

The House Committee on Motor Vehicles offers the following substitute to SB 293:

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 revise penalties for certain offenses relative to license plates, revalidation
3 decals, temporary operating permits, certificates of registration, certificates of title, and
4 alteration of odometers; to provide for limitations on the private use of dealer vehicles by
5 employees; to provide for required material and design of a dealer's license plate; to amend
6 Chapter 47 of Title 43 of the Official Code of Georgia Annotated, relating to used motor
7 vehicles and used motor vehicle parts dealers, so as to provide that the State Board of
8 Registration of Used Motor Vehicle Dealers and Used Motor Vehicle Parts Dealers be
9 subject to the "Georgia Administrative Procedure Act"; to provide for requirements for
10 licensure as a used motor vehicle dealer or used motor vehicle parts dealer; to authorize
11 investigations by the Department of Revenue; to provide for related matters; to repeal
12 conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **PART I**

15 **SECTION 1-1.**

16 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
17 amended by revising Code Section 40-2-4, relating to manufacture, sale, or issuance of
18 license plate or revalidation decal prohibited, as follows:

19 "40-2-4.

20 (a) Except as otherwise provided for in Article 2B of this chapter, it shall be unlawful for
21 any person, firm, or corporation to make, sell, or issue any license plate or revalidation
22 decal.

23 (b) Any person, firm, or corporation violating subsection (a) of this Code section shall be
24 guilty of a ~~misdemeanor~~ felony."

25 **SECTION 1-2.**

26 Said title is further amended by revising Code Section 40-2-5, relating to unlawful actions
27 relating to license plate and use of expired prestige license plate, as follows:

28 "40-2-5.

29 (a) Except as otherwise provided in this chapter, it shall be unlawful:

30 (1) To remove or transfer a license plate from the motor vehicle for which such license
31 plate was issued;

32 (2) To sell or otherwise transfer or dispose of a license plate upon or for use on any
33 motor vehicle other than the vehicle for which such license plate was issued;

34 (3) To buy, receive, use, or possess for use on a motor vehicle any license plate not
35 issued for use on such motor vehicle; or

36 (4) To operate a motor vehicle bearing a license plate which was improperly removed
37 or transferred from another vehicle.

38 (b) Any person who shall knowingly violate any provision of subsection (a) of this Code
 39 section shall be guilty of a misdemeanor of a high and aggravated nature and, upon
 40 conviction thereof, shall be punished by a fine of not less than ~~\$500.00~~ \$750.00 or by
 41 confinement for not more than 12 months, or both.

42 (c) It shall not be unlawful for any person to place an expired prestige license plate on the
 43 front of a motor vehicle provided that such vehicle also bears a current valid license plate
 44 on the rear of such vehicle."

45 SECTION 1-3.

46 Said title is further amended by revising Code Section 40-2-6, relating to alteration of license
 47 plates and operation of vehicle with altered or improperly transferred plate, as follows:

48 "40-2-6.

49 Except as otherwise provided in this chapter, any person who shall willfully mutilate,
 50 obliterate, deface, alter, change, or conceal any numeral, letter, character, county
 51 designation, or other marking of any license plate issued under the motor vehicle
 52 registration laws of this state; who shall knowingly operate a vehicle bearing a license plate
 53 on which any numeral, letter, character, ~~county designation~~, or other marking has been
 54 willfully mutilated, obliterated, defaced, altered, changed, or concealed; or who shall
 55 knowingly operate a vehicle bearing a license plate issued for another vehicle and not
 56 properly transferred as provided by law shall be guilty of a misdemeanor and, upon
 57 conviction thereof, shall be punished by a fine of not less than \$750.00 or by confinement
 58 of not more than 12 months, or both."

59 SECTION 1-4.

60 Said title is further amended by revising Code Section 40-2-6.1, relating to obscuring license
 61 plate in order to impede surveillance equipment, as follows:

62 "40-2-6.1.

63 Any person who willfully covers any license plate with plastic, other material, or any part
64 of his or her body in order to prevent or impede the ability of surveillance equipment to
65 clearly photograph or otherwise obtain a clear image of the license plate is guilty of a
66 misdemeanor and ~~shall be punished by a fine not to exceed \$1,000.00~~ and, upon conviction
67 thereof, shall be punished by a fine of not less than \$750.00 or by confinement of not more
68 than 12 months, or both."

