

The House Committee on Motor Vehicles offers the following substitute to HB 1234:

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 provide for notice and hearings; to amend Code
10 Section 48-5C-1 of the Official Code of Georgia Annotated, relating to alternative ad
11 valorem tax on motor vehicles, so as to provide for enhanced penalty for an owner of a
12 passive entity that fails to pay alternative ad valorem tax; to provide for a definition; to
13 provide for an effective date; to provide for related matters; to repeal conflicting laws; and
14 for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

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

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

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

69 ~~(4)(2)~~ The purchaser and operator of a vehicle shall not be subject to the penalties set
70 forth in this Code section during the period allowed for the registration of such vehicle.
71 ~~If the owner of such vehicle presents evidence that such owner has properly applied for~~
72 ~~the registration of such vehicle, but that the license plate or revalidation decal has not~~
73 ~~been delivered to such owner, then the owner shall not be subject to the penalties~~
74 ~~enumerated in this subsection.~~

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

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

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

91 **SECTION 2.**

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

94 "40-2-8.1.

95 ~~Notwithstanding Code Section 40-2-8 or any other provision of law, a person who operates~~
96 ~~a vehicle which is required to be registered in this state and which has attached to the rear~~
97 ~~thereof a valid numbered license plate without having the required revalidation decal~~
98 ~~affixed upon that plate, which person is otherwise guilty of a misdemeanor for not having~~
99 ~~such decal affixed to the plate, shall be subject for that offense only to a fine not to exceed~~
100 ~~\$25.00 if that person shows to the court having jurisdiction of the offense that the proper~~
101 ~~revalidation decal had been obtained prior to the time of the offense.~~

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

114 (b)(1) The department may provide by rule or regulation for the sale and distribution of
115 temporary operating permits to dealers by third parties through the development and
116 maintenance of an electronic temporary operating permit issuance system and establish
117 standards for distribution and issuance of such permits. The department may further
118 provide by rule or regulation for standards for authorized access to an electronic
119 temporary operating permit issuance system, which may include, but shall not be limited
120 to, required criminal background checks for any user of the system. Any third party

121 authorized to distribute and issue temporary operating permits shall maintain an inventory
122 record of such permits by number and name of the dealer.

123 (2)(A) The department shall be authorized to suspend access to the electronic
124 temporary operating permit issuance system established pursuant to this Code section
125 for any dealer found to have issued temporary operating permits for a vehicle which has
126 not been sold or intended to be registered or otherwise violated requirements for
127 issuance of such permits established by rule or regulation of the department after
128 issuance of notice of such violation by electronic means and opportunity for informal
129 review as set forth in this subparagraph. Any dealer who has received notice pursuant
130 to this subsection of an alleged violation and for whom the department intends to
131 suspend access to the electronic temporary operating permit issuance system may
132 request an informal review of the allegations with the department. The method for
133 making such request shall be developed by the department and may be by electronic
134 means. Upon receipt of such request for informal review, the department shall, within
135 ten business days, schedule an informal conference with such dealer to review the
136 suspected violations. Proceedings under this subparagraph shall not be governed by
137 any formal procedural requirements and may be conducted in such manner as the
138 department may establish by rule or regulation. The department shall consider the
139 historical use of the electronic temporary operating permit issuance system by the
140 dealer under consideration for access suspension, together with other pertinent
141 information which may be available, and shall render a decision regarding access to the
142 electronic temporary operating permit issuance system within seven business days of
143 the informal conference. Upon a finding that such dealer violated the requirements of
144 this Code section or rules and regulations of the department, the department shall
145 suspend access to the electronic temporary operating permit issuance system for a
146 period of no longer than six months and notify such dealer of such decision.

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

170 (c) The commissioner is authorized to promulgate rules and regulations necessary to
171 effectuate the provisions of this Code section."

