

Senate Bill 217

By: Senators Albers of the 56th, Robertson of the 29th, Dugan of the 30th, Strickland of the 17th, Kennedy of the 18th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to
2 registration and licensing of motor vehicles, so as to provide for the offense of operation of
3 a motor vehicle with a fraudulent license plate; to provide for a definition; to provide for
4 penalties; to authorize civil forfeiture in certain instances; to provide for punishment for
5 commission of such while committing a felony; to repeal provisions relating to obscuring a
6 license plate in order to impede detection; to repeal and designate as reserved provisions
7 relating to removing or affixing a license plate with the intent to conceal; to provide for
8 suspension and revocation of a vehicle registration for certain offenses of operating a motor
9 vehicle with a fraudulent license plate; to provide a short title; to provide for related matters;
10 to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 SECTION 1.

13 This Act shall be known and may be cited as the "Eliminating Ghost Plates Act."

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SECTION 2.

15 Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to registration and
16 licensing of motor vehicles, is amended by revising Code Section 40-2-6, relating to
17 alteration of license plates and operation of vehicle with altered or improperly transferred
18 plate, as follows:

19 "40-2-6.

20 ~~Except as otherwise provided in this chapter, any person who shall willfully mutilate,~~
21 ~~obliterate, deface, alter, change, or conceal any numeral, letter, character, county~~
22 ~~designation, or other marking of any license plate issued under the motor vehicle~~
23 ~~registration laws of this state; who shall knowingly operate a vehicle bearing a license plate~~
24 ~~on which any numeral, letter, character, county designation, or other marking has been~~
25 ~~willfully mutilated, obliterated, defaced, altered, changed, or concealed; or who shall~~
26 ~~knowingly operate a vehicle bearing a license plate issued for another vehicle and not~~
27 ~~properly transferred as provided by law shall be guilty of a misdemeanor.~~

28 (a) As used in this Code section, the term 'conceal' includes the use of:

29 (1) A material or part of an individual's body to cover a license plate;

30 (2) Blurring or reflective matter that significantly impairs the readability of the name of
31 the state in which the vehicle is registered or the letters or numbers of the license plate
32 number at any time;

33 (3) An attached illuminated device or sticker, decal, emblem, or other insignia that is not
34 authorized by law and that interferes with the readability of the name of the state in which
35 the vehicle is registered or the letters or numbers of the license plate number at any time;

36 (4) A position of the license plate which is not authorized by law and that interferes with
37 the readability of the name of the state in which the vehicle is registered or the letters or
38 numbers of the license plate at any time; or

39 (5) A coating, covering, protective substance, or other material that at any time;

- 40 (A) Distorts angular visibility or detectability by a camera or an automated license
41 plate recognition system as such term is defined in Code Section 35-1-22;
42 (B) Alters or obscures one-half or more of the name of the state in which the vehicle
43 is registered; or
44 (C) Alters or obscures the color, letters, or numbers of the license plate number.
45 (b)(1) A person commits the offense of operation of a motor vehicle with a fraudulent
46 license plate when he or she willfully and with intent to obscure or misrepresent the
47 identity of the vehicle or its owner:
48 (A) Conceals any portion of the license plate;
49 (B) Removes, defaces, or destroys a license plate;
50 (C) Displays a license plate issued for a different motor vehicle;
51 (D) Displays a revalidation decal other than one assigned to the motor vehicle; or
52 (E) Displays a license plate not issued by the department which has the appearance of
53 one validly issued by the department.
54 (2) Any person who violates this Code section shall be guilty of a misdemeanor and
55 punished as follows:
56 (A) For a first conviction, a fine of \$250.00; provided, however, that such fine shall not
57 exceed \$25.00 if a person shows to the court having jurisdiction of the offense that the
58 item causing the obstruction or misrepresentation has been removed;
59 (B) For a second conviction, a fine of \$500.00 and imprisonment for 60 days which
60 shall not be suspended, probated, deferred, or withheld by a sentencing court without
61 consent of the prosecuting attorney; and
62 (C) For a third or subsequent conviction, a fine of not less than \$1,000.00 and
63 imprisonment for not less than 120 days which shall not be suspended, probated,
64 deferred, or withheld by a sentencing court without consent of the prosecuting attorney.

65 (3)(A) Any motor vehicle operated by a person who has been convicted of a fourth or
66 subsequent violation of this Code section is declared to be contraband and subject to
67 forfeiture in accordance with the procedures set forth in Chapter 16 of Title 9.

68 (B) In any case where a vehicle which is the only family vehicle is determined to be
69 subject to forfeiture, the court may, if it determines that the financial hardship to the
70 family as a result of the forfeiture and sale outweighs the benefit to the state from such
71 forfeiture, order the title to the vehicle transferred to another family member who is a
72 duly licensed operator and who requires the use of such vehicle for employment or
73 family transportation purposes. Such transfer shall be subject to any valid liens and
74 shall be granted only once.

75 (4) For the purpose of imposing a sentence under this Code section, a plea of nolo
76 contendere or first offender treatment by a court of competent jurisdiction based on a
77 violation of this Code section shall constitute a conviction.

78 (c) Any person who operates a motor vehicle with a fraudulent license plate in violation
79 of this Code section during the commission of a felony shall be guilty of a misdemeanor
80 and punished by a fine of not less than \$1,000.00 and imprisonment for not less than
81 12 months, and the first 120 days of such sentence shall not be suspended, probated,
82 deferred, or withheld by a sentencing court."

