

House Bill 753 (AS PASSED HOUSE AND SENATE)

By: Representatives Powell of the 32nd and Hitchens of the 161st

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 32-6-5 of the Official Code of Georgia Annotated, relating to
2 closure of or limiting access to roads due to inclement weather and exceptions for certain
3 vehicle operators, so to expand the classification of vehicles that require tire chains to travel
4 on a road declared as a limited access road due to inclement weather conditions; to provide
5 for penalties; to amend Title 40 of the Official Code of Georgia Annotated, relating to motor
6 vehicles and traffic, so as to provide for federal regulatory requirements; to provide for
7 further restrictions on the use of controlled-access roadways; to provide that certain fees may
8 be included in liens upon abandoned motor vehicles; to provide for the disposition of
9 proceeds from the public sale of an abandoned motor vehicle; 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 style="text-align:center">**SECTION 1.**

13 Code Section 32-6-5 of the Official Code of Georgia Annotated, relating to closure of or
14 limited access to roads due to inclement weather and exceptions for certain vehicle operators,
15 is amended by revising as follows:

16 "32-6-5.

17 (a) The department may close or limit access to any portion of road on the state highway
18 system due to a declared state of emergency for inclement weather conditions that results
19 in dangerous driving conditions. There shall be erected or posted signage of adequate size
20 indicating that a portion of the state highway system has been closed or access has been
21 limited. When the department determines a road shall have limited access due to a
22 declared state of emergency for inclement winter weather conditions, notice shall be given
23 to motorists through posted signage that motor vehicles must be equipped with tire chains,
24 four-wheel drive with adequate tires for existing conditions, or snow tires with a
25 manufacturer's all weather rating in order to proceed. Such signage shall inform motorists
26 that it shall be unlawful to proceed on such road without such equipment. With the

27 exception of buses, operators of commercial motor vehicles as defined by Code Section
 28 40-1-1 with four or more drive wheels traveling on a road declared as limited access due
 29 to a declared state of emergency for inclement winter weather conditions shall affix tire
 30 chains to ~~at least four of the~~ each of the outermost drive wheel tires. Bus and motor coach
 31 operators shall affix tire chains to at least two of the drive wheel tires before proceeding
 32 on a road with limited access due to a declared state of emergency for inclement winter
 33 weather conditions. For purposes of this Code section, the term 'tire chains' means metal
 34 chains which consist of two circular metal loops, positioned on each side of a tire,
 35 connected by not less than nine evenly spaced chains across the tire tread or any other
 36 traction devices ~~capable of providing traction equal to or exceeding that of such metal~~
 37 ~~chains under similar conditions~~ as provided for by rules and regulations of the
 38 commissioner of public safety.

39 (b) A driver of a motor vehicle who causes an accident or blocks the flow of traffic while
 40 failing to comply with the requirements of subsection (a) of this Code section when access
 41 is limited on the state highway system due to a declared state of emergency for inclement
 42 weather conditions shall be fined up to \$1,000.00.

43 ~~(b)(c)~~ This Code section shall not apply to a tow operator towing a motor vehicle or
 44 traveling to a site from which a motor vehicle shall be towed or to emergency responders
 45 traveling the roadway in order to fulfill their duties."

46 SECTION 2.

47 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
 48 amended by revising Code Section 40-1-8, relating to safe operations of motor carriers and
 49 commercial motor vehicles, as follows:

50 "40-1-8.

51 (a) As used in this Code section, the term:

52 (1) 'Commissioner' means the commissioner of public safety.

53 (2) 'Department' means the Department of Public Safety.

54 (3) 'Present regulations' means the regulations promulgated under 49 C.F.R. in force and
 55 effect on January 1, 2014.