172 **SECTION 3.**

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

176 "(3) At the time of initial application for registration or at any time during the registration
177 period, a vehicle owner may file with the county tag agent, on a form or electronic form
178 prescribed by the commissioner, a request to have a vehicle license plate duplicated on
179 a digital license plate purchased from a digital license plate provider. Such request to the
180 county tag agent shall include all applicable registration fees. Upon approving the
181 application provided in this paragraph, the commissioner or county tag agent shall furnish
182 the digital license plate provider with the appropriate licensing information to be
183 displayed upon the digital license plate. In accordance with Code Section ~~40-2-8~~
184 40-2-8.1, a 45 day temporary operating permit shall be issued by the commissioner or
185 county tag agent to an applicant for a digital license plate until such license plate is
186 received by the applicant."

187 **SECTION 4.**

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

192 "(a)(1) Manufacturers, manufacturer headquarters, distributors, and dealers engaged in
193 the manufacture, sale, or leasing of vehicles required to be registered under Code Section
194 40-2-20 shall register by electronic means with the commissioner, making application for
195 a distinguishing ~~dealer's number, specifying the name and make of motor vehicle, tractor,~~
196 ~~or trailer manufactured, sold, or leased by them,~~ upon forms prepared by the
197 commissioner for such purposes, and pay therefor a fee of \$62.00, which shall

198 accompany such application. Upon payment of such fee by ~~a dealer~~ an applicant, the
 199 commissioner shall furnish ~~to the dealer~~ one master number plate to expire each year in
 200 accordance with ~~subsection (f) of this Code section, to be known as a dealer's number and~~
 201 ~~to~~ based upon the type of master number plate issued. Each additional plate issued
 202 pursuant to this Code section shall require payment of a \$12.00 fee. Each master number
 203 plate and any additional plates issued pursuant to this Code section shall be distinguished
 204 from the ~~number license~~ plates provided for in this chapter by different and distinguishing
 205 colors to be determined by the commissioner. The dealer plate for a franchise motor
 206 vehicle dealer shall be distinguishable from the dealer plate for a used car dealer and from
 207 the dealer plate for a motor vehicle wholesaler. Except as otherwise authorized by this
 208 Code section, any master number plate or additional plates issued pursuant to this Code
 209 section shall be for ~~A dealer's number plate~~ is the purpose of demonstrating or
 210 transporting ~~dealer's~~ vehicles or trailers for sale or lease. ~~Persons engaged in the business~~
 211 ~~of transporting vehicles for a dealer under a vehicle's own power shall be permitted to use~~
 212 ~~such dealer's plate for the purpose of transporting a vehicle."~~

213 ~~"(c) This Code section shall not apply in any manner to mopeds as such term is defined in~~
 214 ~~Code Section 40-1-1.~~

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

219 ~~(e)~~(d) If a license plate issued pursuant to this Code section is lost or stolen, the dealer,
 220 manufacturer, distributor, manufacturer headquarters, or other party to whom the license
 221 plate was issued ~~must~~ shall immediately report the lost or stolen plate to local law
 222 enforcement agencies. If a replacement license plate is sought, the dealer, manufacturer,
 223 distributor, manufacturer headquarters, or other party to whom the license plate was issued
 224 shall file a notarized affidavit with the department requesting a replacement plate. Such

225 affidavit shall certify under penalty of perjury that the license plate has been lost or stolen
 226 and that the loss has been reported to a local law enforcement agency.

227 ~~(f)(1)(e) Except as otherwise provided for in this Code section, the~~ The expiration of a
 228 license plate issued pursuant to this Code section shall be the last day of the registration
 229 period as provided in division (a)(1)(A)(ii) of Code Section 40-2-21, except that for the
 230 purposes of this subsection, the registration period shall be determined by the first letter of
 231 the legal name of the business listed on the application for registration or renewal of
 232 registration. An application for renewal of registration shall not be submitted earlier than
 233 90 days prior to the last day of the registration period. A penalty of 25 percent of the total
 234 registration fees due shall be assessed any person registering pursuant to this Code section
 235 who, prior to the expiration of such person's registration period, fails to apply for renewal
 236 or if having applied fails to pay the required fees.

