

House Bill 1100

By: Representatives Ridley of the 6th, Jones of the 25th, and Corbett of the 174th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated,
2 relating to registration and licensing of motor vehicles generally, so as to revise standards for
3 the issuance of manufacturer's, manufacturer headquarters', distributor's, and dealer's license
4 plates; to provide for the issuance of broker's license plates; to provide for application, fees,
5 and issuance and renewal conditions for such license plates; to provide requirements for
6 registering and licensing new motor vehicle brokers; to amend Chapter 47 of Title 43 of the
7 Official Code of Georgia Annotated, relating to used motor vehicle and used motor vehicle
8 parts dealers, so as to provide requirements for the issuance and renewal of a used motor
9 vehicle dealer license to motor vehicle brokers; to amend Code Section 32-9-4 of the Official
10 Code of Georgia Annotated, relating to designation of special or exclusive use travel lanes
11 and use of such lanes, so as to conform a cross-reference; to revise and provide for
12 definitions; to provide for related matters; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Article 2 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to
16 registration and licensing of motor vehicles generally, is amended by revising Code Section
17 40-2-38, relating to registration and licensing of manufacturers, distributors, and dealers and
18 issuance of manufacturer, distributor, and dealer plates, as follows:

19 "40-2-38.

20 (a)(~~1~~) For purposes of this Code section, the term:

21 (1) 'Distributor' shall have the same meaning as provided in Code Section 40-2-39.

22 (2) 'Established place of business' means the location at which a permanent business of
23 bartering, trading, leasing, or selling motor vehicles occurs or the place at which the
24 books, records, and files necessary to conduct such business are kept.

25 (3) 'Manufacturer' shall have the same meaning as provided in Code Section 40-2-39.

26 (4) 'Motor vehicle broker' means a person who, for a commission or with the intent to
 27 make a profit or to gain money or other thing of value, negotiates or attempts to negotiate
 28 the sale of a motor vehicle on behalf of another.

29 (b)(1) Dealers engaged in the sale ~~Manufacturers, distributors, and dealers engaged in~~
 30 ~~the manufacture, sale,~~ or leasing of vehicles required to be registered under Code Section
 31 40-2-20 shall register with the commissioner, making application for a distinguishing
 32 dealer's number, specifying the name and make of motor vehicle, tractor, or trailer
 33 manufactured, sold, or leased by them, upon forms prepared by the commissioner for
 34 such purposes, and pay therefor a fee of \$62.00, which shall accompany such application.
 35 Upon payment of such fee by a dealer, the commissioner shall furnish to the dealer ~~one~~
 36 up to three master number plate plates to expire each year in accordance with subsection
 37 (f) of this Code section paragraph (3) of this subsection, to be known as a dealer's number
 38 and to be distinguished from the number plates provided for in this chapter by different
 39 and distinguishing colors to be determined by the commissioner. Dealers may be eligible
 40 for additional license plates associated with a master number plate for a fee of \$62.00 per
 41 plate and may apply for one or more distinguishing numbers in accordance with
 42 paragraph (4) of this subsection for a fee of \$12.00 per plate. The ~~dealer~~ dealer's number
 43 plate for a franchise motor vehicle dealer shall be distinguishable from the dealer dealer's
 44 number plate for a used car dealer and from the dealer dealer's number plate for a motor
 45 vehicle wholesaler. A dealer's number plate is for the purpose of demonstrating or
 46 transporting dealer's vehicles or trailers for sale or lease. Persons engaged in the business
 47 of transporting vehicles for a dealer under a vehicle's own power shall be permitted to use
 48 such dealer's number plate for the purpose of transporting a vehicle.

49 (2) No dealer may use or permit to be used a dealer's number for private use, ~~or~~ on cars
 50 for hire, ~~for~~ or lease, or in any other manner not provided for in this Code section. A
 51 dealer may use or permit to be used a dealer's number for private use on vehicles owned
 52 by the dealership, regardless of whether such vehicle has been issued a certificate of title
 53 or registered, when such vehicles are operated by an employee or corporate officer of the
 54 dealer which has been issued such number. A distinguishing dealer's number used by an
 55 employee or officer for private use shall authorize such person to operate the vehicle to
 56 which the number is attached on the public highways and streets. For purposes of this
 57 paragraph, 'employee' means a person who works a minimum of 36 hours per week at the
 58 dealership.