56 (b) The commissioner shall have the authority to promulgate rules and regulations for the
 57 safe operation of motor carriers, the safe operation of commercial motor vehicles and
 58 drivers, and the safe transportation of hazardous materials. Any such rules and regulations
 59 promulgated or deemed necessary by the commissioner shall include, but are not limited
 60 to, the following:

61 (1) Every commercial motor vehicle and all parts thereof shall be maintained in a safe
 62 condition at all times; and the lights, brakes, ~~and equipment,~~ and all other parts or

63 accessories shall meet such safety requirements ~~as the commissioner shall from time to~~
64 ~~time promulgate~~ designated by present regulations under Parts 393 and 396;

65 (2) Every driver employed to operate a motor vehicle for a motor carrier shall:

66 (A) Be at least 18 years of age to operate a motor vehicle for a motor carrier intrastate
67 and at least 21 years of age to operate a motor vehicle for a motor carrier interstate;

68 (B) Meet the qualification requirements the commissioner shall from time to time
69 promulgate;

70 (C) Be of temperate habits and good moral character;

71 (D) Possess a valid driver's license;

72 (E) Not use or possess prohibited drugs or alcohol while on duty; and

73 (F) Be fully competent and sufficiently rested to operate the motor vehicle under his
74 or her charge;

75 (3) Accidents arising from or in connection with the operation of commercial motor
76 vehicles shall be reported to the commissioner of transportation in such detail and in such
77 manner as the commissioner of transportation may require;

78 (4) The commissioner shall require each commercial motor vehicle to have attached such
79 distinctive markings as shall be adopted by the commissioner. Such identification
80 requirements shall comply with the applicable provisions of the federal Unified Carrier
81 Registration Act of 2005; and

82 (5) The commissioner shall provide distinctive rules for the transportation of
83 unmanufactured forest products in intrastate commerce to be designated the 'Georgia
84 Forest Products Trucking Rules.'

85 (c)(1) Regulations governing the safe operations of motor carriers, commercial motor
86 vehicles and drivers, and the safe transportation of hazardous materials may be adopted
87 by administrative order, including, but not limited to, by referencing compatible federal
88 regulations or standards without compliance with the procedural requirements of Chapter
89 13 of Title 50, the 'Georgia Administrative Procedure Act,' provided that such federal
90 regulations or standards shall be maintained on file by the department and made available
91 for inspection and copying by the public, by means including, but not limited to, posting
92 on the department's Internet site. The commissioner may comply with the filing
93 requirements of Chapter 13 of Title 50 by filing with the office of the Secretary of State
94 the name and designation of such rules, regulations, standards, and orders. The courts
95 shall take judicial notice of rules, regulations, standards, or orders so adopted or
96 published.

97 (2) Rules, regulations, or orders previously adopted, issued, or promulgated pursuant to
98 the provisions of Chapter 7 or 11 of Title 46 in effect on June 30, 2011, shall remain in
99 full force and effect until such time as the commissioner of public safety adopts, issues,

100 or promulgates new rules, regulations, or orders pursuant to the provisions of this Code
101 section.

102 (d)(1) The commissioner may, pursuant to rule or regulation, specify and impose civil
103 monetary penalties for violations of laws, rules, and regulations relating to driver and
104 motor carrier safety and transportation of hazardous materials. Except as may be
105 hereafter authorized by law, the maximum amount of any such monetary penalty shall not
106 exceed the maximum penalty authorized by law or rule or regulation for the same
107 violation immediately prior to July 1, 2005.

108 (2) A cause of action for the collection of a penalty imposed pursuant to this subsection
109 may be brought in the superior court of the county where the principal place of business
110 of the penalized company is located or in the superior court of the county where the
111 action giving rise to the penalty occurred.

112 (e) The commissioner is authorized to adopt such rules and orders as he or she may deem
113 necessary in the enforcement of this Code section. Such rules and orders shall have the
114 same dignity and standing as if such rules and orders were specifically provided in this
115 Code section. The commissioner is authorized to establish such exceptions or exemptions
116 from the requirements of this Code section, as he or she shall deem appropriate, consistent
117 with any federal program requirements, and consistent with the protection of the public
118 health, safety, and welfare.

119 (f)(1) The commissioner may designate members of the department, pursuant to Article
120 5 of Chapter 2 of Title 35, to perform regulatory compliance inspections. Members of
121 county, municipal, campus, and other state agencies may be designated by the
122 commissioner to perform regulatory compliance inspections only of vehicles, drivers, and
123 cargo in operation, and may only enforce the provisions of rules and regulations
124 promulgated under this Code section or Article 2 of this chapter subject to the provisions
125 of a valid agreement between the commissioner and the county, municipal, campus, or
126 other state agency.