69 **SECTION 1-5.**

70 Said title is further amended by revising Code Section 40-2-7, relating to removing or
71 affixing license plate with intent to conceal or misrepresent, as follows:

72 "40-2-7.

73 A person who removes a license plate from a vehicle or affixes to a vehicle a license plate
74 not authorized by law for use on it, in either case with intent to conceal or misrepresent the
75 identity of the vehicle or its owner, is guilty of a misdemeanor and, upon conviction
76 thereof, shall be punished by a fine of not less than \$750.00 or by confinement of not more
77 than 12 months, or both. As used in this Code section, 'remove' includes deface or
78 destroy."

79 **SECTION 1-6.**

80 Said title is further amended by revising Code Section 40-2-8.1, relating to issuance of
81 temporary operating permits, electronic temporary operating permit issuance system, system
82 access, and suspension from system, as follows:

83 "40-2-8.1.

84 (a) As used in this Code section, the term 'dealer' means any person who is engaged, in
85 whole or in part, in the business of selling, exchanging, renting with an option to purchase,
86 or offering an interest in motor vehicles for commission or with intent to make a profit or

87 gain of money or other thing of value, whether or not such motor vehicles are owned by
88 such person, and demonstrates an annual motor vehicle sales history of at least five motor
89 vehicle sales as identified by department records or documentation approved by the
90 department.

91 (b) Any dealer of new or used motor vehicles shall issue a temporary operating permit
92 without charge or fee to the purchaser of a vehicle at the time of sale thereof, unless such
93 vehicle is to be registered under the International Registration Plan or such dealer is one
94 whose primary business is the sale of salvage motor vehicles and other vehicles on which
95 total loss claims have been paid by insurers. Such temporary operating permit shall be of
96 a standard design prescribed the department; provided, however, that such permit shall not
97 resemble a license plate issued by this state. A temporary operating permit may bear the
98 name of the dealer and location and shall include an expiration date which shall be 45 days
99 from the date of purchase and the vehicle identification number of the vehicle to which it
100 is assigned. The expiration date of a temporary operating permit may be revised and
101 extended by the county tag agent upon application by the dealer, purchaser, or transferee
102 if an extension of the purchaser's initial registration period has been granted as provided
103 by Code Section 40-2-20.

104 (c)(1) The department may provide by rule or regulation for the sale and distribution of
105 temporary operating permits to dealers by third parties through the development and
106 maintenance of an electronic temporary operating permit issuance system and establish
107 standards for distribution and issuance of such permits. The department may further
108 provide by rule or regulation for standards for authorized access to an electronic
109 temporary operating permit issuance system, which may include, but shall not be limited
110 to, required criminal background checks for any user of the system and periodic audits.
111 Any third party authorized to sell and distribute temporary operating permits shall
112 maintain an inventory record of such permits by number and name of the dealer.

113 (2)(A) The department shall be authorized to suspend access to the electronic
114 temporary operating permit issuance system established pursuant to this Code section
115 for any dealer found to have issued temporary operating permits for a vehicle which has
116 not been sold or intended to be registered or otherwise violated requirements for
117 issuance of such permits established by rule or regulation of the department after
118 issuance of notice of such violation by electronic means and opportunity for informal
119 review as set forth in this subparagraph. Any dealer who has received notice pursuant
120 to this subsection of an alleged violation and for whom the department intends to
121 suspend access to the electronic temporary operating permit issuance system may
122 request an informal review of the allegations with the department. The method for
123 making such request shall be developed by the department and may be by electronic
124 means. Upon receipt of such request for informal review, the department shall, within
125 ten business days, schedule an informal conference with such dealer to review the
126 suspected violations. Proceedings under this subparagraph shall not be governed by
127 any formal procedural requirements and may be conducted in such manner as the
128 department may establish by rule or regulation. The department shall consider the
129 historical use of the electronic temporary operating permit issuance system by the
130 dealer under consideration for access suspension, together with other pertinent
131 information which may be available, and shall render a decision regarding access to the
132 electronic temporary operating permit issuance system within seven business days of
133 the informal conference. Upon a finding that such dealer violated the requirements of
134 this Code section or rules and regulations of the department, the department shall be
135 authorized to impose fines or fees as provided by law. The department shall not be
136 authorized to suspend access to the temporary operating permit system unless the
137 department finds a dealer to be substantially out of compliance with the requirements
138 of this Code section or the rules and regulations of the department and such dealer has

139 failed to produce satisfactory evidence of extenuating circumstances to justify such
140 noncompliance.

