

The Senate Judiciary Committee offered the following substitute to HB 296:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 6 of Chapter 2 and Article 2 of Chapter 3 of Title 40 of the Official Code
2 of Georgia Annotated, relating to administration and enforcement of chapter and certificates
3 of title, respectively, so as to add certain persons to those authorized to receive motor vehicle
4 registration records and motor vehicle certificate of title records; to provide for certain
5 notices; to provide for the Department of Revenue to establish certain procedures and to
6 promulgate rules and regulations; to provide for unlawful acts; to provide for civil and
7 criminal penalties; to provide for related matters; to provide for effective dates; to repeal
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Article 6 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to
12 administration and enforcement of chapter, is amended by revising Code Section 40-2-130,
13 relating to records of certificates of registration, as follows:

14 "40-2-130.

15 (a) A record of certificates of registration shall be maintained by the commissioner or the
16 commissioner's duly authorized county tag agent. All certificates of registration shall be
17 issued:

18 (1) Under a distinctive tag registration number assigned to the vehicle;

19 (2) Under the identifying number of the vehicle;

20 (3) Alphabetically, under the name of the owner;

21 (4) Under the vehicle title number; and

22 (5) In the discretion of the commissioner, in any other method the commissioner
23 determines.

24 (b) The commissioner is authorized and empowered to provide for photographic and
25 photostatic recording of certificate of registration records in such manner as he or she may
26 deem expedient. The photographic or photostatic copies authorized in this subsection shall

27 be admitted in evidence in all actions and proceedings to the same extent that the originals
28 would have been admitted.

29 (c) The motor vehicle registration records which the commissioner is required to maintain
30 under this Code section or any other provision are exempt from the provisions of any law
31 of this state requiring that such records be open for public inspection; provided, however,
32 that, subject to subsection (d) of this Code section, the records may be disclosed for use as
33 provided in the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. Chapter 123, and
34 by the following:

35 (1) Any licensed dealer of new or used motor vehicles;

36 (2) Any tax collector, tax receiver, or tax commissioner;

37 (3) The director of the Environmental Protection Division of the Department of Natural
38 Resources or his or her designee;

39 (4) Any private person who has met the requirements of Code Section 40-2-25, provided
40 that the information shall be used for the sole purpose of effectuating the registration or
41 renewal of motor vehicles by electronic or similar means and that the private person
42 requesting the information has entered into an agreement to provide electronic services
43 to the commissioner or a county tag agent; provided, further, that the information made
44 available pursuant to this paragraph for such purpose shall be limited to the vehicle
45 identification number, the license tag number, the date of expiration of registration, and
46 the amount of tax owed; ~~and~~

47 (5) A person or entity authorized by the commissioner for use in providing notice to the
48 owners of towed or impounded vehicles; and

49 (6) An individual licensed by and registered with the Georgia Board of Private Detective
50 and Security Agencies and authorized to conduct investigations under the provisions of
51 Chapter 38 of Title 43 for the use in connection with any civil, criminal, administrative,
52 or arbitral proceeding in any federal, state, or local court or agency, or before any
53 self-regulatory body, including the service of process, investigation in anticipation of
54 litigation, and the execution or enforcement of judgments and orders, or pursuant to an
55 order of a federal, state, or local court; provided, however, that the department shall,
56 within 30 days of responding to a request for motor vehicle registration records, notify
57 the registered owner of the vehicle by certified mail of the identity of any individual to
58 whom motor vehicle registration records have been disclosed, and the date such records
59 were disclosed. The department may charge the individual requesting such records a
60 reasonable fee for the cost of providing such notice. The commissioner is authorized and
61 directed to establish procedures and safeguards, which may include registration, and
62 promulgate rules and regulations to effectuate the purposes of this paragraph. Such rules

63 and regulations may include the ability to deny such disclosure or suspend or terminate
 64 such access where deemed appropriate by the commissioner or his or her designee.