59 (3) The expiration of a license plate issued pursuant to this subsection shall be the last
 60 day of the registration period as provided in division (a)(1)(A)(ii) of Code Section
 61 40-2-21, except that for the purposes of this subsection, the registration period shall be

62 determined by the first letter of the legal name of the business listed on the application
63 for registration or renewal of registration.

64 (4) In addition to the three master number plates issued in accordance with paragraph (1)
65 of this subsection, each dealer may also be issued one additional dealer plate for every
66 20 units sold in a calendar year. In order to determine the additional number and
67 classification of plates to be issued to a dealer, a dealer shall be required to certify by
68 affidavit to the department the number of retail and wholesale units sold in the prior
69 calendar year using the past motor vehicle sales history of the dealer as identified by
70 department records of documentation approved by the department. If no sales history is
71 available, the department shall issue a number of plates based on an estimated number
72 of sales for the coming calendar year. The department may, in its discretion, request
73 documentation supporting sales history and may increase or decrease the number and
74 classification of plates issued based on actual sales.

75 (5) No initial or renewal application for dealer's plates shall be denied under this
76 subsection without opportunity for hearing in accordance with Chapter 13 of Title 50, the
77 'Georgia Administrative Procedure Act.'

78 (c)(1) Any dealer's number plate issued to a motor vehicle broker prior to July 1, 2020,
79 shall remain valid until the expiration of such plate. On and after July 1, 2020, motor
80 vehicle brokers engaged in the sale or leasing of vehicles required to be registered under
81 Code Section 40-2-20 shall register with the commissioner, making application for a
82 distinguishing motor vehicle broker's number upon forms prepared by the commissioner
83 for such purposes. Such application shall include the applicant's established place of
84 business, certification that such applicant maintains a system of records regarding the use
85 of motor vehicle broker's number plates, and the name and make of each motor vehicle,
86 tractor, or trailer sold or leased. A fee of \$62.00 shall accompany such application. Upon
87 payment of such fee by a motor vehicle broker, the commissioner shall furnish to the
88 applicant one license plate to expire each year in accordance with paragraph (3) of this
89 subsection, to be known as a broker's license plate and to be distinguished from the
90 license plates provided for in this chapter by different and distinguishing colors to be
91 determined by the commissioner. Motor vehicle brokers may be eligible for one
92 additional broker's license plate upon payment of a \$12.00 fee. A broker's license plate
93 is for the purpose of demonstrating or transporting motor vehicle brokers' motor vehicles,
94 tractors, or trailers for sale or lease. Persons engaged in the business of transporting
95 vehicles for a motor vehicle broker under a vehicle's own power shall be permitted to use
96 such broker's license plate for the purpose of transporting a vehicle.

97 (2) No motor vehicle broker may use or permit to be used a broker's license plate for
 98 private use, on cars for hire or lease, or in any other manner not provided for in this Code
 99 section.

100 (3) The expiration of a license plate issued pursuant to this subsection shall be the last
 101 day of the registration period as provided in division (a)(1)(A)(ii) of Code Section
 102 40-2-21, except that for the purposes of this subsection, the registration period shall be
 103 determined by the first letter of the legal name of the business listed on the application
 104 for registration or renewal of registration. Any broker's license plate eligible for renewal
 105 on or after July 1, 2020, shall be renewed upon demonstration to the department that at
 106 least 12 units were sold in the registration year set to expire as identified by department
 107 records of documentation approved by the department. The department may, in its
 108 discretion, request documentation supporting sales history.

109 (4) No initial or renewal application for broker's license plates shall be denied under this
 110 subsection without opportunity for hearing in accordance with Chapter 13 of Title 50, the
 111 'Georgia Administrative Procedure Act.'

