

House Bill 116

By: Representatives McDonald III of the 26<sup>th</sup>, Crowe of the 118<sup>th</sup>, Hitchens of the 161<sup>st</sup>, Lumsden of the 12<sup>th</sup>, and Barrett of the 24<sup>th</sup>

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 5 of Chapter 2 of Title 35 and Title 40 of the Official Code of Georgia  
 2 Annotated, relating to Motor Carrier Compliance Division of the Department of Public  
 3 Safety and motor vehicles and traffic, respectively, so as to change the name of the Motor  
 4 Carrier Compliance Division of the Department of Public Safety to Commercial Vehicle  
 5 Enforcement; to require law enforcement officers within such division be trained, sworn, and  
 6 certified; to provide for conforming changes; to provide for related matters; to repeal  
 7 conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 5 of Chapter 2 of Title 35 of the Official Code of Georgia Annotated, relating to  
 11 Motor Carrier Compliance Division of the Department of Public Safety, is amended by  
 12 revising Code Section 35-2-100, relating to creation and members designated as law  
 13 enforcement officers, as follows:

14 "35-2-100.

15 There shall be created and established a division of the Department of Public Safety to be  
 16 known as ~~the Motor Carrier Compliance Division~~ Commercial Vehicle Enforcement, and

17 within the division shall be created a section to be known as the ~~Motor Carrier~~  
18 Regulatory Compliance Enforcement Section. Except as provided in Code Section  
19 35-2-102, the members of the ~~Motor Carrier Compliance Enforcement Section~~ Commercial  
20 Vehicle Enforcement shall be known, and designated, trained, sworn, and certified as 'law  
21 enforcement officers.'

22 **SECTION 2.**

23 Said article is further amended in Code Section 35-2-101, relating to jurisdiction, duties and  
24 powers, and use of dogs to detect controlled substances, by revising subsection (a), the  
25 introductory language of subsection (b), and subsection (d) as follows:

26 "(a) The ~~Motor Carrier Compliance Enforcement Section~~ Commercial Vehicle  
27 Enforcement division of the department shall have jurisdiction throughout this state with  
28 such duties and powers as are prescribed by law.

29 (b) The primary duties of the division of Commercial Vehicle Enforcement ~~Motor Carrier~~  
30 ~~Compliance Enforcement Section~~ shall be as follows:"

31 "(d) The commissioner shall authorize law enforcement officers of the ~~Motor Carrier~~  
32 ~~Compliance Enforcement Section~~ Commercial Vehicle Enforcement to make use of dogs  
33 trained for the purpose of detection of drugs and controlled substances while such officers  
34 are engaged in the performance of their authorized duties. If such authorized use of such  
35 a dog indicates probable cause to indicate the presence of contraband, the officer or officers  
36 shall in those circumstances have the full authority of peace officers to enforce the  
37 provisions of Article 2 of Chapter 13 of Title 16, the 'Georgia Controlled Substances Act,'  
38 and Article 3 of Chapter 13 of Title 16, the 'Dangerous Drug Act'; provided, however, that  
39 the department must immediately notify the local law enforcement agency and district  
40 attorney of the jurisdiction where a seizure is made."

41 **SECTION 3.**

42 Said article is further amended by revising Code Section 35-2-102, relating to weight  
43 inspector positions, training, powers and responsibilities, and presence of certified peace  
44 officer, as follows:

45 "35-2-102.

46 (a) The commissioner is authorized to establish a position to be known as 'weight  
47 inspector' within the ~~Motor Carrier Compliance Enforcement Section of the Department~~  
48 ~~of Public Safety~~ Commercial Vehicle Enforcement division of the department. Weight  
49 inspectors shall be assigned to fixed scales facilities and shall not be authorized to operate  
50 outside such facilities. The number of such positions shall be determined by the  
51 commissioner within the limits set by available appropriations. Weight inspectors may be  
52 divided into such ranks as the commissioner deems appropriate.

53 (b) The commissioner shall ensure that a weight inspector is properly trained regarding  
54 laws governing commercial motor vehicle weight, registration, size, and load, including,  
55 but not limited to, commercial motor vehicle provisions in Article 2 of Chapter 6 of  
56 Title 32 and safety standards for commercial motor vehicles and such motor vehicle  
57 components. The training required in the areas required by this subsection shall be  
58 equivalent to training provided to certified officers in the ~~Motor Carrier Compliance~~  
59 ~~Enforcement Section~~ Commercial Vehicle Enforcement.

60 (c) A weight inspector, at ~~the~~ a fixed scales facility, shall be authorized to:

61 (1) Enforce noncriminal provisions relating to commercial motor vehicle weight,  
62 registration, size, and load and assess a civil penalty for a violation of such provisions;

63 and

64 (2) Detain a commercial motor vehicle that:

65 (A) Has a safety defect which is critical to the continued safe operation of the vehicle;

66 (B) Is being operated in violation of any criminal law; or

67 (C) Is being operated in violation of an out-of-service order as reported on the federal  
68 Safety and Fitness Electronic Records data base.

69 The detention authorized by this paragraph shall be for the purpose of contacting a  
70 certified member of ~~the Motor Carrier Compliance Enforcement Section or~~ Commercial  
71 Vehicle Enforcement or the Georgia State Patrol. A certified officer shall report to the  
72 scene of a detained vehicle and take any further action deemed appropriate, including  
73 completing the inspection and investigation, making an arrest, or bringing criminal or  
74 civil charges.

75 (d) At all times while a weight inspector is on duty, there shall be a supervisor over the  
76 weight inspector also on duty who shall be a certified peace officer."

77 **SECTION 4.**

78 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is  
79 amended by revising Code Section 40-1-52, relating to establishment of Motor Carrier  
80 Compliance Division, as follows:

81 "40-1-52.

82 There is created and established a division within the Department of Public Safety to be  
83 known as ~~the Motor Carrier Compliance Division~~ Commercial Vehicle Enforcement which  
84 shall include a section designated the Regulatory Compliance Section. Except as provided  
85 in Chapter 2 of Title 35, the sworn members of ~~the Motor Carrier Compliance Division~~  
86 Commercial Vehicle Enforcement shall be known and designated as law enforcement  
87 officers. The Regulatory Compliance Section shall be responsible for the regulation of the  
88 operation of motor carriers and limousine carriers in accordance with this article, Code  
89 Section 40-1-8, and Article 2 of this chapter."

90 **SECTION 5.**

91 Said title is further amended by revising Code Section 40-2-82, relating to license plates for  
92 Department of Public Safety vehicles operated by Georgia State Patrol or Motor Carrier  
93 Compliance Division, as follows:

94 "40-2-82.

95 The commissioner of public safety shall be issued distinctive license plates to be used on  
96 motor vehicles assigned to the Department of Public Safety and operated by troopers of the  
97 Georgia State Patrol or law enforcement officers of ~~the Motor Carrier Compliance Division~~  
98 Commercial Vehicle Enforcement. The distinctive plates shall be issued free of charge in  
99 accordance with procedures agreed upon by the commissioner of public safety and the state  
100 revenue commissioner. License plates issued pursuant to this Code section need not  
101 contain a place for the county name decal and no county name decal need be affixed to a  
102 license plate issued pursuant to this Code section."

103 **SECTION 6.**

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