65 (d) Except as otherwise required in the federal Driver's Privacy Protection Act of 1994,
 66 18 U.S.C. Chapter 123, personal information furnished under paragraphs (1) through (5)
 67 (6) of subsection (c) of this Code section shall be limited to the natural person's name,
 68 address, and driver identification number. The personal information obtained by a business
 69 under this Code section shall not be resold or redisclosed for any purposes other than those
 70 permitted under the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. Chapter
 71 123, without the written consent of the individual. Furnishing of information to a business
 72 under this Code section shall be pursuant to a contract entered into by such business and
 73 the state which specifies the consideration to be paid by such business to the state for such
 74 information and the frequency of updates. Information may be provided by means
 75 designated by the commissioner, including through mail, electronic transmission, or the use
 76 of a provider authorized by the commissioner.

77 (e)(1)(A) It shall be unlawful for any person knowingly to obtain or disclose
 78 information from motor vehicle registration records for any use not permitted under this
 79 Code section.

80 (B) It shall be unlawful for any person to make false representation to obtain any
 81 information from an individual's motor vehicle registration record.

82 (C) A person who knowingly violates this paragraph shall be guilty of a misdemeanor.

83 (2) A person who knowingly obtains, discloses, or uses information from a motor vehicle
 84 registration record for a purpose not permitted under this Code section shall be liable to
 85 the individual to whom the information pertains, and such individual may bring a civil
 86 action. The court may award:

87 (A) Actual damages, but not less than liquidated damages, in the amount of \$2,500.00;

88 (B) Punitive damages upon proof of willful or reckless disregard of the law;

89 (C) Reasonable attorney's fees and other expenses of litigation reasonably incurred;
 90 and

91 (D) Such other preliminary and equitable relief as the court determines to be
 92 appropriate."

93 SECTION 2.

94 Article 2 of Chapter 3 of Title 40 of the Official Code of Georgia Annotated, relating to
 95 certificates of title, is amended by revising Code Section 40-3-23, relating to issuance of
 96 certificates of title, as follows:

97 "40-3-23.

98 (a) The commissioner or the commissioner's duly authorized county tag agent shall file
 99 each application received and, when satisfied as to its genuineness and regularity and that
 100 the applicant is entitled to the issuance of a certificate of title, shall issue a certificate of
 101 title of the vehicle.

102 (b) The commissioner or the commissioner's duly authorized county tag agent shall
 103 maintain a record of all certificates of title issued:

104 (1) Under a distinctive title number assigned to the vehicle;

105 (2) Under the identifying number of the vehicle;

106 (3) Alphabetically, under the name of the owner;

107 (4) Under the vehicle tag registration number; and

108 (5) In the discretion of the commissioner, in any other method the commissioner
 109 determines.

110 (c) The commissioner or the commissioner's duly authorized county tag agent is authorized
 111 and empowered to provide for photographic and photostatic recording of certificate of title
 112 records in such manner as the commissioner or the commissioner's duly authorized county
 113 tag agent may deem expedient. The photographic or photostatic copies authorized in this
 114 subsection shall be sufficient as evidence in tracing of titles of the motor vehicles
 115 designated therein and shall also be admitted in evidence in all actions and proceedings to
 116 the same extent that the originals would have been admitted.

117 (d) The motor vehicle records which the commissioner or the commissioner's duly
 118 authorized county tag agent is required to maintain under this Code section or any other
 119 provision are exempt from the provisions of any law of this state requiring that such
 120 records be open for public inspection; provided, however, that, subject to subsection (f) of
 121 this Code section, the records may be disclosed for use as provided in the federal Driver's
 122 Privacy Protection Act of 1994, 18 U.S.C. Chapter 123, and by the following:

123 (1) Any licensed dealer of new or used motor vehicles;

124 (2) Any tax collector, tax receiver, or tax commissioner; ~~and~~

125 (3) A person or entity authorized by the commissioner for use in providing notice to the
 126 owners of towed or impounded vehicles; and