112 (d)(1) Manufacturers and distributors engaged in the manufacture or distribution of
 113 motor vehicles required to be registered under Code Section 40-2-20 shall register with
 114 the commissioner upon forms prepared by the commissioner for such purposes and pay
 115 therefor a fee of \$62.00, which shall accompany such application. The manufacturer's
 116 or distributor's license plate is issued pursuant to this subsection shall be limited to no
 117 longer than six months' use per vehicle. Upon payment of such a fee by a manufacturer
 118 or distributor, the commissioner shall issue to manufacturers and distributors number
 119 plates with the word 'Manufacturer' or 'Distributor' on such plates. Nothing in this
 120 subsection shall preclude a manufacturer or distributor from using a 'Manufacturer' or
 121 'Distributor' number plate on motor vehicles it owns when such vehicles are used for
 122 evaluation or demonstration purposes, notwithstanding incidental personal use by a
 123 manufacturer or distributor. A ~~dealer~~ manufacturer or distributor may apply for one or
 124 more distinguishing ~~dealer's~~ numbers. In the event the ~~dealers~~, distributors; or
 125 manufacturers desire more than one ~~tag~~ number plate, they shall so state on the
 126 application, and, in addition to the fee of \$62.00 provided in this ~~Code section~~
 127 ~~subsection~~, shall pay \$12.00 for each and every additional number plate furnished.

128 (2) The expiration of a license plate issued pursuant to this subsection shall be the last
 129 day of the registration period as provided in division (a)(1)(A)(ii) of Code Section
 130 40-2-21, except that for the purposes of this subsection, the registration period shall be
 131 determined by the first letter of the legal name of the business listed on the application
 132 for registration or renewal of registration.

133 ~~(4)(A)~~ (e)(1) Upon application and payment of the required fee, the commissioner shall
 134 issue to manufacturer headquarters or its affiliate number license plates with the words
 135 'Manufacturer HQ' on such plates. The manufacturer ~~headquarters~~ headquarters' license
 136 plates must be used exclusively on motor vehicles owned or in possession of a
 137 manufacturer headquarters or its affiliate. Such manufacturer ~~headquarters~~ headquarters'
 138 license plates are limited to no longer than 24 months' use per vehicle.

139 ~~(B)~~ (2) A manufacturer headquarters or its affiliate shall apply on a form prescribed by
 140 the commissioner and shall provide proof that the applicant:

141 ~~(i)~~ (A) Is a bona fide manufacturer headquarters; and

142 ~~(ii)~~ (B) Maintains a system of records regarding use of such license plates. The
 143 manufacturer headquarters shall state in each application the number of manufacturer
 144 ~~headquarters~~ headquarters' license plates requested.

145 ~~(C)~~ (3) The manufacturer headquarters or its affiliate shall pay an application fee of
 146 \$62.00 per application ~~as provided in this Code section~~ and shall pay \$12.00 for each and
 147 every additional number plate furnished applied for. ~~With respect to any manufacturer~~
 148 ~~headquarters license plate issued to a manufacturer headquarters or its affiliate,~~
 149 ~~notwithstanding~~ Notwithstanding anything to the contrary in this title or Code Section
 150 48-5C-1, such manufacturer headquarters or its affiliate, and any person operating or
 151 possessing a motor vehicle using a manufacturer ~~headquarters~~ headquarters' license plate
 152 pursuant to this ~~paragraph~~ subsection, shall not be subject to state or local title ad valorem
 153 tax fees with respect to such vehicle or manufacturer ~~headquarters~~ headquarters' license
 154 plate.

155 ~~(D)~~ (4) The manufacturer headquarters or its affiliate shall maintain a system of records
 156 regarding the motor vehicle to which the manufacturer ~~headquarters~~ headquarters' license
 157 plate will be attached. Such record shall, at a minimum, contain the:

158 ~~(i)~~ (A) Vehicle Identification Number (VIN);

159 ~~(ii)~~ (B) Name and address of the primary individual operating the vehicle; and

160 ~~(iii)~~ (C) Manner of use of the vehicle selected from the alternative uses referenced in
 161 ~~subparagraph (E)~~ paragraph (5) of this ~~paragraph~~ subsection.

