

Senate Bill 404

By: Senators Harper of the 7th, Albers of the 56th, Dugan of the 30th, Jones II of the 22nd, Watson of the 1st and others

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Chapter 2 of Title 35 of the Official Code of Georgia Annotated, relating to the
2 Department of Public Safety, so as to revise provisions for the off-duty use of motor vehicles
3 by certain law enforcement officers of the department relative to approved off-duty
4 employment; to provide for related matters; to repeal conflicting laws; and for other
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 2 of Title 35 of the Official Code of Georgia Annotated, relating to the Department
9 of Public Safety, is amended by revising Code Section 35-2-56, relating to use of motor
10 vehicles or other equipment by members of Uniform Division, as follows:

11 "35-2-56.

12 (a) Except as otherwise provided in subsection (b) of this Code section, no department
13 motor vehicles shall be used by any member of the Uniform Division except in discharge
14 of official duties. Any other equipment shall be used only with the express written
15 approval of the commissioner. The commissioner shall adopt rules and regulations
16 governing the use of equipment subject to approval of the Board of Public Safety.

17 (b)(~~†~~) Members of the Uniform Division may use a department motor vehicle while
18 working an ~~approved~~ off-duty job that requires vested police powers as a condition of
19 employment if such job has been approved by the commissioner, provided that no
20 employee shall, for purposes of this subsection, use a department motor vehicle at any
21 political function;

22 ~~(A) The off-duty employment is of a general nature that is the subject of a contract~~
23 ~~between the off-duty employer and the Department of Public Safety and is service in~~
24 ~~which the use of the department motor vehicle is a benefit to the department or is in~~
25 ~~furtherance of the department's mission;~~

26 ~~(B) The off-duty employer agrees to pay and does pay to the department an amount~~
 27 ~~determined by the commissioner to be sufficient to reimburse the department for the use~~
 28 ~~of the vehicle and to pay the off-duty employee sufficient compensation. Pursuant to~~
 29 ~~such contract, the department shall pay the employee of the department the~~
 30 ~~compensation earned on off-duty employment whenever such employee performs such~~
 31 ~~service in a department motor vehicle; and~~

32 ~~(C) The commissioner has specifically approved, in writing, the individual use of the~~
 33 ~~vehicle by the employee.~~

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

36 (c) The commissioner, in his or her sole discretion, in granting approval for such off-duty
 37 job, or at any instance or interval thereafter, but prior to the use of such vehicle, shall
 38 determine whether the off-duty employer provided for in subsection (b) of this Code
 39 section shall reimburse the department for use of the vehicle. When reimbursement is
 40 required, such off-duty employer shall enter into a written agreement with the department
 41 to pay the department an amount determined by the commissioner to be sufficient to
 42 reimburse the department for the use of the vehicle and to pay the off-duty employee
 43 sufficient compensation. Pursuant to such agreement, the department shall pay the
 44 employee of the department the compensation earned on off-duty employment whenever
 45 such employee performs such service in a department motor vehicle. Provided, such
 46 compensation shall not be characterized as direct employment compensation, but shall be
 47 paid as services under contract."

48 **SECTION 2.**

49 Said chapter is further amended in Code Section 35-2-101, relating to jurisdiction, duties and
 50 powers, use of dogs to detect controlled substances, and off-duty use vehicles, by revising
 51 subsection (e) as follows:

52 "(e)(1) Certified law enforcement officers employed by the Motor Carrier Compliance
 53 Enforcement Section may use a department motor vehicle while working an approved
 54 off-duty job that requires vested police powers as a condition of employment if such job
 55 has been approved by the commissioner, provided that no employee shall, for purposes
 56 of this subsection, use a department motor vehicle at any political function:

57 ~~(A) The off-duty employment is of a general nature that is the subject of a contract~~
 58 ~~between the off-duty employer and the department and is service in which the use of~~
 59 ~~the department motor vehicle is a benefit to the department or is in furtherance of the~~
 60 ~~department's mission;~~

61 ~~(B) The off-duty employer agrees to pay and does pay to the department an amount~~
 62 ~~determined by the commissioner to be sufficient to reimburse the department for the use~~
 63 ~~of the vehicle and to pay the off-duty employee sufficient compensation. Pursuant to~~
 64 ~~such contract, the department shall pay the employee of the department the~~
 65 ~~compensation earned on off-duty employment whenever such employee performs such~~
 66 ~~service in a department motor vehicle; and~~

67 ~~(C) The commissioner has specifically approved, in writing, the individual use of the~~
 68 ~~vehicle by the employee.~~

69 (2) ~~At no time will an off-duty employee be allowed use of a department motor vehicle~~
 70 ~~at any political function of any kind. The commissioner, in his or her sole discretion, in~~
 71 ~~granting approval for such off-duty job, or at any instance or interval thereafter, but prior~~
 72 ~~to the use of such vehicle, shall determine whether the off-duty employer provided for~~
 73 ~~in paragraph (1) of this subsection shall reimburse the department for use of the vehicle.~~
 74 ~~When reimbursement is required, such off-duty employer shall enter into a written~~
 75 ~~agreement with the department to pay the department an amount determined by the~~
 76 ~~commissioner to be sufficient to reimburse the department for the use of the vehicle and~~
 77 ~~to pay the off-duty employee sufficient compensation. Pursuant to such agreement, the~~
 78 ~~department shall pay the employee of the department the compensation earned on~~
 79 ~~off-duty employment whenever such employee performs such service in a department~~
 80 ~~motor vehicle. Provided, such compensation shall not be characterized as direct~~
 81 ~~employment compensation, but shall be paid as services under contract."~~

82 **SECTION 3.**

83 Said chapter is further amended by revising Code Section 35-2-123, relating to use of
 84 vehicles by off-duty law enforcement officer, as follows:

85 "35-2-123.

86 (a) Certified law enforcement officers employed by the division shall be authorized to use
 87 official vehicles while engaging in ~~approved~~ off-duty employment that requires vested
 88 police powers as a condition of employment if the off-duty employment has been approved
 89 by the commissioner, provided that no employee shall, for purposes of this subsection, use
 90 a department motor vehicle at any political function:

91 (1) ~~The off-duty employment is related to a contract between the off-duty employer and~~
 92 ~~the department and is service in which the use of the official vehicle is a benefit to the~~
 93 ~~department or is in furtherance of the department's mission;~~

94 (2) ~~The off-duty employer pays to the department an amount determined by the~~
 95 ~~commissioner to be sufficient to reimburse the department for the use of the official~~
 96 ~~vehicle; and~~

