

The House Committee on Motor Vehicles offers the following substitute to HB 551:

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and
2 traffic, so as to provide for conditions, procedures, and limitations for issuance of temporary
3 operating permits for motor vehicles; to revise provisions relative to the operation of an
4 unregistered motor vehicle or vehicle without a current license plate, revalidation decal,
5 county decal, or temporary operating permit; to authorize the development and maintenance
6 by third parties of an electronic temporary operating permit issuance system for issuance of
7 temporary operating permits; to provide for utilization of such system by dealers for issuance
8 of temporary operating permits; to provide for the suspension of access to such system by
9 the department for certain violations; to authorize access to certain information with the State
10 Board of Registration of Used Motor Vehicle Dealers and Used Motor Vehicle Parts Dealers
11 for certain purposes; to revise a definition; to provide for notice and hearings; to amend Code
12 Section 43-47-2 of the Official Code of Georgia Annotated, relating to definitions relative
13 to used motor vehicle and used motor vehicle parts dealers, so as to revise the definition of
14 established place of business; to amend Code Section 48-5C-1 of the Official Code of
15 Georgia Annotated, relating to alternative ad valorem tax on motor vehicles, so as to provide
16 for enhanced penalty for an owner of a passive entity that fails to pay alternative ad valorem
17 tax; to provide for a definition; to provide for an effective date; to provide for related matters;
18 to repeal conflicting laws; and for other purposes.

H. B. 551 (SUB)

- 1 -

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

20 SECTION 1.

21 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
22 amended by revising Code Section 40-2-8, relating to operation of unregistered vehicle or
23 vehicle without current license plate, revalidation decal, or county decal and temporary
24 operating permit issued by dealers of new or used motor vehicles, as follows:

25 "40-2-8.

26 (a) No person shall own, rent, lease, or operate any vehicle required to be registered
27 pursuant to Code Section 40-2-20 upon a highway in this state without registering such
28 vehicle. Any person who becomes a resident of this state shall register his or her vehicle
29 within 30 days of becoming a resident. Each day that a vehicle is in violation of this Code
30 section shall be deemed to be a separate and distinct offense. Any person convicted of such
31 offense shall be guilty of a misdemeanor and punished by a fine of \$100.00 for each
32 violation. Any person owning or operating any vehicle described in Code Section 40-2-20
33 on any public highway or street without complying with that Code section shall be guilty
34 of a misdemeanor, provided that a person shall register his or her motor vehicle within 30
35 days after becoming a resident of this state. Any person renting, leasing, or loaning any
36 vehicle described in Code Section 40-2-20 which is being used on any public highway or
37 street without complying with that Code section shall be guilty of a misdemeanor and, upon
38 conviction thereof, shall be punished by a fine of \$100.00 for each violation, and each day
39 that such vehicle is operated in violation of Code Section 40-2-20 shall be deemed to be
40 a separate and distinct offense.

41 (b)(1) It shall be unlawful and punishable as for a misdemeanor to operate any vehicle
42 required to be registered in this state pursuant to Code Section 40-2-20 without a valid
43 numbered license plate properly validated with a current revalidation decal, unless such
44 operation is otherwise permitted under this chapter; and provided, further, that the

45 purchaser of a new vehicle or a used vehicle from a dealer of new or used motor vehicles
46 who displays a temporary operating permit issued as provided by ~~paragraph (2) of this~~
47 ~~subsection~~ Code Section 40-2-8.1 may operate such vehicle on the public highways and
48 streets of this state without a current valid license plate during the period ~~within which~~
49 ~~the purchaser is required by Code Section~~ authorized by Code Sections 40-2-8.1
50 and 40-2-20. An owner acquiring a motor vehicle from an entity that is not a new or used
51 vehicle dealer shall register such vehicle as provided for in Code Section 40-2-29 unless
52 such vehicle is to be registered under the International Registration Plan pursuant to
53 Article 3A of this chapter.