162 ~~(E)~~ (5) Vehicles with manufacturer ~~headquarters~~ headquarters' license plates may be
 163 operated by persons authorized by the manufacturer headquarters or its affiliate on
 164 vehicles of its brand for the following manners of use:

165 ~~(i)~~ (A) Evaluation, marketing, or demonstration purposes, notwithstanding incidental
 166 personal use by a manufacturer headquarters' authorized employee or other authorized
 167 person designated by such manufacturer headquarters or its affiliate; or

168 ~~(ii)~~ (B) As part of a vehicle leasing program operated by such manufacturer
 169 headquarters or its affiliate for the benefit of employees. Any operation of a motor

170 vehicle by a person for an approved use pursuant to this ~~subparagraph~~ paragraph shall
 171 be deemed to be a demonstration of the motor vehicle for purposes of Code Section
 172 48-8-39.

173 ~~(5)~~(f) The commissioner shall include a distinctive logo or emblem for any manufacturer's,
 174 distributor's, or manufacturer headquarters' license plate to be attached to an alternative
 175 fueled vehicle, as such term is defined in paragraph (7) of subsection (1) of Code Section
 176 40-2-86.1. Alternative fuel vehicles bearing a special license plate pursuant to this
 177 subsection shall be subject to the alternative fuel vehicle fees as set forth in paragraph (19)
 178 of subsection (a) of Code Section 40-2-151 at the time of initial issuance and annually
 179 thereafter in a manner prescribed by the commissioner. Display of a special license plate
 180 issued pursuant to this ~~paragraph~~ subsection shall authorize travel by such alternative
 181 fueled vehicle in lanes for exclusive or preferential use designated pursuant to Code
 182 Section 32-9-4.

183 ~~(b) Dealer plates shall be issued in the following manner:~~

184 ~~(1) Dealers shall be issued a master plate and two additional plates, for a total of three~~
 185 ~~initial plates; and~~

186 ~~(2) In addition to the three dealer plates issued in accordance with paragraph (1) of this~~
 187 ~~subsection, each dealer may also be issued one additional dealer plate for every 20 units~~
 188 ~~sold in a calendar year.~~

189 ~~In order to determine the additional number and classification of plates to be issued to a~~
 190 ~~dealer, a dealer shall be required to certify by affidavit to the department the number of~~
 191 ~~retail and wholesale units sold in the prior calendar year using the past motor vehicle sales~~
 192 ~~history of the dealer as identified by department records of documentation approved by the~~
 193 ~~department. If no sales history is available, the department shall issue a number of plates~~
 194 ~~based on an estimated number of sales for the coming calendar year. The department may,~~
 195 ~~in its discretion, request documentation supporting sales history and may increase or~~
 196 ~~decrease the number and classification of plates issued based on actual sales.~~

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

199 ~~(d)~~(h) The license plates issued pursuant to this Code section shall be revoked and
 200 confiscated upon a determination after a hearing that such dealer, distributor, manufacturer,
 201 or manufacturer headquarters has unlawfully used such license plates in violation of this
 202 Code section. The hearing shall be conducted in accordance with the procedure for
 203 contested cases under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

204 ~~(e)~~(i) If a license plate issued pursuant to this Code section is lost or stolen, the dealer,
 205 broker, manufacturer, distributor, manufacturer headquarters, or other party to whom the
 206 license plate was issued ~~must~~ shall immediately report the lost or stolen plate to local law

207 enforcement agencies. If a replacement license plate is sought, the dealer, broker,
 208 manufacturer, distributor, manufacturer headquarters, or other party to whom the license
 209 plate was issued shall file a notarized affidavit with the department requesting a
 210 replacement plate. Such affidavit shall certify under penalty of perjury that the license
 211 plate has been lost or stolen and that the loss has been reported to a local law enforcement
 212 agency.

213 ~~(j)(f)(1) The expiration of a license plate issued pursuant to this Code section shall be the~~
 214 ~~last day of the registration period as provided in division (a)(1)(A)(ii) of Code Section~~
 215 ~~40-2-21, except that for the purposes of this subsection, the registration period shall be~~
 216 ~~determined by the first letter of the legal name of the business listed on the application~~
 217 ~~for registration or renewal of registration. An application for renewal of registration shall~~
 218 ~~not be submitted earlier than 90 days prior to the last day of the registration period~~
 219 ~~expiration of the current registration. A penalty of 25 percent of the total registration fees~~
 220 ~~due shall be assessed any person registering pursuant to this Code section who, prior to~~
 221 ~~the expiration of such person's registration period, fails to apply for renewal or if having~~
 222 ~~applied fails to pay the required fees.~~