127 (2) Unless designated and authorized by the commissioner, no members of county,
128 municipal, campus, and other state agencies may perform regulatory compliance
129 inspections.

130 (g) No person shall drive or operate, or cause the operation of, a vehicle in violation of an
131 out-of-service order. As used in this subsection, the term 'out-of-service order' means a
132 temporary prohibition against operating as a motor carrier or driving or moving a vehicle,
133 freight container or any cargo thereon, or any package containing a hazardous material.

134 (h) Unless otherwise provided by law, a motor carrier or operator of a commercial motor
135 vehicle shall comply with the present regulations as follows:

136 (1) Motor carrier safety standards found in 49 C.F.R. Part 391;

- 137 (2) Motor carrier safety standards found in 49 C.F.R. Part 392, including but not limited
 138 to the seatbelt ~~Seatbelt~~ usage requirements found in 49 C.F.R. Section 392.16; and
- 139 (3) Hours of service and record of duty status requirements of 49 C.F.R. Part 395.
- 140 (i) A person failing to comply with the requirements of paragraph (2) of subsection (h) of
 141 this Code section shall be guilty of the misdemeanor offense of failure to wear a seat safety
 142 belt while operating a commercial motor vehicle and, upon conviction thereof, shall be
 143 fined not more than \$50.00 but shall not be subject to imprisonment. The costs of such
 144 prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge to a fine
 145 for such offense be assessed against a person for conviction thereof. No points shall be
 146 added pursuant to Code Section 40-5-57 and no additional fines or penalties shall be
 147 imposed.
- 148 (j) Every officer, agent, or employee of any corporation and every person who violates or
 149 fails to comply with this Code section or any order, rule, or regulation adopted pursuant to
 150 this Code section, or who procures, aids, or abets a violation of this Code section or such
 151 rule or regulation, shall be guilty of a misdemeanor. Misdemeanor violations of this Code
 152 section may be prosecuted, handled, and disposed of in the manner provided for by Chapter
 153 13 of this title."

154 **SECTION 3.**

155 Said title is further amended by revising Code Section 40-6-51, relating to further restrictions
 156 on use of controlled-access roadways, as follows:

157 "40-6-51.

158 (a)(1) Any motor vehicle with more than six wheels and commercial motor vehicles as
 159 defined by Code Section 40-1-1 shall not travel on any portions of Interstates 20, 75, 85
 160 or Georgia Highway 400 that are located within the arc of Interstate 285 unless the driver
 161 of such motor vehicle is:

162 (A) Engaging in a pick up or delivery to or from a shipper located inside the arc of
 163 Interstate 285;

164 (B) Traveling to or from such motor vehicle's terminal facility located inside the arc
 165 of Interstate 285;

166 (C) Traveling to or from a repair facility located inside the arc of Interstate 285 for
 167 service; or

168 (D) Traveling to or from his or her residence which is located inside the arc of
 169 Interstate 285.

170 (2) The Department of Transportation by order and local authorities by ordinance may
 171 regulate or prohibit the use of any controlled-access roadway within their respective

172 jurisdictions by any class or kind of traffic which is found to be incompatible with the
173 normal and safe movement of traffic.

174 (b) The Department of Transportation or the local authority adopting any such prohibition
175 shall erect and maintain official traffic-control devices on the controlled-access highway
176 on which such prohibitions are applicable, and when such devices are in place no person
177 shall disobey the restrictions stated thereon.

178 (c) For purposes of this Code section, roadways within the jurisdiction of the Department
179 of Transportation and roadways within the jurisdiction of local authorities shall be as set
180 forth in Code Section 32-4-1.

181 (d) A driver of a motor vehicle failing to comply with the requirements of subsection (a)
182 of this Code section shall be fined \$150.00. A driver of a motor vehicle failing to comply
183 with subsection (a) of this Code section during a declared state of emergency for inclement
184 weather conditions shall be fined \$1,000.00."

185 **SECTION 4.**

186 Said title is further amended by revising Code Section 40-11-4, relating to the creation of
187 liens and court authority to foreclose, as follows:

188 "40-11-4.