237 ~~(2) A transition period shall commence on October 1, 2007, and conclude on December~~
 238 ~~31, 2007, for all existing registrations and any new registration applications presented~~
 239 ~~prior to January 1, 2008. On or after January 1, 2008, new applications for registration~~
 240 ~~shall be submitted and remain valid until the expiration of such registration as specified~~
 241 ~~in paragraph (1) of this subsection."~~

242 SECTION 5.

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

247 "(a)(1) Except as provided in paragraph (2) of this subsection, a dealer who buys a
 248 vehicle and holds it for resale need not apply to the commissioner for a new certificate
 249 of title but may retain the delivered certificate ~~delivered to him~~. Upon transferring the
 250 vehicle to another person other than by the creation of a security interest, such dealer

251 shall promptly execute the assignment and warranty of title by a dealer. Such assignment
252 and warranty shall show the names and addresses of the transferee and any holder of a
253 security interest created or reserved at the time of the resale and the date of his the
254 security agreement, in the spaces provided therefor on the certificate or as the
255 commissioner prescribes. Transfers of vehicles under this Code section shall otherwise
256 conform with Code Section 40-3-32. A dealer selling a previously registered vehicle
257 ~~which under this chapter need not have~~ for which a certificate of title is not required
258 under this chapter need not furnish a purchaser of such a vehicle a certificate of title.
259 After a previously registered vehicle has been brought under the terms of this chapter, a
260 dealer, when selling that vehicle, shall conform to all provisions of this chapter.

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

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

273 (b) Every dealer shall maintain a record, in the form the commissioner prescribes, of every
274 vehicle bought, sold, or exchanged ~~by him~~, or received ~~by him~~ for sale or exchange. Such
275 record shall be kept for three years and shall be open to inspection by a representative of
276 the commissioner during reasonable business hours. The information contained in records
277 maintained by a dealer pursuant to this subsection shall be an accurate representation of the

278 transaction, and no alternative versions of records shall be produced for a purchaser with
279 information which differs from that contained in records maintained for inspection by the
280 department."

281 "(f) The department shall be authorized to assess a civil penalty against a dealer of up to
282 \$500.00 for each sales transaction conducted in violation of subsection (b) of this Code
283 section.

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

286 **SECTION 6.**

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

290 "(3.1) 'Passive entity' means a person, other than an individual, formed under the laws
291 of another state that does not have an established place of business in this state, owns no
292 real property, and conducts no trade or business other than the holding of assets for
293 investment and income."

294 "(9)(A) Any owner of any motor vehicle who fails to submit within 30 days of the date
295 such owner is required by law to register such vehicle in this state an application for a
296 first certificate of title under Code Section 40-3-21 or a certificate of title under Code
297 Section 40-3-32 shall be required to pay a penalty in the amount of 10 percent of the
298 state title ad valorem tax fees and 10 percent of the local title ad valorem tax fees
299 required under this Code section and, if such state and local title ad valorem tax fees
300 and the penalty are not paid within 60 days following the date such owner is required
301 by law to register such vehicle, interest at the rate of 1 percent per month shall be
302 imposed on the state and local title ad valorem tax fees due under this Code section,
303 unless a temporary permit has been issued by the tax commissioner. The tax

304 commissioner shall grant a temporary permit in the event the failure to timely apply for
305 a first certificate of title is due to the failure of a lienholder to comply with Code
306 Section 40-3-56, regarding release of a security interest or lien, and no penalty or
307 interest shall be assessed. Such penalty and interest shall be in addition to the penalty
308 and fee required under Code Section 40-3-21 or 40-3-32, as applicable.

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

315 **SECTION 7.**

316 This Act shall become effective on January 1, 2025.

317 **SECTION 8.**

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