141 (B) If the department suspends a dealer's access to the electronic temporary operating
142 permit issuance system established pursuant to this Code section after an informal
143 review held pursuant to subparagraph (A) of this paragraph, the suspended dealer shall
144 have the right to a formal hearing to review the suspension pursuant to Code
145 Section 40-3-6. Such hearing shall be held within 30 days of the department's decision
146 to suspend the dealer's access to the electronic temporary operating permit issuance
147 system and shall be conducted in accordance with Chapter 13 of Title 50, the 'Georgia
148 Administrative Procedure Act.' At such hearing, the department may present evidence
149 of any instances in which the suspended dealer unlawfully issued temporary operating
150 permits or issued fraudulent temporary operating permits. Upon a finding that the
151 suspended dealer is in compliance with the requirements of this Code section and has
152 issued temporary operating permits predominantly for bona fide motor vehicle sales,
153 the department shall provide for the immediate restoration of access to the electronic
154 temporary operating permit issuance system for such dealer but shall be authorized to
155 impose fines or fees as provided by law for failure to comply with the requirements of
156 this chapter. Upon a finding that the suspended dealer violated the requirements of this
157 Code section or rules and regulations of the department, the department shall be
158 authorized to extend the term of suspension for a period of up to 24 months. Upon a
159 finding that a dealer has unlawfully issued temporary operating permits in violation of
160 this chapter or rules and regulations of the department, the department shall further be
161 authorized to issue a civil monetary penalty in an amount no greater than \$100.00 per
162 violation, suspend or revoke the registration issued to a dealer pursuant to Code
163 Section 40-2-39, and suspend, confiscate, or limit issuance of any dealer plates issued
164 pursuant to Code Section 40-2-38 for a period of up to 24 months. The department
165 shall comply with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,'

166 in relation to the expedited review provided for in this subparagraph and the suspended
167 dealer shall have the right to appeal any decision of the department in accordance with
168 such chapter.

169 (d) The commissioner shall prepare an annual report to the General Assembly on activities
170 of the department relating to incidences of fraud and suspected fraud relating to dealers,
171 dealer license plates, and temporary operating permits.

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

174 **SECTION 1-7.**

175 Said title is further amended by revising Code Section 40-2-29, relating to registration and
176 license plate required, timing, required documentation, issuance of temporary operating
177 permit for vehicles failing emission inspection, and extensions, as follows:

178 "40-2-29.

179 (a) Except as otherwise provided in this chapter, any person purchasing or acquiring a
180 vehicle shall register and obtain, or transfer, a license plate to operate such vehicle from
181 the county tag agent in their county of residence no later than seven business days after the
182 date of purchase or acquisition of the vehicle by presenting to the county tag agent the
183 following:

184 (1) If applicable, a motor vehicle certificate of title or an application therefor as provided
185 in Chapter 3 of this title;

186 (2) Satisfactory proof of owner's insurance coverage as provided for in subsection (d) of
187 Code Section 40-2-26;

188 (3) If applicable, satisfactory proof of compliance with Article 2 of Chapter 9 of Title 12,
189 the 'Georgia Motor Vehicle Emission Inspection and Maintenance Act'; and

190 (4) Satisfactory proof that all fees, permits, and taxes have been paid.

191 (b) An application for registration shall be accompanied by check; cash; certified or
192 cashier's check; bank, postal, or express money order; or other similar bankable paper for
193 the required fee or any taxes required by law.

194 (c) Upon application for renewal of a vehicle registration, a person unable to fully comply
195 with the requirements of paragraph (3) of subsection (a) of this Code section shall receive
196 a temporary operating permit that shall be valid for 30 days.