54 ~~(2)(A) Any dealer of new or used motor vehicles shall issue to the purchaser of a~~
55 ~~vehicle at the time of sale thereof, unless such vehicle is to be registered under the~~
56 ~~International Registration Plan, a temporary operating permit as provided for by~~
57 ~~department rules or regulations which may bear the dealer's name and location and shall~~
58 ~~bear an expiration date 45 days from the date of purchase. The expiration date of such~~
59 ~~a temporary operating permit may be revised and extended by the county tag agent~~
60 ~~upon application by the dealer, the purchaser, or the transferee if an extension of the~~
61 ~~purchaser's initial registration period has been granted as provided by Code~~
62 ~~Section 40-2-20. Such temporary operating permit shall not resemble a license plate~~
63 ~~issued by this state and shall be issued without charge or fee. The requirements of this~~
64 ~~paragraph shall not apply to a dealer whose primary business is the sale of salvage~~
65 ~~motor vehicles and other vehicles on which total loss claims have been paid by insurers.~~

66 ~~(B) All temporary operating permits issued by dealers to purchasers of vehicles shall~~
67 ~~be of a standard design prescribed by regulation promulgated by the department. The~~
68 ~~department may provide by rule or regulation for the sale and distribution of such~~
69 ~~temporary operating permits by third parties in accordance with paragraph (3) of this~~
70 ~~subsection.~~

71 ~~(3) All sellers and distributors of temporary operating permits shall maintain an~~
72 ~~inventory record of temporary operating permits by number and name of the dealer.~~

73 ~~(4)(2) The purchaser and operator of a vehicle shall not be subject to the penalties set~~
74 ~~forth in this Code section during the period allowed for the registration of such vehicle.~~
75 ~~If the owner of such vehicle presents evidence that such owner has properly applied for~~
76 ~~the registration of such vehicle, but that the license plate or revalidation decal has not~~
77 ~~been delivered to such owner, then the owner shall not be subject to the penalties~~
78 ~~enumerated in this subsection.~~

79 (c) It shall be unlawful and punishable as for a misdemeanor to operate any vehicle
80 required to be registered in ~~the State of Georgia~~ this state without a valid county decal
81 designating the county where the vehicle was last registered, unless such operation is
82 otherwise permitted under this chapter. ~~Any person convicted of such offense shall be~~
83 ~~punished by a fine of \$25.00 for a first offense and \$100.00 for a second or subsequent~~
84 ~~such offense. However, a A county name decal shall not be required if there is no space~~
85 ~~provided for a county name decal on the current license plate. Any person convicted of a~~
86 ~~violation of this subsection shall be subject to a fine not to exceed \$25.00 if that person~~
87 ~~shows to the court having jurisdiction of the offense that the proper revalidation decal had~~
88 ~~been obtained prior to the time of the offense.~~

89 ~~(d) No violation of this Code section shall have occurred upon presentation of evidence~~
90 ~~that the owner had properly applied for the registration of such vehicle, but that the license~~
91 ~~plate or revalidation decal had not been delivered to such owner at the time the uniform~~
92 ~~traffic citation was issued.~~

93 ~~(e) The commissioner is authorized to promulgate rules and regulations necessary to~~
94 ~~effectuate the provisions of this Code section."~~

122 standards for distribution and issuance of such permits. The department may further
123 provide by rule or regulation for standards for authorized access to an electronic
124 temporary operating permit issuance system, which may include, but shall not be limited
125 to, required criminal background checks for any user of the system. Any third party
126 authorized to sell and distribute temporary operating permits shall maintain an inventory
127 record of such permits by number and name of the dealer.

128 (2)(A) The department shall be authorized to suspend access to the electronic
129 temporary operating permit issuance system established pursuant to this Code section
130 for any dealer found to have issued temporary operating permits for a vehicle which has
131 not been sold or intended to be registered or otherwise violated requirements for
132 issuance of such permits established by rule or regulation of the department after
133 issuance of notice of such violation by electronic means and opportunity for informal
134 review as set forth in this subparagraph. Any dealer who has received notice pursuant
135 to this subsection of an alleged violation and for whom the department intends to
136 suspend access to the electronic temporary operating permit issuance system may
137 request an informal review of the allegations with the department. The method for
138 making such request shall be developed by the department and may be by electronic
139 means. Upon receipt of such request for informal review, the department shall, within
140 ten business days, schedule an informal conference with such dealer to review the
141 suspected violations. Proceedings under this subparagraph shall not be governed by
142 any formal procedural requirements and may be conducted in such manner as the
143 department may establish by rule or regulation. The department shall consider the
144 historical use of the electronic temporary operating permit issuance system by the
145 dealer under consideration for access suspension, together with other pertinent
146 information which may be available, and shall render a decision regarding access to the
147 electronic temporary operating permit issuance system within seven business days of
148 the informal conference. Upon a finding that such dealer violated the requirements of

149 this Code section or rules and regulations of the department, the department shall be
150 authorized to impose fines or fees as provided by law. The department shall not be
151 authorized to suspend access to the temporary operating permit system unless the
152 department finds a dealer to be substantially out of compliance with the requirements
153 of this Code section or the rules and regulations of the department and such dealer has
154 failed to produce satisfactory evidence of extenuating circumstances to justify such
155 noncompliance.