127 (4) An individual licensed by and registered with the Georgia Board of Private Detective
 128 and Security Agencies and authorized to conduct investigations under the provisions of
 129 Chapter 38 of Title 43 for the use in connection with any civil, criminal, administrative,
 130 or arbitral proceeding in any federal, state, or local court or agency, or before any
 131 self-regulatory body, including the service of process, investigation in anticipation of
 132 litigation, and the execution or enforcement of judgments and orders, or pursuant to an
 133 order of a federal, state, or local court; provided, however, that the department shall,

134 within 30 days of responding to a request for motor vehicle records, notify the registered
135 owner of the vehicle by certified mail of the identity of any individual to whom motor
136 vehicle records information has been disclosed, and the date such records were disclosed.
137 The department may charge the individual requesting such records a reasonable fee for
138 the cost of providing such notice. The commissioner is authorized and directed to
139 establish procedures and safeguards, which may include registration, and promulgate
140 rules and regulations to effectuate the purposes of this paragraph. Such rules and
141 regulations may include the ability to deny such disclosure or suspend or terminate such
142 access where deemed appropriate by the commissioner or his or her designee.

143 (e) In addition to any public inspection of records authorized under subsection (d) of this
144 Code section, motor vehicle records consisting of vehicle description, title status, title
145 brands, last recorded mileage, recorded liens, or recorded security interests which the
146 commissioner or the commissioner's duly authorized county tag agent is required to
147 maintain under this Code section shall, in such manner and under such conditions as
148 prescribed by the commissioner, be furnished individually or in bulk to any person upon
149 payment of a reasonable fee, for any purpose not otherwise prohibited by law, including
150 without limitation for the purpose of providing information to allow for informed motor
151 vehicle purchase and safety decisions. Records furnished in accordance with this
152 subsection may be subsequently transferred to third parties. Personal information of any
153 registrant, including name, address, date of birth, or driver's license or social security
154 number, shall not be furnished or transferred by or to any person pursuant to this
155 subsection.

156 (f) Except as otherwise required in the federal Driver's Privacy Protection Act of 1994, 18
157 U.S.C. Chapter 123, personal information furnished under paragraphs (1), ~~(2)~~, and ~~(3)~~
158 through (4) of subsection (d) of this Code section shall be limited to the natural person's
159 name, address, and driver identification number. The personal information obtained by a
160 business under this Code section shall not be resold or redisclosed for any purposes other
161 than those permitted under the federal Driver's Privacy Protection Act of 1994, 18 U.S.C.
162 Chapter 123, without the written consent of the individual. Furnishing of information to
163 a business under this Code section shall be pursuant to a contract entered into by such
164 business and the state which specifies the consideration to be paid by such business to the
165 state for such information and the frequency of updates. Information may be provided by
166 means designated by the commissioner, including through mail, electronic transmission,
167 or the use of a provider authorized by the commissioner.

168 (g)(1)(A) It shall be unlawful for any person knowingly to obtain or disclose
169 information from certificate of title records for any use not permitted under this Code
170 section.

171 (B) It shall be unlawful for any person to make false representation to obtain any
 172 information from an individual's certificate of title record.

173 (C) A person who knowingly violates this paragraph shall be guilty of a misdemeanor.

174 (2) A person who knowingly obtains, discloses, or uses information from a certificate of
 175 title record for a purpose not permitted under this Code section shall be liable to the
 176 individual to whom the information pertains, and such individual may bring a civil action.

177 The court may award:

178 (A) Actual damages, but not less than liquidated damages, in the amount of \$2,500.00;

179 (B) Punitive damages upon proof of willful or reckless disregard of the law;

180 (C) Reasonable attorney's fees and other expenses of litigation reasonably incurred;

181 and

182 (D) Such other preliminary and equitable relief as the court determines to be
 183 appropriate."

184 **SECTION 3.**

185 (a) For purposes of proposing rules and regulations, Sections 1 and 2 of this Act shall
 186 become effective upon its approval by the Governor or upon its becoming law without such
 187 approval. For all other purposes, Sections 1 and 2 of this Act shall become effective on
 188 September 1, 2014.

189 (b) This section and Section 4 of this Act shall become effective upon its approval by the
 190 Governor or upon its becoming law without such approval.

191 **SECTION 4.**

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