197 (d) The commissioner may provide by rule or regulation for one 30 day extension of the
198 initial registration period which may be granted by the county tag agent if the transferor has
199 not provided such purchaser or other transferee owner with a title to the motor vehicle more
200 than five business days prior to the expiration of such initial registration period. The
201 county tag agent shall grant an extension of the initial registration period when the
202 transferor, purchaser, or transferee can demonstrate by affidavit in a form provided by the
203 commissioner that title has not been provided to the purchaser or transferee due to the
204 failure of a security interest holder or lienholder to timely release a security interest or lien
205 in accordance with Code Section 40-3-56.

206 ~~(e) A conviction for displaying a license plate or temporary operating permit not provided~~
207 ~~for in this chapter shall be punished as a misdemeanor."~~

208

SECTION 1-8.

209 Said title is further amended by revising Code Section 40-2-38, relating to registration and
210 licensing of manufacturers, distributors, and dealers and issuance of manufacturer,
211 manufacturer headquarters, distributor, and dealer license plates, as follows:

212 "40-2-38.

213 (a)(.1) As used in this Code section, the term 'dealer' shall have the same meaning as set
214 forth in Code Section 40-2-8.1.

215 (1) Manufacturers, manufacturer headquarters, distributors, and dealers engaged in the
216 manufacture, sale, or leasing of vehicles required to be registered under Code

217 Section 40-2-20 shall register by electronic means with the commissioner, making
218 application for a distinguishing number, upon forms prepared by the commissioner for
219 such purposes, and pay therefor a fee of \$62.00, which shall accompany such application.
220 Upon payment of such fee by an applicant, the commissioner shall furnish one master
221 number plate to expire each year in accordance with this Code section based upon the
222 type of master number plate issued. Each additional plate issued pursuant to this Code
223 section shall require payment of a \$12.00 fee. Each master number plate and any
224 additional plates issued pursuant to this Code section shall be distinguished from the
225 license plates provided for in this chapter by different and distinguishing colors to be
226 determined by the commissioner. The dealer plate for a ~~franchise~~ franchised motor
227 vehicle dealer shall be distinguishable from the dealer plate for a ~~car~~ motor vehicle
228 dealer and from the dealer plate for a motor vehicle wholesaler. Except as otherwise
229 authorized by this Code section, a dealer's master number plate or additional plates issued
230 pursuant to this Code section shall be for the purpose of demonstrating or transporting
231 vehicles or trailers for sale or lease. Persons engaged in the business of transporting
232 vehicles for a dealer under a vehicle's own power shall be permitted to use such dealer's
233 plate for the purpose of transporting a vehicle.

234 (2) No dealer may use or permit to be used a dealer's number for private use, on ~~cars~~
235 motor vehicles for hire or lease, or in any other manner not provided for in this Code
236 section. A dealer may use or permit to be used a dealer's number for private use on
237 vehicles owned for purposes of sale or lease by the dealership, regardless of whether such
238 vehicle has been issued a certificate of title or registered, when such vehicles are operated
239 by an employee or corporate officer of the dealer which has been issued such number.
240 A distinguishing dealer's number used by an employee or officer for private use shall
241 authorize such person to operate the vehicle to which the number is attached on the public
242 highways and streets. ~~For purposes of,~~ provided that such use shall be for no more than

243 six months per vehicle. As used in this paragraph, the term 'employee' means a person
244 who works a minimum of 36 hours per week at the dealership.

245 (3) The manufacturer's or distributor's license plate is limited to no longer than six
246 months' use per vehicle. Upon payment of such a fee by a manufacturer or distributor,
247 the commissioner shall issue to manufacturers and distributors number plates with the
248 word 'Manufacturer' or 'Distributor' on such plates. Nothing in this subsection shall
249 preclude a manufacturer or distributor from using a 'Manufacturer' or 'Distributor' number
250 plate on motor vehicles it owns when such vehicles are used for evaluation or
251 demonstration purposes, notwithstanding incidental personal use by a manufacturer or
252 distributor. A dealer may apply for one or more distinguishing dealer's numbers. In the
253 event the dealers, distributors, or manufacturers desire more than one tag, they shall so
254 state on the application, and, in addition to the fee of \$62.00 provided in this Code
255 section, shall pay \$12.00 for each and every additional number plate furnished.