156 (B) If the department suspends a dealer's access to the electronic temporary operating
157 permit issuance system established pursuant to this Code section after an informal
158 review held pursuant to subparagraph (A) of this paragraph, the suspended dealer shall
159 have the right to a formal hearing to review the suspension pursuant to Code
160 Section 40-3-6. Such hearing shall be held within 30 days of the department's decision
161 to suspend the dealer's access to the electronic temporary operating permit issuance
162 system and shall be conducted in accordance with Chapter 13 of Title 50, the 'Georgia
163 Administrative Procedure Act.' At such hearing, the department may present evidence
164 of any instances in which the suspended dealer unlawfully issued temporary operating
165 permits or issued fraudulent temporary operating permits. Upon a finding that the
166 suspended dealer is in compliance with the requirements of this Code section and has
167 issued temporary operating permits predominantly for bona fide motor vehicle sales,
168 the department shall provide for the immediate restoration of access to the electronic
169 temporary operating permit issuance system for such dealer but shall be authorized to
170 impose fines or fees as provided by law for failure to comply with the requirements of
171 this chapter. Upon a finding that the suspended dealer violated the requirements of this
172 Code section or rules and regulations of the department, the department shall be
173 authorized to extend the term of suspension for a period of up to 24 months. Upon a
174 finding that a dealer has unlawfully issued temporary operating permits in violation of
175 this chapter or rules and regulations of the department, the department shall further be

176 authorized to issue a civil monetary penalty in an amount no greater than \$100.00 per
177 violation, suspend or revoke the registration issued to a dealer pursuant to Code Section
178 40-2-39, and suspend, confiscate, or limit issuance of any dealer plates issued pursuant
179 to Code Section 40-2-38 for a period of up to 24 months. The department shall comply
180 with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' in relation to
181 the expedited review provided for in this subparagraph and the suspended dealer shall
182 have the right to appeal any decision of the department in accordance with such chapter.
183 (c) The commissioner is authorized to promulgate rules and regulations necessary to
184 effectuate the provisions of this Code section."

185 **SECTION 3.**

186 Said title is further amended in Code Section 40-2-33, relating to issuance of license plates
187 and decals, transfer of registration to a digital license plate, compensation of tag agents, and
188 required identification, by revising paragraph (3) of subsection (a) as follows:

189 "(3) At the time of initial application for registration or at any time during the registration
190 period, a vehicle owner may file with the county tag agent, on a form or electronic form
191 prescribed by the commissioner, a request to have a vehicle license plate duplicated on
192 a digital license plate purchased from a digital license plate provider. Such request to the
193 county tag agent shall include all applicable registration fees. Upon approving the
194 application provided in this paragraph, the commissioner or county tag agent shall furnish
195 the digital license plate provider with the appropriate licensing information to be
196 displayed upon the digital license plate. In accordance with Code Section ~~40-2-8~~
197 40-2-8.1, a 45 day temporary operating permit shall be issued by the commissioner or
198 county tag agent to an applicant for a digital license plate until such license plate is
199 received by the applicant."

227 ~~"(c) This Code section shall not apply in any manner to mopeds.~~

228 ~~(d)~~(c) The license plates issued pursuant to this Code section shall be revoked and
 229 confiscated upon a determination after a hearing that such dealer, distributor, manufacturer,
 230 or manufacturer headquarters has unlawfully used such license plates in violation of this
 231 Code section.

232 ~~(e)~~(d) If a license plate issued pursuant to this Code section is lost or stolen, the dealer,
 233 manufacturer, distributor, manufacturer headquarters, or other party to whom the license
 234 plate was issued ~~must~~ shall immediately report the lost or stolen plate to local law
 235 enforcement agencies. If a replacement license plate is sought, the dealer, manufacturer,
 236 distributor, manufacturer headquarters, or other party to whom the license plate was issued
 237 shall file a notarized affidavit with the department requesting a replacement plate. Such
 238 affidavit shall certify under penalty of perjury that the license plate has been lost or stolen
 239 and that the loss has been reported to a local law enforcement agency.