83 **SECTION 3.**

84 Said chapter is further amended by repealing Code Section 40-2-6.1, relating to obscuring
85 license plate in order to impede surveillance equipment.

86 **SECTION 4.**

87 Said chapter is further amended by repealing and designating as reserved Code
88 Section 40-2-7, relating to removing or affixing license plate with intent to conceal or
89 misrepresent.

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SECTION 5.

91 Said chapter is further amended by revising Code Section 40-2-41, relating to display of
92 license plates, as follows:

93 "40-2-41.

94 Unless otherwise permitted under this chapter, every vehicle required to be registered under
95 this chapter, which is in use upon the highways, shall at all times display the license plate
96 issued to the owner for such vehicle, and the plate shall be fastened to the rear of the
97 vehicle in a position so as not to swing and shall be at all times plainly visible. No person
98 shall display on the rear of a motor vehicle any temporary or permanent plate or tag not
99 issued by the State of Georgia which is intended to resemble a license plate which is issued
100 by the State of Georgia. The commissioner is authorized to adopt rules and regulations so
101 as to permit the display of a license plate on the front of certain vehicles. ~~It shall be the~~
102 ~~duty of the operator of any vehicle to keep the license plate legible at all times. No license~~
103 ~~plate shall be covered with any material unless the material is colorless and transparent.~~
104 ~~No apparatus that obstructs or hinders the clear display and legibility of a license plate shall~~
105 ~~be attached to the rear of any motor vehicle required to be registered in the state. Any~~
106 ~~person who violates any provision of this Code section shall be guilty of a misdemeanor."~~

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SECTION 6.

108 Said chapter is further amended by revising Code Section 40-2-135, relating to revocation
109 and seizure of license plates and renewal decals, as follows:

110 "40-2-135.

111 (a)(1) The commissioner shall revoke any regular, prestige, special, or distinctive license
112 plate which the commissioner determines was issued in error and shall revoke the special
113 and distinctive license plate issued to a member of the General Assembly at such time as
114 the holder ceases to hold such public office. The commissioner or his or her designated
115 agent may revoke any license plate purchased with a check which was returned for any

116 reason. The commissioner shall notify the holder of such regular, prestige, special, or
117 distinctive license plate or of such other license plate of such revocation. The holder of
118 such revoked license plate shall return the license plate to the commissioner or the
119 commissioner's designated agent and register his or her vehicle as otherwise required by
120 this chapter.

121 (2) Any state or county law enforcement officer or any special agent or enforcement
122 officer appointed under Code Section 40-2-134 may, upon the direction or request of the
123 commissioner, go upon public or private property to seize a license plate or renewal decal
124 which has been revoked pursuant to this subsection.

125 (b) The commissioner shall suspend or revoke any permanent registration and license plate
126 issued in accordance with Code Section 40-2-47 when the owner has not complied with the
127 annual requirement of the payment of ad valorem taxes and is delinquent for more than 12
128 months from the last date of ad valorem tax payment.

129 (c)(1) Upon a second conviction under Code Section 40-2-6 with the same motor vehicle
130 by any owner or operator of such vehicle, the court shall issue an order requiring that the
131 license plate of the vehicle be surrendered to the court. The court shall notify the
132 commissioner within ten days after issuing any such order and send by first-class mail a
133 copy of such order to the vehicle owner when the underlying conviction was issued to an
134 operator other than the vehicle owner. The commissioner shall suspend the vehicle
135 registration upon receiving such notice and, if such license plate is a digital license plate,
136 shall inform the digital license plate provider of the suspension of vehicle registration.
137 The court shall issue a receipt for the surrendered license plate. The court shall forward
138 the surrendered license plate to the local tag agent immediately upon receipt; provided,
139 however, that, if the surrendered license plate is a digital license plate, the court shall
140 allow such person to retain the digital license plate. Upon the passage of 180 days and
141 payment of a \$160.00 restoration fee, the owner may apply for registration of the motor
142 vehicle.

143 (2) Upon a third or subsequent conviction under Code Section 40-2-6 with the same
144 motor vehicle by any owner or operator of such vehicle, the court shall issue an order
145 requiring that the license plate of the vehicle be surrendered to the court. The court shall
146 notify the commissioner within ten days after issuing any such order and send by
147 first-class mail a copy of such order to the vehicle owner when the underlying conviction
148 was issued to an operator other than the vehicle owner. The commissioner shall revoke
149 the vehicle registration upon receiving such notice and, if such license plate is a digital
150 license plate, shall inform the digital license plate provider of the revocation of vehicle
151 registration. The court shall issue a receipt for the surrendered license plate. The court
152 shall forward the surrendered license plate to the local tag agent immediately upon
153 receipt; provided, however, that, if the surrendered license plate is a digital license plate,
154 the court shall allow such person to retain the digital license plate.
155 (3) For purposes of this subsection, a plea of nolo contendere shall constitute a
156 conviction. Any state or county law enforcement officer or any special agent or
157 enforcement officer appointed under Code Section 40-2-134 may, upon the direction or
158 request of the commissioner, go upon public or private property to seize a license plate
159 or renewal decal which has been revoked as provided in subsection (a) of this Code
160 section."

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SECTION 7.

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