

House Bill 1064 (COMMITTEE SUBSTITUTE)

By: Representatives Hitchens of the 161<sup>st</sup>, Welch of the 110<sup>th</sup>, Lumsden of the 12<sup>th</sup>, Tanner of the 9<sup>th</sup>, and Taylor of the 79<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

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

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

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

11 "35-2-56.

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

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

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

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

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

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

36 (c) The commissioner, in his or her sole discretion, in granting approval for such off-duty  
 37 job, or at any instance or interval thereafter, but prior to the use of such vehicle, shall  
 38 determine whether the off-duty employer provided for in subsection (b) of this Code  
 39 section shall reimburse the department for use of the vehicle. When reimbursement is  
 40 required, such off-duty employer shall enter into a written agreement with the department  
 41 to pay the department an amount determined by the commissioner to be sufficient to  
 42 reimburse the department for the use of the vehicle and to pay the off-duty employee  
 43 sufficient compensation. Pursuant to such agreement, the department shall pay the  
 44 employee of the department the compensation earned on off-duty employment whenever  
 45 such employee performs such service in a department motor vehicle."

## 46 SECTION 2.

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

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

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

59 ~~(B) The off-duty employer agrees to pay and does pay to the department an amount~~  
 60 ~~determined by the commissioner to be sufficient to reimburse the department for the use~~  
 61 ~~of the vehicle and to pay the off-duty employee sufficient compensation. Pursuant to~~

62 ~~such contract, the department shall pay the employee of the department the~~  
 63 ~~compensation earned on off-duty employment whenever such employee performs such~~  
 64 ~~service in a department motor vehicle; and~~

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

67 ~~(2) At no time will an off-duty employee be allowed use of a department motor vehicle~~  
 68 ~~at any political function of any kind The commissioner, in his or her sole discretion, in~~  
 69 ~~granting approval for such off-duty job, or at any instance or interval thereafter, but prior~~  
 70 ~~to the use of such vehicle, shall determine whether the off-duty employer provided for~~  
 71 ~~in paragraph (1) of this subsection shall reimburse the department for use of the vehicle.~~  
 72 ~~When reimbursement is required, such off-duty employer shall enter into a written~~  
 73 ~~agreement with the department to pay the department an amount determined by the~~  
 74 ~~commissioner to be sufficient to reimburse the department for the use of the vehicle and~~  
 75 ~~to pay the off-duty employee sufficient compensation. Pursuant to such agreement, the~~  
 76 ~~department shall pay the employee of the department the compensation earned on~~  
 77 ~~off-duty employment whenever such employee performs such service in a department~~  
 78 ~~motor vehicle."~~

79 **SECTION 3.**

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

82 "35-2-123.

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

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

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

94 ~~(3) The commissioner has approved, in writing, the individual use of the official vehicle~~  
 95 ~~by the law enforcement officer.~~

96 (b) ~~At no time shall an off-duty law enforcement officer be allowed the use of an official~~  
 97 ~~vehicle at a political function of any kind The commissioner, in his or her sole discretion,~~

98 in granting approval for such off-duty job, or at any instance or interval thereafter, but prior  
99 to the use of such vehicle, shall determine whether the off-duty employer provided for in  
100 subsection (a) of this Code section shall reimburse the department for use of the vehicle.  
101 When reimbursement is required, such off-duty employer shall enter into a written  
102 agreement with the department to pay the department an amount determined by the  
103 commissioner to be sufficient to reimburse the department for the use of the vehicle.  
104 Pursuant to such agreement, the department shall pay the employee of the department the  
105 compensation earned on off-duty employment whenever such employee performs such  
106 service in a department motor vehicle."

107 **SECTION 4.**

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