

SENATE SUBSTITUTE TO HB 551

ADOPTED SENATE

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 Chapter 1 of Title 44 of the Official Code of Georgia
15 Annotated, relating to general provisions relative to property, so as to authorize the
16 regulation of motor vehicle immobilization operators by the Department of Public Safety;
17 to limit the immobilization of trespassing vehicles to jurisdictions that have authorized such
18 activity by ordinance or resolution; to provide for fees; to provide for notice requirements;

19 to provide for licenses; to remove authority to impose a civil penalty; to amend Code Section
20 48-5C-1 of the Official Code of Georgia Annotated, relating to alternative ad valorem tax on
21 motor vehicles, so as to provide for enhanced penalty for an owner of a passive entity that
22 fails to pay alternative ad valorem tax; to provide for a definition; to provide for an effective
23 date; to provide for related matters; to repeal conflicting laws; and for other purposes.

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

25 SECTION 1.

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

30 "40-2-8.

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

43 ~~each violation; and each day that such vehicle is operated in violation of Code Section~~
44 ~~40-2-20 shall be deemed to be a separate and distinct offense.~~

45 (b)(1) It shall be unlawful and punishable as for a misdemeanor to operate any vehicle
46 required to be registered in this state pursuant to Code Section 40-2-20 without a valid
47 numbered license plate properly validated with a current revalidation decal, unless such
48 operation is otherwise permitted under this chapter; and provided, further, that the
49 purchaser of a new vehicle or a used vehicle from a dealer of new or used motor vehicles
50 who displays a temporary operating permit issued as provided by ~~paragraph (2) of this~~
51 ~~subsection~~ Code Section 40-2-8.1 may operate such vehicle on the public highways and
52 ~~streets~~ of this state without a current valid license plate during the period ~~within which~~
53 ~~the purchaser is required by Code Section~~ authorized by Code Sections 40-2-8.1
54 and 40-2-20. An owner acquiring a motor vehicle from an entity that is not a new or used
55 vehicle dealer shall register such vehicle as provided for in Code Section 40-2-29 unless
56 such vehicle is to be registered under the International Registration Plan pursuant to
57 Article 3A of this chapter.

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

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

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

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

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

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

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

99 **SECTION 2.**

100 Said title is further amended by revising Code Section 40-2-8.1, relating to operation of
101 vehicle without revalidation decal on license plate, as follows:

102 "40-2-8.1.

103 ~~Notwithstanding Code Section 40-2-8 or any other provision of law, a person who operates~~
104 ~~a vehicle which is required to be registered in this state and which has attached to the rear~~
105 ~~thereof a valid numbered license plate without having the required revalidation decal~~
106 ~~affixed upon that plate, which person is otherwise guilty of a misdemeanor for not having~~
107 ~~such decal affixed to the plate, shall be subject for that offense only to a fine not to exceed~~
108 ~~\$25.00 if that person shows to the court having jurisdiction of the offense that the proper~~
109 ~~revalidation decal had been obtained prior to the time of the offense.~~

110 (a) Any dealer of new or used motor vehicles other than a motor vehicle broker, as such
111 term is defined in Code Section 43-47-2, shall issue a temporary operating permit without
112 charge or fee to the purchaser of a vehicle at the time of sale thereof, unless such vehicle
113 is to be registered under the International Registration Plan or such dealer is one whose
114 primary business is the sale of salvage motor vehicles and other vehicles on which total
115 loss claims have been paid by insurers. Such temporary operating permit shall be of a
116 standard design prescribed the department; provided, however, that such permit shall not
117 resemble a license plate issued by this state. A temporary operating permit may bear the
118 name of the dealer and location and shall include an expiration date which shall be 45 days
119 from the date of purchase. The expiration date of a temporary operating permit may be
120 revised and extended by the county tag agent upon application by the dealer, purchaser, or
121 transferee if an extension of the purchaser's initial registration period has been granted as
122 provided by Code Section 40-2-20.

123 (b)(1) The department may provide by rule or regulation for the sale and distribution of
124 temporary operating permits to dealers by third parties through the development and
125 maintenance of an electronic temporary operating permit issuance system and establish
126 standards for distribution and issuance of such permits. The department may further
127 provide by rule or regulation for standards for authorized access to an electronic
128 temporary operating permit issuance system, which may include, but shall not be limited
129 to, required criminal background checks for any user of the system. Any third party
130 authorized to sell and distribute temporary operating permits shall maintain an inventory
131 record of such permits by number and name of the dealer.