256 (4)(A) Upon application and payment of the required fee, the commissioner shall issue
257 to manufacturer headquarters or its affiliate number license plates with the words
258 'Manufacturer HQ' on such plates. The manufacturer headquarters' license plates ~~must~~
259 shall be used exclusively on motor vehicles owned or in possession of a manufacturer
260 headquarters or its affiliate. Such manufacturer headquarters' license plates are limited
261 to no longer than 24 months' use per vehicle.

262 (B) A manufacturer headquarters or its affiliate shall apply on a form prescribed by the
263 commissioner and shall provide proof that the applicant:

264 (i) Is a bona fide manufacturer headquarters; and
265 (ii) Maintains a system of records regarding use of such license plates. The
266 manufacturer headquarters shall state in each application the number of manufacturer
267 headquarters' license plates requested.

268 (C) The manufacturer headquarters or its affiliate shall pay an application fee of \$62.00
269 per application as provided in this Code section and shall pay \$12.00 for each and every

270 plate furnished. With respect to any manufacturer headquarters' license plate issued to
271 a manufacturer headquarters or its affiliate, notwithstanding anything to the contrary
272 in this title or Code Section 48-5C-1, such manufacturer headquarters or its affiliate,
273 and any person operating or possessing a motor vehicle using a manufacturer
274 headquarters' license plate pursuant to this paragraph, shall not be subject to state or
275 local title ad valorem tax fees with respect to such vehicle or manufacturer
276 headquarters' license plate.

277 (D) The manufacturer headquarters or its affiliate shall maintain a system of records
278 regarding the motor vehicle to which the manufacturer headquarters' license plate will
279 be attached. Such record shall, at a minimum, contain the:

- 280 (i) ~~Vehicle Identification Number (VIN)~~ identification number;
- 281 (ii) Name and address of the primary individual operating the vehicle; and
- 282 (iii) Manner of use of the vehicle selected from the alternative uses referenced in
283 subparagraph (E) of this paragraph.

284 (E) Vehicles with manufacturer headquarters' license plates may be operated by
285 persons authorized by the manufacturer headquarters or its affiliate on vehicles of its
286 brand for the following manners of use:

- 287 (i) Evaluation, marketing, or demonstration purposes, notwithstanding incidental
288 personal use by a manufacturer headquarters' authorized employee or other authorized
289 person designated by such manufacturer headquarters or its affiliate; or
- 290 (ii) As part of a vehicle leasing program operated by such manufacturer headquarters
291 or its affiliate for the benefit of employees. Any operation of a motor vehicle by a
292 person for an approved use pursuant to this subparagraph shall be deemed to be a
293 demonstration of the motor vehicle for purposes of Code Section 48-8-39.

294 (5) The commissioner shall include a distinctive logo or emblem for any manufacturer's,
295 distributor's, or manufacturer headquarters' license plate to be attached to an alternative
296 fueled vehicle, as such term is defined in paragraph (7) of subsection (l) of Code

297 Section 40-2-86.1. Alternative fuel vehicles bearing a special license plate pursuant to
298 this subsection shall be subject to the alternative fuel vehicle fees as set forth in paragraph
299 (19) of subsection (a) of Code Section 40-2-151 at the time of initial issuance and
300 annually thereafter in a manner prescribed by the commissioner. Display of a special
301 license plate issued pursuant to this paragraph shall authorize travel by such alternative
302 fueled vehicle in lanes for exclusive or preferential use designated pursuant to Code
303 Section 32-9-4.

304 (b)(1) Dealer plates shall be issued in the following manner:

305 (A) Dealers shall be issued a master plate and two additional plates, for a total of three
306 initial plates; and

307 (B) In addition to the three dealer plates issued in accordance with subparagraph (A)
308 of this paragraph, each dealer may also be issued one additional dealer plate for every
309 20 units sold in a calendar year.

310 (2) In order to determine the additional number and classification of plates to be issued
311 to a dealer, a dealer shall be required to certify by affidavit to the department the number
312 of retail and wholesale units sold in the prior calendar year using the past motor vehicle
313 sales history of the dealer as identified by department records or documentation approved
314 by the department. If no sales history is available, the department shall issue a number
315 of plates based on an estimated number of sales for the coming calendar year. The
316 department may, in its discretion, request documentation supporting sales history and
317 may increase or decrease the number and classification of plates issued based on actual
318 sales.

