

House Bill 753

By: Representatives Powell of the 32nd and Hitchens of the 161st

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 1 of Title 40 of the Official Code of Georgia Annotated,
2 relating to general provisions of identifying and regulating motor vehicles, so as to provide
3 for federal regulatory requirements; to provide for related matters; to repeal conflicting laws;
4 and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 SECTION 1.

7 Article 1 of Chapter 1 of Title 40 of the Official Code of Georgia Annotated, relating to
8 general provisions of identifying and regulating motor vehicles, is amended by revising Code
9 Section 40-1-8, relating to safe operations of motor carriers and commercial motor vehicles,
10 as follows:

11 "40-1-8.

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

13 (1) 'Commissioner' means the commissioner of public safety.

14 (2) 'Department' means the Department of Public Safety.

15 (b) The commissioner shall have the authority to promulgate rules and regulations for the
16 safe operation of motor carriers, the safe operation of commercial motor vehicles and
17 drivers, and the safe transportation of hazardous materials. Any such rules and regulations
18 promulgated or deemed necessary by the commissioner shall include, but are not limited
19 to, the following:

20 (1) Every commercial motor vehicle and all parts thereof shall be maintained in a safe
21 condition at all times; and the lights, brakes, ~~and~~ equipment, and all other parts or
22 accessories shall meet such safety requirements ~~as the commissioner shall from time to~~
23 ~~time promulgate~~ designated by present regulations promulgated under 49 C.F.R. Parts
24 393 and 396;

25 (2) Every driver employed to operate a motor vehicle for a motor carrier shall:

- 26 (A) Be at least 18 years of age to operate a motor vehicle for a motor carrier intrastate
27 and at least 21 years of age to operate a motor vehicle for a motor carrier interstate;
- 28 (B) Meet the qualification requirements the commissioner shall from time to time
29 promulgate;
- 30 (C) Be of temperate habits and good moral character;
- 31 (D) Possess a valid driver's license;
- 32 (E) Not use or possess prohibited drugs or alcohol while on duty; and
- 33 (F) Be fully competent and sufficiently rested to operate the motor vehicle under his
34 or her charge;
- 35 (3) Accidents arising from or in connection with the operation of commercial motor
36 vehicles shall be reported to the commissioner of transportation in such detail and in such
37 manner as the commissioner of transportation may require;
- 38 (4) The commissioner shall require each commercial motor vehicle to have attached such
39 distinctive markings as shall be adopted by the commissioner. Such identification
40 requirements shall comply with the applicable provisions of the federal Unified Carrier
41 Registration Act of 2005; and
- 42 (5) The commissioner shall provide distinctive rules for the transportation of
43 unmanufactured forest products in intrastate commerce to be designated the 'Georgia
44 Forest Products Trucking Rules.'
- 45 (c)(1) Regulations governing the safe operations of motor carriers, commercial motor
46 vehicles and drivers, and the safe transportation of hazardous materials may be adopted
47 by administrative order, including, but not limited to, by referencing compatible federal
48 regulations or standards without compliance with the procedural requirements of Chapter
49 13 of Title 50, the 'Georgia Administrative Procedure Act,' provided that such federal
50 regulations or standards shall be maintained on file by the department and made available
51 for inspection and copying by the public, by means including, but not limited to, posting
52 on the department's Internet site. The commissioner may comply with the filing
53 requirements of Chapter 13 of Title 50 by filing with the office of the Secretary of State
54 the name and designation of such rules, regulations, standards, and orders. The courts
55 shall take judicial notice of rules, regulations, standards, or orders so adopted or
56 published.
- 57 (2) Rules, regulations, or orders previously adopted, issued, or promulgated pursuant to
58 the provisions of Chapter 7 or 11 of Title 46 in effect on June 30, 2011, shall remain in
59 full force and effect until such time as the commissioner of public safety adopts, issues,
60 or promulgates new rules, regulations, or orders pursuant to the provisions of this Code
61 section.

62 (d)(1) The commissioner may, pursuant to rule or regulation, specify and impose civil
63 monetary penalties for violations of laws, rules, and regulations relating to driver and
64 motor carrier safety and transportation of hazardous materials. Except as may be
65 hereafter authorized by law, the maximum amount of any such monetary penalty shall not
66 exceed the maximum penalty authorized by law or rule or regulation for the same
67 violation immediately prior to July 1, 2005.

68 (2) A cause of action for the collection of a penalty imposed pursuant to this subsection
69 may be brought in the superior court of the county where the principal place of business
70 of the penalized company is located or in the superior court of the county where the
71 action giving rise to the penalty occurred.

72 (e) The commissioner is authorized to adopt such rules and orders as he or she may deem
73 necessary in the enforcement of this Code section. Such rules and orders shall have the
74 same dignity and standing as if such rules and orders were specifically provided in this
75 Code section. The commissioner is authorized to establish such exceptions or exemptions
76 from the requirements of this Code section, as he or she shall deem appropriate, consistent
77 with any federal program requirements, and consistent with the protection of the public
78 health, safety, and welfare.

79 (f)(1) The commissioner may designate members of the department, pursuant to Article
80 5 of Chapter 2 of Title 35, to perform regulatory compliance inspections. Members of
81 county, municipal, campus, and other state agencies may be designated by the
82 commissioner to perform regulatory compliance inspections only of vehicles, drivers, and
83 cargo in operation, and may only enforce the provisions of rules and regulations
84 promulgated under this Code section or Article 2 of this chapter subject to the provisions
85 of a valid agreement between the commissioner and the county, municipal, campus, or
86 other state agency.

87 (2) Unless designated and authorized by the commissioner, no members of county,
88 municipal, campus, and other state agencies may perform regulatory compliance
89 inspections.

90 (g) No person shall drive or operate, or cause the operation of, a vehicle in violation of an
91 out-of-service order. As used in this subsection, the term 'out-of-service order' means a
92 temporary prohibition against operating as a motor carrier or driving or moving a vehicle,
93 freight container or any cargo thereon, or any package containing a hazardous material.

94 (h) Unless otherwise provided by law, a motor carrier or operator of a commercial motor
95 vehicle shall comply with the present regulations promulgated under Federal Motor Carrier
96 Safety Regulations as follows:

97 (1) Motor carrier safety standards found in 49 C.F.R. Part 391;

- 98 (2) Motor carrier safety standards found in 49 C.F.R. Part 392, including but not limited
99 to the seatbelt ~~Seatbelt~~ usage requirements found in 49 C.F.R. Section 392.16; and
- 100 (3) Hours of service and record of duty status requirements of 49 C.F.R. Part 395.
- 101 (i) A person failing to comply with the requirements of paragraph (2) of subsection (h) of
102 this Code section shall be guilty of the misdemeanor offense of failure to wear a seat safety
103 belt while operating a commercial motor vehicle and, upon conviction thereof, shall be
104 fined not more than \$50.00 but shall not be subject to imprisonment. The costs of such
105 prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge to a fine
106 for such offense be assessed against a person for conviction thereof. No points shall be
107 added pursuant to Code Section 40-5-57 and no additional fines or penalties shall be
108 imposed.
- 109 (j) Every officer, agent, or employee of any corporation and every person who violates or
110 fails to comply with this Code section or any order, rule, or regulation adopted pursuant to
111 this Code section, or who procures, aids, or abets a violation of this Code section or such
112 rule or regulation, shall be guilty of a misdemeanor. Misdemeanor violations of this Code
113 section may be prosecuted, handled, and disposed of in the manner provided for by Chapter
114 13 of this title."

115

SECTION 2.

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