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

150 information which may be available, and shall render a decision regarding access to the
151 electronic temporary operating permit issuance system within seven business days of
152 the informal conference. Upon a finding that such dealer violated the requirements of
153 this Code section or rules and regulations of the department, the department shall be
154 authorized to impose fines or fees as provided by law. The department shall not be
155 authorized to suspend access to the temporary operating permit system unless the
156 department finds a dealer to be substantially out of compliance with the requirements
157 of this Code section or the rules and regulations of the department and such dealer has
158 failed to produce satisfactory evidence of extenuating circumstances to justify such
159 noncompliance.

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

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

189

SECTION 3.

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

193 "(3) At the time of initial application for registration or at any time during the registration
194 period, a vehicle owner may file with the county tag agent, on a form or electronic form
195 prescribed by the commissioner, a request to have a vehicle license plate duplicated on
196 a digital license plate purchased from a digital license plate provider. Such request to the
197 county tag agent shall include all applicable registration fees. Upon approving the
198 application provided in this paragraph, the commissioner or county tag agent shall furnish
199 the digital license plate provider with the appropriate licensing information to be
200 displayed upon the digital license plate. In accordance with Code Section ~~40-2-8~~
201 40-2-8.1, a 45 day temporary operating permit shall be issued by the commissioner or

202 county tag agent to an applicant for a digital license plate until such license plate is
 203 received by the applicant."

204 **SECTION 4.**

205 Said title is further amended in Code Section 40-2-38, relating to registration and licensing
 206 of manufacturers, distributors, and dealers and issuance of manufacturer, manufacturer
 207 headquarters, distributor, and dealer plates, by revising paragraph (1) of subsection (a) and
 208 subsections (c) through (f) as follows:

209 "(a)(1) Manufacturers, manufacturer headquarters, distributors, and dealers other than
 210 a motor vehicle broker, as such term is defined in Code Section 43-47-2, engaged in the
 211 manufacture, sale, or leasing of vehicles required to be registered under Code Section
 212 40-2-20 shall register by electronic means with the commissioner, making application for
 213 a distinguishing ~~dealer's number, specifying the name and make of motor vehicle, tractor,~~
 214 ~~or trailer manufactured, sold, or leased by them~~ number, upon forms prepared by the
 215 commissioner for such purposes, and pay therefor a fee of \$62.00, which shall
 216 accompany such application. Upon payment of such fee by ~~a dealer~~ an applicant, the
 217 commissioner shall furnish ~~to the dealer~~ one master number plate to expire each year in
 218 accordance with ~~subsection (f) of this Code section, to be known as a dealer's number and~~
 219 ~~to~~ based upon the type of master number plate issued. Each additional plate issued
 220 pursuant to this Code section shall require payment of a \$12.00 fee. Each master number
 221 plate and any additional plates issued pursuant to this Code section shall be distinguished
 222 from the ~~number~~ license plates provided for in this chapter by different and distinguishing
 223 colors to be determined by the commissioner. The dealer plate for a franchise motor
 224 vehicle dealer shall be distinguishable from the dealer plate for a used car dealer and from
 225 the dealer plate for a motor vehicle wholesaler. Except as otherwise authorized by this
 226 Code section, a dealer's master number plate or additional plates issued pursuant to this
 227 Code section shall be ~~A dealer's number plate~~ is for the purpose of demonstrating or

228 transporting ~~the dealer's~~ vehicles or trailers for sale or lease. Persons engaged in the
229 business of transporting vehicles for a dealer under a vehicle's own power shall be
230 permitted to use such dealer's plate for the purpose of transporting a vehicle."

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

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

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

244 ~~(f)(1)~~(e) Except as otherwise provided for in this Code section, the The expiration of a
245 license plate issued pursuant to this Code section shall be the last day of the registration
246 period as provided in division (a)(1)(A)(ii) of Code Section 40-2-21, except that for the
247 purposes of this subsection, the registration period shall be determined by the first letter of
248 the legal name of the business listed on the application for registration or renewal of
249 registration. An application for renewal of registration shall not be submitted earlier than
250 90 days prior to the last day of the registration period. A penalty of 25 percent of the total
251 registration fees due shall be assessed any person registering pursuant to this Code section
252 who, prior to the expiration of such person's registration period, fails to apply for renewal
253 or if having applied fails to pay the required fees.

254 ~~(2) A transition period shall commence on October 1, 2007, and conclude on December~~
255 ~~31, 2007, for all existing registrations and any new registration applications presented~~
256 ~~prior to January 1, 2008. On or after January 1, 2008, new applications for registration~~
257 ~~shall be submitted and remain valid until the expiration of such registration as specified~~
258 ~~in paragraph (1) of this subsection."~~

259

SECTION 5.