319 (b.1) On and after January 1, 2027, the license plates issued pursuant to this Code section
320 shall be of a metal material and feature raised text and designs created by stamping dies.

321 (c) The license plates issued pursuant to this Code section shall be revoked and confiscated
322 upon a determination after a hearing that such dealer, distributor, manufacturer, or

323 manufacturer headquarters has unlawfully used such license plates in violation of this Code
324 section.

325 (d) If a license plate issued pursuant to this Code section is lost or stolen, the dealer,
326 manufacturer, distributor, manufacturer headquarters, or other party to whom the license
327 plate was issued shall immediately report the lost or stolen plate to local law enforcement
328 agencies. If a replacement license plate is sought, the dealer, manufacturer, distributor,
329 manufacturer headquarters, or other party to whom the license plate was issued shall file
330 a notarized affidavit with the department requesting a replacement plate. Such affidavit
331 shall certify under penalty of perjury that the license plate has been lost or stolen and that
332 the loss has been reported to a local law enforcement agency.

333 (e) Except as otherwise provided for in this Code section, the expiration of a license plate
334 issued pursuant to this Code section shall be the last day of the registration period as
335 provided in division (a)(1)(A)(ii) of Code Section 40-2-21, except that for the purposes of
336 this subsection, the registration period shall be determined by the first letter of the legal
337 name of the business listed on the application for registration or renewal of registration.
338 An application for renewal of registration shall not be submitted earlier than 90 days prior
339 to the last day of the registration period. A penalty of 25 percent of the total registration
340 fees due shall be assessed any person registering pursuant to this Code section who, prior
341 to the expiration of such person's registration period, fails to apply for renewal or, if having
342 applied, fails to pay the required fees."

343 **SECTION 1-9.**

344 Said title is further amended by revising Code Section 40-2-41, relating to display of license
345 plates, as follows:

346 "40-2-41.

347 Unless otherwise permitted under this chapter, every vehicle required to be registered under
348 this chapter, which is in use upon the highways, shall at all times display the license plate

349 issued to the owner for such vehicle, and the plate shall be fastened to the rear of the
 350 vehicle in a position so as not to swing and shall be at all times plainly visible. No person
 351 shall display on the rear of a motor vehicle any temporary or permanent plate or tag not
 352 issued by the State of Georgia which is intended to resemble a license plate which is issued
 353 by the State of Georgia. The commissioner is authorized to adopt rules and regulations so
 354 as to permit the display of a license plate on the front of certain vehicles. It shall be the
 355 duty of the operator of any vehicle to keep the license plate legible at all times. No license
 356 plate shall be covered with any material unless the material is colorless and transparent.
 357 No apparatus that obstructs or hinders the clear display and legibility of a license plate shall
 358 be attached to the rear of any motor vehicle required to be registered in the state. Any
 359 person who violates any provision of this Code section shall be guilty of a misdemeanor,
 360 and when he or she is found to have violated this Code section for the purposes of willfully
 361 concealing or obscuring the information on a license plate, he or she shall be punished by
 362 a fine of not less than \$750.00 or by confinement of not more than 12 months, or both."

363 **SECTION 1-10.**

364 Said title is further amended by revising Code Section 40-3-90, relating to certain acts
 365 declared felonies, as follows:

366 "40-3-90.

367 The following acts shall be punishable by a felony when a ~~A~~ person who, with fraudulent
 368 intent:

- 369 (1) Alters, forges, or counterfeits a certificate of title;
 370 (2) Alters or forges an assignment of a certificate of title or an assignment or release of
 371 a security interest on a certificate of title or a form the commissioner prescribed;
 372 (3) Has possession of or uses a certificate of title knowing it to have been altered, forged,
 373 or counterfeited;