223 ~~(2) A transition period shall commence on October 1, 2007, and conclude on December~~
 224 ~~31, 2007, for all existing registrations and any new registration applications presented~~
 225 ~~prior to January 1, 2008. On or after January 1, 2008, new applications for registration~~
 226 ~~shall be submitted and remain valid until the expiration of such registration as specified~~
 227 ~~in paragraph (1) of this subsection.~~

228 ~~(g)(k) The commissioner shall adopt rules and regulations for the implementation of this~~
 229 ~~Code section."~~

230 SECTION 2.

231 Said article is further amended in Code Section 40-2-39, relating to registration and licensing
 232 of new motor vehicle dealers, temporary site permits, administrative fines, and penalty, by
 233 amending paragraph (3) and adding a new paragraph to subsection (a), by adding a new
 234 subsection, and by revising subsection (c) as follows:

235 "(3) 'Established place of business' means a permanent salesroom or sales office of a new
 236 motor vehicle dealer or motor vehicle broker, which permanent salesroom or sales office
 237 is located in a permanent building on an open lot and which is marked by an appropriate
 238 sign and at which a permanent business of bartering, trading, or selling of new motor
 239 vehicles or negotiating the sale of new motor vehicles is carried on in good faith."

240 "(5.1) 'Motor vehicle broker' means a person who, for a commission or with the intent to
 241 make a profit or to gain money or other thing of value, negotiates or attempts to negotiate
 242 the sale of a new motor vehicle on behalf of another."

243 "(b.1) It shall be unlawful for any person to engage in any activity as a motor vehicle
 244 broker unless and until such person has registered with the commissioner and obtained a
 245 broker's license plate under Code Section 40-2-38. The commissioner shall not accept such
 246 application for registration unless the applicant holds a valid driver's license issued under
 247 Chapter 5 of this title and until such applicant demonstrates to the satisfaction of the
 248 commissioner, under criteria established by rules and regulations promulgated by the
 249 commissioner, that the applicant:

250 (1) Shall not engage in any activity of a motor vehicle broker except at an established
 251 place of business with at least 150 square feet of space with reasonable hours of operation
 252 which are prominently posted at such location; or

253 (2) Designates a new motor vehicle dealer registered with the commissioner pursuant to
 254 subsection (b) of this Code section to serve as a responsible agent for the applicant.

255 (c) As an alternative to criminal or other civil enforcement, the commissioner, in order to
 256 enforce this Code section or any orders, rules, and regulations promulgated pursuant
 257 thereto, may issue an administrative fine not to exceed \$1,000.00 for each violation,
 258 whenever the commissioner, after a hearing, determines that any person has violated any
 259 provisions of this Code section or any regulations or orders promulgated thereunder. If,
 260 after a hearing, the commissioner determines that any person has violated this Code section
 261 more than once, the commissioner may suspend a dealer's registration or motor vehicle
 262 broker's registration for a period not to exceed ten days. Any hearing and any
 263 administrative review held pursuant to this Code section shall be conducted in accordance
 264 with the procedure for contested cases under Chapter 13 of Title 50, the 'Georgia
 265 Administrative Procedure Act.' Any person who has exhausted all administrative remedies
 266 available and who is aggrieved or adversely affected by a final order or action of the
 267 commissioner shall have the right of judicial review thereof in accordance with Chapter 13
 268 of Title 50. All fines recovered under this subsection shall be paid into the state treasury.
 269 The commissioner may file, in the superior court (1) wherein the person under order
 270 resides; (2) if such person is a corporation, in the county wherein the corporation maintains
 271 its established place of business; or (3) in the county wherein the violation occurred, a
 272 certified copy of a final order of the commissioner, whether unappealed from or affirmed
 273 upon appeal, whereupon the court shall render judgment in accordance therewith and notify
 274 the parties. Such judgment shall have the same effect and proceedings in relation thereto
 275 shall thereafter be the same as though the judgment had been rendered in an action duly
 276 heard and determined by the court. The penalty prescribed in this Code section shall be
 277 concurrent, alternative, and cumulative with any and all other civil, criminal, or alternative
 278 rights, remedies, forfeitures, or penalties provided, allowed, or available to the
 279 commissioner with respect to any violation of this Code section or any order, rules, or

280 regulations promulgated pursuant thereto. For purposes of this subsection, the sale of each
 281 motor vehicle while not in compliance with temporary site permit requirements shall
 282 constitute a separate violation."