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

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

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

280 (5) A person or entity authorized by the commissioner for use in providing notice to the
281 owners of towed or impounded vehicles; and
282 (6) The board established pursuant to Chapter 47 of Title 43 for use in carrying out its
283 functions."

284 **SECTION 6.**

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

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

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

300 **SECTION 7.**

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

305 "(a)(1) Except as provided in paragraph (2) of this subsection, a dealer who buys a
306 vehicle and holds it for resale need not apply to the commissioner for a new certificate
307 of title but may retain the delivered certificate ~~delivered to him~~. Upon transferring the
308 vehicle to another person other than by the creation of a security interest, such dealer
309 shall promptly execute the assignment and warranty of title by a dealer. Such assignment
310 and warranty shall show the names and addresses of the transferee and any holder of a
311 security interest created or reserved at the time of the resale and the date of ~~his~~ the
312 security agreement, in the spaces provided therefor on the certificate or as the
313 commissioner prescribes. Transfers of vehicles under this Code section shall otherwise
314 conform with Code Section 40-3-32. A dealer selling a previously registered vehicle for
315 ~~which under this chapter need not have~~ a certificate of title is not required under this
316 chapter need not furnish a purchaser of such a vehicle a certificate of title. After a
317 previously registered vehicle has been brought under the terms of this chapter, a dealer,
318 when selling that vehicle, shall conform to all provisions of this chapter.

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

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

331 (b) Every dealer shall maintain a record, in the form the commissioner prescribes, of every
332 vehicle bought, sold, or exchanged ~~by him~~, or received ~~by him~~ for sale or exchange. Such
333 record shall be kept for three years and shall be open to inspection by a representative of
334 the commissioner during reasonable business hours. The information contained in records
335 maintained by a dealer pursuant to this subsection shall be an accurate representation of the
336 transaction, and no alternative versions of records shall be produced for a purchaser with
337 information which differs from that contained in records maintained for inspection by the
338 department."

339 "(f) The department shall be authorized to assess a civil penalty against a dealer of up to
340 \$500.00 for each sales transaction conducted in violation of subsection (b) of this Code
341 section.

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

344 **SECTION 8.**

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

348 "(3) 'Established place of business' means a salesroom or sales office in a building or on
349 an open lot of a retail used car dealership or at which a permanent business of bartering,
350 trading, offering, displaying, selling, buying, dismantling, or rebuilding wrecked or used
351 motor vehicles or parts is carried on, or the place at which the books, records, and files
352 necessary to conduct such business are kept. Each such place of business shall be at least
353 250 square feet, furnished with a working telephone listed in the name of the licensee for
354 use in conducting the business, and ~~shall be~~ marked by an appropriate permanent sign as
355 prescribed by the appropriate division under this chapter."

SECTION 9.

356

357 Chapter 1 of Title 44 of the Official Code of Georgia Annotated, relating to general
358 provisions relative to property, is amended in Code Section 44-1-13, relating to removal of
359 improperly parked cars or trespassing personal property, concurrent jurisdiction, procedure,
360 automatic surveillance prohibited, and penalty, by adding a new paragraph to subsection (a)
361 and revising subsections (a.1), (b), and (f) as follows:

362 "(1.1) 'Immobilization device' means any mechanical device designed or used to be
363 attached to a wheel, tire, or other part of a parked motor vehicle so as to prohibit the
364 motor vehicle's usual manner of movement or operation."

365 "(a.1) Any person or his or her authorized agent entitled to the possession of any private
366 property shall have the right to remove or cause to be removed from the property or
367 immobilize or cause to be immobilized any vehicle or ~~trespassing~~ personal property
368 trespassing thereon which is not authorized to be at the place where it is found and to store
369 or cause to be stored such trespassing vehicle or ~~trespassing~~ personal property, provided
370 that there shall have been conspicuously posted on the private property notice that any
371 trespassing vehicle or ~~trespassing~~ personal property which is not authorized to be at the
372 place where it is found may be immobilized or removed at the expense of the owner of the
373 trespassing vehicle or ~~trespassing~~ personal property. Such notice shall also include
374 information as to the contact information for removal of an immobilization device, the full
375 legal names of the company conducting the immobilization and the property owner where
376 the immobilization occurred, the fee amount for removal of an immobilization device,
377 location where the removed vehicle or personal property can be recovered, the cost of said
378 recovery, and information as to the form of payment; provided, however, that the owner
379 of residential private property containing not more than four residential units shall not be
380 required to comply with the posting requirements of this subsection. Only towing and
381 storage firms issued permits or licenses by the local governing authority of the jurisdiction
382 in which they operate or by the department, and having a secure impoundment facility,

383 shall be permitted to remove trespassing ~~property and trespassing vehicles and~~ personal
384 property at the request of the owner or authorized agent of the private property. Only
385 persons issued a permit by the department and operating in a jurisdiction which has
386 authorized the immobilization of trespassing vehicles by ordinance or resolution of the
387 governing authority shall be authorized to place an immobilization device upon a
388 trespassing vehicle.