- 374 (4) Uses a false or fictitious name or address or makes a material false statement, or fails
 375 to disclose a security interest, or conceals any other material fact in an application for a
 376 certificate of title;
- 377 (5) Alters or forges a notice of a transaction concerning a security interest or lien
 378 reflected on the certificate of title as provided by Code Section 40-3-27;
- 379 (6) Knowingly falsifies any information on the statement required by paragraph (2) of
 380 subsection (a) of Code Section 40-3-36; ~~or~~
- 381 (7) Knowingly falsifies the odometer reading on a certificate of title;
- 382 (8) Knowingly makes any false statement in any certificate of title application as to the
 383 date a vehicle was sold or acquired or as to the date of creation of a security interest or
 384 lien; or
- 385 ~~(7)(9)~~ Willfully violates any other provision of this chapter after having previously
 386 violated the same or any other provision of this chapter and having been convicted of that
 387 act in a court of competent jurisdiction
 388 ~~shall be guilty of a felony."~~

389 **SECTION 1-11.**

390 Said title is further amended by revising Code Section 40-3-91, relating to certain acts
 391 declared misdemeanors, as follows:

392 "40-3-91.

393 (a) The following acts shall be punishable by a misdemeanor when a person ~~A person~~
 394 ~~who:~~

395 (1) With fraudulent intent, permits another, not entitled thereto, to use or have possession
 396 of a certificate of title;

397 (2) Willfully fails to mail or deliver a certificate of title to the commissioner or to the
 398 purchaser of the motor vehicle or a release of security interest or lien to the owner within
 399 ten days of the time required by this chapter, except as provided in Code Section 40-3-90;

400 (3) Willfully fails or refuses to mail or deliver the certificate of title to the commissioner
 401 within ten days after having received a notice, as provided for in Code Section 40-3-27
 402 or 40-3-52; or

403 (4) Willfully violates any other provision of this chapter
 404 shall be guilty of a misdemeanor.

405 ~~(b) Any person, firm, or corporation which knowingly makes any false statement in any~~
 406 ~~title application as to the date a vehicle was sold or acquired or as to the date of creation~~
 407 ~~of a security interest or lien shall be guilty of a misdemeanor and, upon conviction thereof,~~
 408 ~~shall be fined not more than \$100.00 or imprisoned for a period not to exceed 30 days.~~

409 ~~(c)~~(b) Any person, firm, or corporation which delivers or accepts a certificate of title
 410 assigned in blank shall be guilty of a misdemeanor and, upon conviction thereof, shall be
 411 fined not more than ~~\$100.00~~ or imprisoned \$750.00 or confined for a period not to exceed
 412 30 days for the acceptance or delivery of each certificate of title assigned in blank."

413 **SECTION 1-12.**

414 Said title is further amended by revising Code Section 40-8-5, relating to alteration of
 415 odometer, involvement with devices which cause odometer to register other than actual
 416 mileage, and penalties, as follows:

417 "40-8-5.

418 (a) It shall be unlawful for any person knowingly to tamper with, adjust, alter, change, set
 419 back, disconnect, or fail to connect an odometer of a motor vehicle, or to cause any of the
 420 foregoing to occur to an odometer of a motor vehicle, so as to reflect a lower mileage than
 421 the motor vehicle has actually been driven, except as provided in this Code section.

422 (b) It shall be unlawful for any person knowingly to bring into this state a motor vehicle
 423 which reflects a lower mileage than the motor vehicle actually has been driven due to any
 424 illegal acts outlined in subsection (a) of this Code section.

425 (c) It shall be unlawful for any person knowingly to sell or attempt to sell a motor vehicle
426 which reflects a lower mileage than the motor vehicle actually has been driven due to any
427 illegal acts outlined in subsection (a) of this Code section.

428 (d) Subsections (a), (b), and (c) of this Code section shall not apply to the disconnection
429 of the odometer used for registering the mileage or use of new motor vehicles being tested
430 by the manufacturer prior to delivery to a franchised motor vehicle dealer.

431 (e) It shall be unlawful for any person to advertise for sale, to sell, to use, to install, or to
432 have installed any device which causes an odometer to register any mileage other than the
433 actual mileage driven. For the purposes of this subsection, the actual mileage driven is that
434 mileage driven by the vehicle as registered by the odometer within the manufacturer's
435 designed tolerance.

436 (f) It shall be unlawful for any person to conspire with any other person to violate this
437 Code section.

438 (g)(1) In addition to any other penalty provided by law, any person who, with intent to
439 defraud, violates this Code section shall be liable in an amount equal to the sum of:

440 (A) Three times the amount of actual damages sustained or ~~\$1,500.00~~ \$10,000.00,
441 whichever is greater; and

442 (B) In the case of any successful action to enforce the foregoing liability, the costs of
443 the action, together with reasonable attorney's fees, as determined by the court.

