SENATE SUBSTITUTE TO HB 753:

AS PASSED SENATE

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 32-6-5 of the Official Code of Georgia Annotated, relating to closure of or limiting access to roads due to inclement weather and exceptions for certain vehicle operators, so to expand the classification of vehicles that require tire chains to travel on a road declared as a limited access road due to inclement weather conditions; to provide for penalties; to amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, so as to provide for federal regulatory requirements; to provide for further restrictions on the use of controlled-access roadways; to provide that certain fees may be included in liens upon abandoned motor vehicles; to provide for the disposition of proceeds from the public sale of an abandoned motor vehicle; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 32-6-5 of the Official Code of Georgia Annotated, relating to closure of or limited access to roads due to inclement weather and exceptions for certain vehicle operators, is amended by revising as follows:

"32-6-5.

(a) The department may close or limit access to any portion of road on the state highway system due to a declared state of emergency for inclement weather conditions that results in dangerous driving conditions. There shall be erected or posted signage of adequate size indicating that a portion of the state highway system has been closed or access has been limited. When the department determines a road shall have limited access due to a declared state of emergency for inclement winter weather conditions, notice shall be given to motorists through posted signage that motor vehicles must be equipped with tire chains, four-wheel drive with adequate tires for existing conditions, or snow tires with a manufacturer's all weather rating in order to proceed. Such signage shall inform motorists that it shall be unlawful to proceed on such road without such equipment. With the
exception of buses, operators of commercial motor vehicles as defined by Code Section 40-1-1 with four or more drive wheels traveling on a road declared as limited access due to a declared state of emergency for inclement winter weather conditions shall affix tire chains to at least four of the each of the outermost drive wheel tires. Bus and motor coach operators shall affix tire chains to at least two of the drive wheel tires before proceeding on a road with limited access due to a declared state of emergency for inclement winter weather conditions. For purposes of this Code section, the term 'tire chains' means metal chains which consist of two circular metal loops, positioned on each side of a tire, connected by not less than nine evenly spaced chains across the tire tread or any other traction devices capable of providing traction equal to or exceeding that of such metal chains under similar conditions as provided for by rules and regulations of the commissioner of public safety.

(b) A driver of a motor vehicle who causes an accident or blocks the flow of traffic while failing to comply with the requirements of subsection (a) of this Code section when access is limited on the state highway system due to a declared state of emergency for inclement weather conditions shall be fined up to $1,000.00.

(b)(c) This Code section shall not apply to a tow operator towing a motor vehicle or traveling to a site from which a motor vehicle shall be towed or to emergency responders traveling the roadway in order to fulfill their duties.

SECTION 2.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended by revising Code Section 40-1-8, relating to safe operations of motor carriers and commercial motor vehicles, as follows:

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

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

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

(3) 'Present regulations' means the regulations promulgated under 49 C.F.R. in force and effect on January 1, 2014.

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

(1) Every commercial motor vehicle and all parts thereof shall be maintained in a safe condition at all times; and the lights, brakes, and equipment, and all other parts or
accessories shall meet such safety requirements as the commissioner shall from time to
time promulgate designated by present regulations under Parts 393 and 396;

(2) Every driver employed to operate a motor vehicle for a motor carrier shall:
   (A) Be at least 18 years of age to operate a motor vehicle for a motor carrier intrastate
       and at least 21 years of age to operate a motor vehicle for a motor carrier interstate;
   (B) Meet the qualification requirements the commissioner shall from time to time
       promulgate;
   (C) Be of temperate habits and good moral character;
   (D) Possess a valid driver's license;
   (E) Not use or possess prohibited drugs or alcohol while on duty; and
   (F) Be fully competent and sufficiently rested to operate the motor vehicle under his
       or her charge;

(3) Accidents arising from or in connection with the operation of commercial motor
    vehicles shall be reported to the commissioner of transportation in such detail and in such
    manner as the commissioner of transportation may require;

(4) The commissioner shall require each commercial motor vehicle to have attached such
    distinctive markings as shall be adopted by the commissioner. Such identification
    requirements shall comply with the applicable provisions of the federal Unified Carrier
    Registration Act of 2005; and

(5) The commissioner shall provide distinctive rules for the transportation of
    unmanufactured forest products in intrastate commerce to be designated the 'Georgia
    Forest Products Trucking Rules.'

