

House Bill 116 (AS PASSED HOUSE AND SENATE)

By: Representatives McDonald III of the 26th, Crowe of the 118th, Hitchens of the 161st, Lumsden of the 12th, and Barrett of the 24th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 5 of Chapter 2 of Title 35 and Title 40 of the Official Code of Georgia
2 Annotated, relating to Motor Carrier Compliance Division of the Department of Public
3 Safety and motor vehicles and traffic, respectively, so as to change the name of the Motor
4 Carrier Compliance Division of the Department of Public Safety to Commercial Vehicle
5 Enforcement; to require law enforcement officers within such division be trained, sworn, and
6 certified; to provide for conforming changes; to provide for related matters; to repeal
7 conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 5 of Chapter 2 of Title 35 of the Official Code of Georgia Annotated, relating to
11 Motor Carrier Compliance Division of the Department of Public Safety, is amended by
12 revising Code Section 35-2-100, relating to creation and members designated as law
13 enforcement officers, as follows:

14 "35-2-100.

15 There shall be created and established a division of the Department of Public Safety to be
16 known as ~~the Motor Carrier Compliance Division~~ Commercial Vehicle Enforcement, and

within the division shall be created a section to be known as the ~~Motor Carrier~~
Regulatory Compliance Enforcement Section. Except as provided in Code Section
35-2-102, the members of the ~~Motor Carrier Compliance Enforcement Section~~ Commercial
Vehicle Enforcement shall be known, and designated, trained, sworn, and certified as 'law
enforcement officers.'

SECTION 2.

Said article is further amended in Code Section 35-2-101, relating to jurisdiction, duties and
powers, and use of dogs to detect controlled substances, by revising subsection (a), the
introductory language of subsection (b), and subsection (d) as follows:

"(a) The ~~Motor Carrier Compliance Enforcement Section~~ Commercial Vehicle
Enforcement division of the department shall have jurisdiction throughout this state with
such duties and powers as are prescribed by law.

(b) The primary duties of the division of Commercial Vehicle Enforcement ~~Motor Carrier~~
~~Compliance Enforcement Section~~ shall be as follows:"

"(d) The commissioner shall authorize law enforcement officers of the ~~Motor Carrier~~
~~Compliance Enforcement Section~~ Commercial Vehicle Enforcement to make use of dogs
trained for the purpose of detection of drugs and controlled substances while such officers
are engaged in the performance of their authorized duties. If such authorized use of such
a dog indicates probable cause to indicate the presence of contraband, the officer or officers
shall in those circumstances have the full authority of peace officers to enforce the
provisions of Article 2 of Chapter 13 of Title 16, the 'Georgia Controlled Substances Act,'
and Article 3 of Chapter 13 of Title 16, the 'Dangerous Drug Act'; provided, however, that
the department must immediately notify the local law enforcement agency and district
attorney of the jurisdiction where a seizure is made."

SECTION 3.

Said article is further amended by revising Code Section 35-2-102, relating to weight inspector positions, training, powers and responsibilities, and presence of certified peace officer, as follows:

"35-2-102.

(a) The commissioner is authorized to establish a position to be known as 'weight inspector' within the ~~Motor Carrier Compliance Enforcement Section of the Department of Public Safety~~ Commercial Vehicle Enforcement division of the department. Weight inspectors shall be assigned to fixed scales facilities and shall not be authorized to operate outside such facilities. The number of such positions shall be determined by the commissioner within the limits set by available appropriations. Weight inspectors may be divided into such ranks as the commissioner deems appropriate.

(b) The commissioner shall ensure that a weight inspector is properly trained regarding laws governing commercial motor vehicle weight, registration, size, and load, including, but not limited to, commercial motor vehicle provisions in Article 2 of Chapter 6 of Title 32 and safety standards for commercial motor vehicles and such motor vehicle components. The training required in the areas required by this subsection shall be equivalent to training provided to certified officers in the ~~Motor Carrier Compliance Enforcement Section~~ Commercial Vehicle Enforcement.

(c) A weight inspector, at ~~the~~ a fixed scales facility, shall be authorized to:

(1) Enforce noncriminal provisions relating to commercial motor vehicle weight, registration, size, and load and assess a civil penalty for a violation of such provisions; and

(2) Detain a commercial motor vehicle that:

(A) Has a safety defect which is critical to the continued safe operation of the vehicle;

(B) Is being operated in violation of any criminal law; or

(C) Is being operated in violation of an out-of-service order as reported on the federal Safety and Fitness Electronic Records data base.

The detention authorized by this paragraph shall be for the purpose of contacting a certified member of ~~the Motor Carrier Compliance Enforcement Section or~~ Commercial Vehicle Enforcement or the Georgia State Patrol. A certified officer shall report to the scene of a detained vehicle and take any further action deemed appropriate, including completing the inspection and investigation, making an arrest, or bringing criminal or civil charges.

(d) At all times while a weight inspector is on duty, there shall be a supervisor over the weight inspector also on duty who shall be a certified peace officer."

SECTION 4.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended by revising Code Section 40-1-52, relating to establishment of Motor Carrier Compliance Division, as follows:

"40-1-52.

There is created and established a division within the Department of Public Safety to be known as ~~the Motor Carrier Compliance Division~~ Commercial Vehicle Enforcement which shall include a section designated the Regulatory Compliance Section. Except as provided in Chapter 2 of Title 35, the sworn members of ~~the Motor Carrier Compliance Division~~ Commercial Vehicle Enforcement shall be known and designated as law enforcement officers. The Regulatory Compliance Section shall be responsible for the regulation of the operation of motor carriers and limousine carriers in accordance with this article, Code Section 40-1-8, and Article 2 of this chapter."

SECTION 5.

Said title is further amended by revising Code Section 40-2-82, relating to license plates for Department of Public Safety vehicles operated by Georgia State Patrol or Motor Carrier Compliance Division, as follows:

"40-2-82.

The commissioner of public safety shall be issued distinctive license plates to be used on motor vehicles assigned to the Department of Public Safety and operated by troopers of the Georgia State Patrol or law enforcement officers of the ~~Motor Carrier Compliance Division~~ Commercial Vehicle Enforcement. The distinctive plates shall be issued free of charge in accordance with procedures agreed upon by the commissioner of public safety and the state revenue commissioner. License plates issued pursuant to this Code section need not contain a place for the county name decal and no county name decal need be affixed to a license plate issued pursuant to this Code section."

SECTION 6.

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