389 (b)(1) The department shall have the authorization to regulate and control the
390 immobilization and towing of trespassing vehicles on private property if such
391 immobilization or towing is performed without the prior consent or authorization of the
392 owner or operator of the vehicle, including the authority to set just and reasonable rates,
393 fares, and charges for services related to the immobilization, removal, storage, and
394 required notification to owners of such ~~towed~~ vehicles. No storage fees shall be charged
395 for the first 24 hour period which begins at the time the vehicle is removed from the
396 property, ~~and no such~~. No fees shall be allowed for the immobilization or removal and
397 storage of vehicles ~~removed by towing and storage firms by persons~~ found to be in
398 violation of this Code section. ~~The department is authorized to impose a civil penalty for~~
399 ~~any violation of this Code section in an amount not to exceed \$2,500.00.~~

400 (2) In accordance with subsection (d) of this Code section, the governing authority of a
401 municipality may require towing and storage ~~operators~~ firms to charge lower maximum
402 rates on traffic moving between points within such municipality than those provided by
403 the department's maximum rate tariff and may require higher public liability insurance
404 limits and cargo insurance limits than those required by the department. The governing
405 authority of a municipality shall not provide for higher maximum costs of
406 immobilization, removal, relocation, or storage than is provided for by the department."

407 "(f) It shall be unlawful and punishable by a fine of \$1,000.00 for any immobilization
408 device operator or towing and storage firm, permitted or unpermitted, licensed or
409 unlicensed, to enter into any agreement with any person in possession of private property

410 to provide automatic or systematic surveillance of such property for purposes of
 411 immobilization or removal and relocation of any ~~such trespassing~~ vehicle or ~~trespassing~~
 412 personal property except upon call by such person in possession of such private property
 413 to such immobilization device operator or towing and storage firm for each individual case
 414 of trespass; provided, further, that it shall be unlawful and punishable by a fine of
 415 \$1,000.00 for any ~~towing and storage firm person~~ to pay to any private property owner or
 416 one in possession of private property any fee or emolument, directly or indirectly, for the
 417 right to immobilize or remove a ~~trespassing~~ vehicle or ~~trespassing~~ personal property from
 418 said private property."

419

SECTION 10.

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

423 "(3.1) 'Passive entity' means a person, other than an individual, formed under the laws
 424 of another state that does not have an established place of business in this state, owns no
 425 real property, and conducts no trade or business other than the holding of assets for
 426 investment and income."

427 "(9)(A) Any owner of any motor vehicle who fails to submit within 30 days of the date
 428 such owner is required by law to register such vehicle in this state an application for a
 429 first certificate of title under Code Section 40-3-21 or a certificate of title under Code
 430 Section 40-3-32 shall be required to pay a penalty in the amount of 10 percent of the
 431 state title ad valorem tax fees and 10 percent of the local title ad valorem tax fees
 432 required under this Code section and, if such state and local title ad valorem tax fees
 433 and the penalty are not paid within 60 days following the date such owner is required
 434 by law to register such vehicle, interest at the rate of 1 percent per month shall be
 435 imposed on the state and local title ad valorem tax fees due under this Code section,

436 unless a temporary permit has been issued by the tax commissioner. The tax
437 commissioner shall grant a temporary permit in the event the failure to timely apply for
438 a first certificate of title is due to the failure of a lienholder to comply with Code
439 Section 40-3-56, regarding release of a security interest or lien, and no penalty or
440 interest shall be assessed. Such penalty and interest shall be in addition to the penalty
441 and fee required under Code Section 40-3-21 or 40-3-32, as applicable.

442 (B) The penalties provided for in subparagraph (A) of this paragraph shall be double
443 for any resident of this state who owns at least 50 percent of a passive entity that owns
444 a motor vehicle that fails to submit within 60 days of the date such owner is required
445 by law to register such vehicle in this state an application for a first certificate of title
446 under Code Section 40-3-21 or a certificate of title under Code Section 40-3-32 and
447 register such vehicle."

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

454 **SECTION 11.**

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

456 **SECTION 12.**

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