283 **SECTION 3.**

284 Chapter 47 of Title 43 of the Official Code of Georgia Annotated, relating to used motor
 285 vehicle and used motor vehicle parts dealers, is amended in Code Section 43-47-2, relating
 286 to definitions, by revising paragraph (3) as follows:

287 "(3) 'Established place of business' means a salesroom or sales office in a building or on
 288 an open lot of a retail used car dealership or at which a permanent business of bartering,
 289 trading, offering, displaying, selling, buying, dismantling, negotiating the sale of used
 290 motor vehicles, or rebuilding wrecked or used motor vehicles or parts is carried on, or the
 291 place at which the books, records, and files necessary to conduct such business are kept.
 292 ~~Each such place of business shall be furnished with a working telephone listed in the~~
 293 ~~name of the licensee for use in conducting the business and shall be marked by an~~
 294 ~~appropriate permanent sign as prescribed by the appropriate division under this chapter."~~

295 **SECTION 4.**

296 Said chapter is further amended in Code Section 43-47-8, relating to license applications,
 297 prerequisites, license fees, renewal, training or test, supplemental licenses, bonds, insurance,
 298 suspension for conviction or false statement, and meetings, by revising subsection (b) and
 299 by adding a new subsection to read as follows:

300 "(b) A division under this chapter shall not issue or renew any license unless the applicant
 301 or holder thereof shall show that he or she maintains an established place of business as
 302 ~~defined in Code Section 43-47-2.~~ Such established place of business shall be furnished
 303 with a working telephone listed in the name of the licensee for use in conducting the
 304 business and shall be marked by a permanent sign as prescribed by the appropriate division
 305 under this chapter.

306 (b.1)(1) In addition to all other requirements of this chapter, the used car division shall
 307 not issue or renew a license to a motor vehicle broker unless the applicant or holder
 308 thereof:

309 (A) Demonstrates residency in this state through production of a driver's license or
 310 personal identification card issued pursuant to Chapter 5 of Title 40; and

311 (B)(i) Demonstrates maintenance of an established place of business with at least 150
 312 square feet of space with reasonable hours of operation which are prominently posted
 313 at such location; or

314 (ii) Designates a used motor vehicle dealer licensed by the used car division pursuant
 315 to this chapter to serve as a responsible agent for the applicant.

316 (2)(A) Any current or discharged member of the military or any spouse of a current or
 317 discharged member of the military who is a motor vehicle broker shall be exempt from
 318 the requirements of subparagraph (A) of paragraph (1) of this subsection.

319 (B) As used in this paragraph, the term:

320 (i) 'Discharge' means an honorable discharge or a general discharge from active
 321 military service. Such term shall not mean a discharge for reasons other than
 322 honorable conditions, a bad conduct discharge, or a dishonorable discharge.

323 (ii) 'Military' means any regular or reserve component of the United States armed
 324 forces, the Georgia Army National Guard, or the Georgia Air National Guard.

325 (3) Notwithstanding subparagraph (A) of paragraph (1) of this subsection, the used car
 326 division may grant a license to an applicant who can demonstrate residency within 50
 327 miles of this state, provided that all other requirements set forth in this subsection have
 328 been demonstrated."

329 **SECTION 5.**

330 Code Section 32-9-4 of the Official Code of Georgia Annotated, relating to designation of
 331 special or exclusive use travel lanes and use of such lanes, is amended by revising paragraph
 332 (4) of subsection (a) as follows:

333 "(4) Vehicles bearing alternative fueled vehicle license plates issued under ~~paragraph (5)~~
 334 ~~of subsection (a) (f)~~ of Code Section 40-2-38 or paragraph (7) of subsection (1) of Code
 335 Section 40-2-86.1; or"

336 **SECTION 6.**

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