189 (a) Any person who removes or stores any motor vehicle which is or becomes an
190 abandoned motor vehicle shall have a lien on such vehicle for the reasonable fees
191 connected with such removal or storage plus the cost of any notification or advertisement
192 up to the date of retrieval or public sale of such vehicle. Such lien shall exist if the person
193 moving or storing such vehicle is in compliance with Code Section 40-11-2.

194 (b) The lien acquired under subsection (a) of this Code section may be foreclosed in any
195 court which is competent to hear civil cases, including, but not limited to, magistrate
196 courts. Liens shall be foreclosed in magistrate courts only when the amount of the lien
197 does not exceed the jurisdictional limits established by law for such courts."

198 **SECTION 5.**

199 Said title is further amended by revising paragraph (2) of Code Section 40-11-5, relating to
200 lien foreclosure procedure for abandoned motor vehicles, as follows:

201 "(2) The person desiring to foreclose a lien on an abandoned motor vehicle shall, by
202 certified or registered mail or statutory overnight delivery, make a demand upon the
203 owners for the payment of the reasonable fees for removal and storage plus the costs
204 of any notification or advertisement up to the date of retrieval or public sale of such
205 vehicle. Such written demand shall include an itemized statement of all charges and
206 may be made concurrent with the notice required by subsection (f) of Code Section

207 40-11-2. Such demand shall be made on a form prescribed by rule or regulation of the
 208 Department of Revenue and shall notify the owner of his or her right to a judicial
 209 hearing to determine the validity of the lien. The demand shall further state that failure
 210 to return the written demand to the lien claimant, file with a court of competent
 211 jurisdiction a petition for a judicial hearing, and provide the lien claimant with a copy
 212 of such petition, all within ten days of delivery of the lien claimant's written demand,
 213 shall effect a waiver of the owner's right to such a hearing prior to sale. The form shall
 214 also provide the suspected owner with the option of disclaiming any ownership of the
 215 vehicle, and his or her affidavit to that effect shall control over anything contrary in the
 216 records of the Department of Revenue. No such written demand shall be required if the
 217 identity of the owner cannot be ascertained and the notice requirements of subsection
 218 (g) of Code Section 40-11-2 have been complied with;"

219

SECTION 6.

220 Said title is further amended by revising Code Section 40-11-8, relating to the disposition of
 221 proceeds from a foreclosure sale of an abandoned motor vehicle, as follows:

222 "40-11-8.

223 The clerk of the court shall retain the remaining balance of the proceeds of a sale under
 224 Code Section 40-11-6, after satisfaction of liens, security interests, and debts, for a period
 225 of 12 months; and, if no claim has been filed against such proceeds by the owner of the
 226 abandoned motor vehicle or any interested party, then he or she shall pay such remaining
 227 balance as follows:

228 (1) If the abandoned motor vehicle came into the possession of the person creating the
 229 lien other than at the request of a peace officer, the proceeds of the sale shall be divided
 230 equally and paid into the general fund of the county in which the sale was made, ~~and~~ into
 231 the general fund of the municipality, if any, in which the sale was made, and to the person
 232 who placed the lien on the motor vehicle which resulted in foreclosure;

233 (2) If the abandoned motor vehicle came into the possession of the person creating the
 234 lien at the request of a police officer of a municipality, the proceeds of the sale shall be
 235 divided equally and paid into the general fund of the municipality and to the person who
 236 placed the lien on the motor vehicle which resulted in foreclosure;

237 (3) If the abandoned motor vehicle came into the possession of the person creating the
 238 lien at the request of a county sheriff, deputy sheriff, or county police officer, the
 239 proceeds of the sale shall be divided equally and paid into the general fund of the county
 240 in which the sale was made; and to the person who placed the lien on the motor vehicle
 241 which resulted in foreclosure; or

242 (4) If the abandoned motor vehicle came into the possession of the person creating the
243 lien at the request of a member of the Georgia State Patrol or other employee of the State
244 of Georgia, the proceeds of the sale shall be divided equally and paid into the general
245 fund of the county in which the sale was made and to the person who placed the lien on
246 the motor vehicle which resulted in foreclosure."

247 **SECTION 7.**

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