(c)(1) Regulations governing the safe operations of motor carriers, commercial motor
    vehicles and drivers, and the safe transportation of hazardous materials may be adopted
    by administrative order, including, but not limited to, by referencing compatible federal
    regulations or standards without compliance with the procedural requirements of Chapter
    13 of Title 50, the 'Georgia Administrative Procedure Act,' provided that such federal
    regulations or standards shall be maintained on file by the department and made available
    for inspection and copying by the public, by means including, but not limited to, posting
    on the department's Internet site. The commissioner may comply with the filing
    requirements of Chapter 13 of Title 50 by filing with the office of the Secretary of State
    the name and designation of such rules, regulations, standards, and orders. The courts
    shall take judicial notice of rules, regulations, standards, or orders so adopted or
    published.

(2) Rules, regulations, or orders previously adopted, issued, or promulgated pursuant to
    the provisions of Chapter 7 or 11 of Title 46 in effect on June 30, 2011, shall remain in
    full force and effect until such time as the commissioner of public safety adopts, issues,
or promulgates new rules, regulations, or orders pursuant to the provisions of this Code section.

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

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

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

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

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

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

(h) Unless otherwise provided by law, a motor carrier or operator of a commercial motor vehicle shall comply with the present regulations as follows:

(1) Motor carrier safety standards found in 49 C.F.R. Part 391;
(2) Motor carrier safety standards found in 49 C.F.R. Part 392, including but not limited to the seatbelt usage requirements found in 49 C.F.R. Section 392.16; and

(3) Hours of service and record of duty status requirements of 49 C.F.R. Part 395.

(i) A person failing to comply with the requirements of paragraph (2) of subsection (h) of this Code section shall be guilty of the misdemeanor offense of failure to wear a seat safety belt while operating a commercial motor vehicle and, upon conviction thereof, shall be fined not more than $50.00 but shall not be subject to imprisonment. The costs of such prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge to a fine for such offense be assessed against a person for conviction thereof. No points shall be added pursuant to Code Section 40-5-57 and no additional fines or penalties shall be imposed.

(j) Every officer, agent, or employee of any corporation and every person who violates or fails to comply with this Code section or any order, rule, or regulation adopted pursuant to this Code section, or who procures, aids, or abets a violation of this Code section or such rule or regulation, shall be guilty of a misdemeanor. Misdemeanor violations of this Code section may be prosecuted, handled, and disposed of in the manner provided for by Chapter 13 of this title.”

SECTION 3.

Said title is further amended by revising Code Section 40-6-51, relating to further restrictions on use of controlled-access roadways, as follows:

40-6-51. (a)(1) Any motor vehicle with more than six wheels and commercial motor vehicles as defined by Code Section 40-1-1 shall not travel on any portions of Interstates 20, 75, 85 or Georgia Highway 400 that are located within the arc of Interstate 285 unless the driver of such motor vehicle is:

(A) Engaging in a pick up or delivery to or from a shipper located inside the arc of Interstate 285;

(B) Traveling to or from such motor vehicle's terminal facility located inside the arc of Interstate 285;

(C) Traveling to or from a repair facility located inside the arc of Interstate 285 for service; or

(D) Traveling to or from his or her residence which is located inside the arc of Interstate 285.

(2) The Department of Transportation by order and local authorities by ordinance may regulate or prohibit the use of any controlled-access roadway within their respective...
jurisdictions by any class or kind of traffic which is found to be incompatible with the normal and safe movement of traffic.

(b) The Department of Transportation or the local authority adopting any such prohibition shall erect and maintain official traffic-control devices on the controlled-access highway on which such prohibitions are applicable, and when such devices are in place no person shall disobey the restrictions stated thereon.

(c) For purposes of this Code section, roadways within the jurisdiction of the Department of Transportation and roadways within the jurisdiction of local authorities shall be as set forth in Code Section 32-4-1.

