intent to use the fifth wheel to commit or attempt to commit cargo theft as defined in Code
 70 Section 16-8-22.

71 (b) A person convicted of a violation of this Code section shall be punished by
 72 imprisonment for not less than one nor more than ten years, a fine of not less than
 73 \$10,000.00 nor more than \$100,000.00, or both."

74 **SECTION 2.**

75 Said article is further amended by revising paragraph (8) of subsection (a) of Code
 76 Section 16-8-12, relating to penalties for theft in violation of Code Sections 16-8-2 through
 77 16-8-9, as follows:

78 ~~"(8) If the property that was the subject of the theft was a vehicle engaged in commercial~~
 79 ~~transportation of cargo or any appurtenance thereto, including, without limitation, any~~
 80 ~~such trailer, semitrailer, container, or other associated equipment, or the cargo being~~
 81 ~~transported therein or thereon, by imprisonment for not less than three years nor more~~
 82 ~~than ten years, a fine not less than \$5,000.00 nor more than \$50,000.00, and, if~~
 83 ~~applicable, the revocation of the defendant's commercial driver's license in accordance~~
 84 ~~with Code Section 40-5-151, or any combination of such penalties. For purposes of this~~
 85 ~~paragraph, the term 'vehicle' includes, without limitation, any railcar Reserved; or".~~

86

87 **SECTION 3.**

88 Code Section 35-3-4 of the Official Code of Georgia Annotated, relating to powers and
 89 duties of the Georgia Bureau of Investigation generally, is amended by revising
 90 subsection (a) to add a new paragraph to read as follows:

91 "(11.1) Identify and investigate violations of Code Sections 16-8-22 and 16-8-23;".

92 **SECTION 4.**

93 This Act shall become effective on July 1, 2014, and shall apply to all offenses committed
 94 on or after such date. The enactment of this Act shall not affect any prosecutions for acts
 95 occurring before the effective date of this Act and shall not act as an abatement of any such
 96 prosecutions.

97 **SECTION 5.**

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