240 ~~(f)(1)~~(e) Except as otherwise provided for in this Code section, the ~~The~~ expiration of a
 241 license plate issued pursuant to this Code section shall be the last day of the registration
 242 period as provided in division (a)(1)(A)(ii) of Code Section 40-2-21, except that for the
 243 purposes of this subsection, the registration period shall be determined by the first letter of
 244 the legal name of the business listed on the application for registration or renewal of
 245 registration. An application for renewal of registration shall not be submitted earlier than
 246 90 days prior to the last day of the registration period. A penalty of 25 percent of the total
 247 registration fees due shall be assessed any person registering pursuant to this Code section
 248 who, prior to the expiration of such person's registration period, fails to apply for renewal
 249 or if having applied fails to pay the required fees.

250 ~~(2) A transition period shall commence on October 1, 2007, and conclude on December~~
 251 ~~31, 2007, for all existing registrations and any new registration applications presented~~
 252 ~~prior to January 1, 2008. On or after January 1, 2008, new applications for registration~~

253 shall be submitted and remain valid until the expiration of such registration as specified
254 in paragraph (1) of this subsection."

255 **SECTION 5.**

256 Said title is further amended in Code Section 40-2-130, relating to records of certificates of
257 registration, by revising subsection (c) as follows:

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

- 264 (1) Any licensed dealer of new or used motor vehicles;
265 (2) Any tax collector, tax receiver, or tax commissioner;
266 (3) The director of the Environmental Protection Division of the Department of Natural
267 Resources or his or her designee;
268 (4) Any private person who has met the requirements of Code Section 40-2-25, provided
269 that the information shall be used for the sole purpose of effectuating the registration or
270 renewal of motor vehicles by electronic or similar means and that the private person
271 requesting the information has entered into an agreement to provide electronic services
272 to the commissioner or a county tag agent; provided, further, that the information made
273 available pursuant to this paragraph for such purpose shall be limited to the vehicle
274 identification number, the license tag number, the date of expiration of registration, and
275 the amount of tax owed; and
276 (5) A person or entity authorized by the commissioner for use in providing notice to the
277 owners of towed or impounded vehicles; and

278 (6) The board established pursuant to Chapter 47 of Title 43 for use in carrying out its
279 functions."

280 **SECTION 6.**

281 Said title is further amended in Code Section 40-3-23, relating to issuance of certificate of
282 title, maintenance of record of certificates issued, public inspection, furnishing records for
283 fee, and electronic format, by revising subsection (d) as follows:

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

- 290 (1) Any licensed dealer of new or used motor vehicles;
291 (2) Any tax collector, tax receiver, or tax commissioner; ~~and~~
292 (3) A person or entity authorized by the commissioner for use in providing notice to the
293 owners of towed or impounded vehicles; and
294 (4) The board established pursuant to Chapter 47 of Title 43 for carrying out its
295 functions."

296 **SECTION 7.**

297 Said title is further amended in Code Section 40-3-33, relating to transfer of vehicle to or
298 from dealer, records to be kept by dealers, electronic filing, and application for title where
299 dealer located, by revising subsections (a) and (b) and by adding new subsections to read as
300 follows:

301 "(a)(1) Except as provided in paragraph (2) of this subsection, a dealer who buys a
302 vehicle and holds it for resale need not apply to the commissioner for a new certificate

303 of title but may retain the delivered certificate ~~delivered to him~~. Upon transferring the
304 vehicle to another person other than by the creation of a security interest, such dealer
305 shall promptly execute the assignment and warranty of title by a dealer. Such assignment
306 and warranty shall show the names and addresses of the transferee and any holder of a
307 security interest created or reserved at the time of the resale and the date of ~~his~~ the
308 security agreement, in the spaces provided therefor on the certificate or as the
309 commissioner prescribes. Transfers of vehicles under this Code section shall otherwise
310 conform with Code Section 40-3-32. A dealer selling a previously registered vehicle for
311 ~~which under this chapter need not have~~ a certificate of title is not required under this
312 chapter need not furnish a purchaser of such a vehicle a certificate of title. After a
313 previously registered vehicle has been brought under the terms of this chapter, a dealer,
314 when selling that vehicle, shall conform to all provisions of this chapter.

315 (2)(A) As used in this paragraph, the term 'franchise dealer' means a dealer who under
316 a contract or franchise agreement with a manufacturer, distributor, wholesaler, or
317 importer is authorized to sell new motor vehicles of or for such manufacturer,
318 distributor, wholesaler, or importer and who is authorized to use trademarks or service
319 marks associated with one or more makes of motor vehicles in connection with such
320 sales.