(d) A driver of a motor vehicle failing to comply with the requirements of subsection (a) of this Code section shall be fined $150.00. A driver of a motor vehicle failing to comply with subsection (a) of this Code section during a declared state of emergency for inclement weather conditions shall be fined $1,000.00."

SECTION 4.

Said title is further amended by revising Code Section 40-11-4, relating to the creation of liens and court authority to foreclose, as follows:

"40-11-4.

(a) Any person who removes or stores any motor vehicle which is or becomes an abandoned motor vehicle shall have a lien on such vehicle for the reasonable fees connected with such removal or storage plus the cost of any notification or advertisement up to the date of retrieval or public sale of such vehicle. Such lien shall exist if the person moving or storing such vehicle is in compliance with Code Section 40-11-2.

(b) The lien acquired under subsection (a) of this Code section may be foreclosed in any court which is competent to hear civil cases, including, but not limited to, magistrate courts. Liens shall be foreclosed in magistrate courts only when the amount of the lien does not exceed the jurisdictional limits established by law for such courts."

SECTION 5.

Said title is further amended by revising paragraph (2) of Code Section 40-11-5, relating to lien foreclosure procedure for abandoned motor vehicles, as follows:

"(2) The person desiring to foreclose a lien on an abandoned motor vehicle shall, by certified or registered mail or statutory overnight delivery, make a demand upon the owners for the payment of the reasonable fees for removal and storage plus the costs of any notification or advertisement up to the date of retrieval or public sale of such vehicle. Such written demand shall include an itemized statement of all charges and may be made concurrent with the notice required by subsection (f) of Code Section
40-11-2. Such demand shall be made on a form prescribed by rule or regulation of the Department of Revenue and shall notify the owner of his or her right to a judicial hearing to determine the validity of the lien. The demand shall further state that failure to return the written demand to the lien claimant, file with a court of competent jurisdiction a petition for a judicial hearing, and provide the lien claimant with a copy of such petition, all within ten days of delivery of the lien claimant's written demand, shall effect a waiver of the owner's right to such a hearing prior to sale. The demand shall also provide the suspected owner with the option of disclaiming any ownership of the vehicle, and his or her affidavit to that effect shall control over anything contrary in the records of the Department of Revenue. No such written demand shall be required if the identity of the owner cannot be ascertained and the notice requirements of subsection (g) of Code Section 40-11-2 have been complied with;”

SECTION 6.

Said title is further amended by revising Code Section 40-11-8, relating to the disposition of proceeds from a foreclosure sale of an abandoned motor vehicle, as follows:

“40-11-8.
The clerk of the court shall retain the remaining balance of the proceeds of a sale under Code Section 40-11-6, after satisfaction of liens, security interests, and debts, for a period of 12 months; and, if no claim has been filed against such proceeds by the owner of the abandoned motor vehicle or any interested party, then he or she shall pay such remaining balance as follows:

(1) If the abandoned motor vehicle came into the possession of the person creating the lien other than at the request of a peace officer, the proceeds of the sale shall be divided equally and paid into the general fund of the county in which the sale was made, and into the general fund of the municipality, if any, in which the sale was made, and to the person who placed the lien on the motor vehicle which resulted in foreclosure;

(2) If the abandoned motor vehicle came into the possession of the person creating the lien at the request of a police officer of a municipality, the proceeds of the sale shall be divided equally and paid into the general fund of the municipality and to the person who placed the lien on the motor vehicle which resulted in foreclosure;

(3) If the abandoned motor vehicle came into the possession of the person creating the lien at the request of a county sheriff, deputy sheriff, or county police officer, the proceeds of the sale shall be divided equally and paid into the general fund of the county in which the sale was made, and to the person who placed the lien on the motor vehicle which resulted in foreclosure; or
(4) If the abandoned motor vehicle came into the possession of the person creating the lien at the request of a member of the Georgia State Patrol or other employee of the State of Georgia, the proceeds of the sale shall be divided equally and paid into the general fund of the county in which the sale was made and to the person who placed the lien on the motor vehicle which resulted in foreclosure."

SECTION 7.

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