444 (2) Any action to enforce any liability created under this subsection may be brought in
445 any superior court or state court having proper jurisdiction, within two years from the
446 date on which the liability arises.

447 (h)(1) If any person violates any provision of this Code section, the Attorney General,
448 any district attorney in this state, or any solicitor-general in this state may bring an action
449 in any superior court or state court having jurisdiction to restrain such violation.

450 (2) Any action arising under paragraph (1) of this subsection may be brought within two
451 years from the date of the violation.

452 (i) Any person violating this Code section shall be guilty of a ~~misdemeanor~~ felony."

453

PART II

454

SECTION 2-1.

455 Chapter 47 of Title 43 of the Official Code of Georgia Annotated, relating to used motor
456 vehicles and used motor vehicle parts dealers, is amended by adding a new Code section to
457 read as follows:

458 "43-47-6.1.

459 The board established pursuant to this chapter shall be subject to Chapter 13 of Title 50,
460 the 'Georgia Administrative Procedure Act.'"

461

SECTION 2-2.

462 Said chapter is further amended in Code Section 43-47-8, relating to application for used
463 motor vehicle or used motor vehicle parts dealer licenses, bonding and insurance
464 requirements, supplemental licenses, and renewal, by revising subsection (a) and
465 paragraph (1) of subsection (d) as follows:

466 "(a) Any person desiring a license to be a used motor vehicle dealer or a used motor
467 vehicle parts dealer in this state shall submit an application on a form and in such manner
468 as may be prescribed by the board, which shall be accompanied by any applicable fees and
469 evidence satisfactory to the board that the applicant:

470 (1) Maintains an established place of business;

471 (2) Is a resident of this state or lists an agent for service of process who is a resident of
472 this state;

473 (3) Has, within the preceding 12 months, attended a board approved training and
474 information seminar, which shall not exceed one day in length, or passed a board
475 approved examination, either of which shall relate to the requirements of licensees

476 provided in this chapter, including books and records to be kept, requirements of the
 477 Department of Revenue applicable to licensees, and such other topics as in the opinion
 478 of the board promote good business practices of licensees;

479 ~~(3)~~(4) Has applied for or obtained a certificate of registration; for sales and use tax with
 480 the Department of Revenue ~~Form ST-2~~;

481 ~~(4)~~(5) Has posted or has made provision for the posting of the bond required under
 482 subsection (d) of this Code section; and

483 ~~(5)~~(6) Maintains any liability and property damage insurance required under
 484 subsection (e) of this Code section."

485 "(d)(1) Licensees shall be required, for each license or supplemental license issued in
 486 connection with an established place of business, to post a bond that is executed with a
 487 surety company duly authorized to do business in this state. Such bond shall be payable
 488 to the Governor for the use and benefit of any purchaser and vendees or successors in title
 489 of any used motor vehicle and shall be conditioned to pay all losses, damages, and
 490 expenses that may be sustained by such purchaser, his or her vendees, or successors in
 491 title that may be occasioned by reason of any misrepresentation, deceptive practice, or
 492 unfair practice or by reason of any breach of warranty as to such used vehicle. Such bond
 493 shall be in the amount of ~~\$35,000.00~~ \$50,000.00 for used ~~car~~ motor vehicle dealers and
 494 \$10,000.00 for used parts dealers and shall be filed, prior to or immediately upon the
 495 granting of a license under this chapter, with the division director by the licensee and
 496 shall be approved by the division director as to form and as to the solvency of the surety."

497 **SECTION 2-3.**

498 Said chapter is further amended by revising Code Section 43-47-17, relating to consent to
 499 inspection as condition of licensure, as follows:

500 "43-47-17.

501 Every person required to be licensed under this chapter shall, as a condition of licensure,
502 be deemed to have granted authority and permission to the board, the Department of
503 Revenue, or to any peace officer to inspect any record or document and any motor vehicle
504 or motor vehicle part or accessory at or on the premises of his or her principal place of
505 business, or any additional place of business, at any reasonable time during the day or night
506 during reasonable business hours."

507

PART III

508

SECTION 3-1.

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