321 (B) A dealer who is not a franchise dealer who acquires a vehicle for which the original
322 certificate of title has not been issued and who holds such vehicle for resale shall not
323 be exempt from the requirement to obtain a certificate of title in such dealer's name as
324 provided in paragraph (1) of this subsection. Such dealer shall, as provided in Code
325 Section 40-3-32, obtain a certificate of title in such dealer's name prior to selling or
326 otherwise transferring said vehicle to any other person or dealer.

327 (b) Every dealer shall maintain a record, in the form the commissioner prescribes, of every
328 vehicle bought, sold, or exchanged ~~by him~~, or received ~~by him~~ for sale or exchange. Such
329 record shall be kept for three years and shall be open to inspection by a representative of

330 the commissioner during reasonable business hours. The information contained in records
331 maintained by a dealer pursuant to this subsection shall be an accurate representation of the
332 transaction, and no alternative versions of records shall be produced for a purchaser with
333 information which differs from that contained in records maintained for inspection by the
334 department."

335 "(f) The department shall be authorized to assess a civil penalty against a dealer of up to
336 \$500.00 for each sales transaction conducted in violation of subsection (b) of this Code
337 section.

338 (g) The department is authorized to promulgate rules and regulations necessary to
339 effectuate the provisions of this Code section."

340 **SECTION 8.**

341 Code Section 43-47-2 of the Official Code of Georgia Annotated, relating to definitions
342 relative to used motor vehicle and used motor vehicle parts dealers, is amended by revising
343 paragraph (3) as follows:

344 "(3) 'Established place of business' means a salesroom or sales office in a building or on
345 an open lot of a retail used car dealership or at which a permanent business of bartering,
346 trading, offering, displaying, selling, buying, dismantling, or rebuilding wrecked or used
347 motor vehicles or parts is carried on, or the place at which the books, records, and files
348 necessary to conduct such business are kept. Each such place of business shall be at least
349 250 square feet, furnished with a working telephone listed in the name of the licensee for
350 use in conducting the business, and ~~shall be~~ marked by an appropriate permanent sign as
351 prescribed by the appropriate division under this chapter."

SECTION 9.

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Code Section 48-5C-1 of the Official Code of Georgia Annotated, relating to alternative ad valorem tax on motor vehicles, is amended by adding a new paragraph to subsection (a), by revising paragraph (9) of subsection (d), and by adding a new subsection to read as follows:

"(3.1) 'Passive entity' means a person, other than an individual, formed under the laws of another state that does not have an established place of business in this state, owns no real property, and conducts no trade or business other than the holding of assets for investment and income."

"(9)(A) Any owner of any motor vehicle who fails to submit within 30 days of the date such owner is required by law to register such vehicle in this state an application for a first certificate of title under Code Section 40-3-21 or a certificate of title under Code Section 40-3-32 shall be required to pay a penalty in the amount of 10 percent of the state title ad valorem tax fees and 10 percent of the local title ad valorem tax fees required under this Code section and, if such state and local title ad valorem tax fees and the penalty are not paid within 60 days following the date such owner is required by law to register such vehicle, interest at the rate of 1 percent per month shall be imposed on the state and local title ad valorem tax fees due under this Code section, unless a temporary permit has been issued by the tax commissioner. The tax commissioner shall grant a temporary permit in the event the failure to timely apply for a first certificate of title is due to the failure of a lienholder to comply with Code Section 40-3-56, regarding release of a security interest or lien, and no penalty or interest shall be assessed. Such penalty and interest shall be in addition to the penalty and fee required under Code Section 40-3-21 or 40-3-32, as applicable.

(B) The penalties provided for in subparagraph (A) of this paragraph shall be double for any resident of this state who owns at least 50 percent of a passive entity that owns a motor vehicle that fails to submit within 60 days of the date such owner is required by law to register such vehicle in this state an application for a first certificate of title

379 under Code Section 40-3-21 or a certificate of title under Code Section 40-3-32 and
380 register such vehicle."

381 "(h) The commissioner shall be authorized in his or her sole discretion to share information
382 obtained for purposes of this Code section with the board established pursuant to
383 Chapter 47 of Title 43. Any confidential information furnished pursuant to this Code
384 section shall retain its character as confidential. Any person who divulges confidential
385 information obtained pursuant to this Code section shall be subject to the same penalties
386 as those provided for divulgence of information by employees of the department."

387 **SECTION 10.**

388 This Act shall become effective on January 1, 2026.

389 **SECTION 11.**

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