

The Senate Committee on Public Safety offered the following substitute to HB 1064:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 35 of the Official Code of Georgia Annotated, relating to the
2 Department of Public Safety, so as to revise provisions for the off-duty use of motor vehicles
3 by certain law enforcement officers of the department relative to approved off-duty
4 employment; to provide for related matters; to repeal conflicting laws; and for other
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

7 Chapter 2 of Title 35 of the Official Code of Georgia Annotated, relating to the Department
8 of Public Safety, is amended by revising Code Section 35-2-56, relating to use of motor
9 vehicles or other equipment by members of Uniform Division, as follows:

10 "35-2-56.

11 (a) Except as otherwise provided in subsection (b) of this Code section, no department
12 motor vehicles shall be used by any member of the Uniform Division except in discharge
13 of official duties. Any other equipment shall be used only with the express written
14 approval of the commissioner. The commissioner shall adopt rules and regulations
15 governing the use of equipment subject to approval of the Board of Public Safety.

16 (b)(~~†~~) Members of the Uniform Division may use a department motor vehicle while
17 working an approved off-duty job, provided that: if such job requires vested police powers
18 as a condition of employment, has been approved by the commissioner, and has been
19 determined by the commissioner to be in furtherance of the department's mission and
20 service to the state; provided, however, that no employee shall, for purposes of this
21 subsection, use a department motor vehicle at any political function.

22 ~~(A) The off-duty employment is of a general nature that is the subject of a contract~~
23 ~~between the off-duty employer and the Department of Public Safety and is service in~~
24 ~~which the use of the department motor vehicle is a benefit to the department or is in~~
25 ~~furtherance of the department's mission;~~
26

~~(B) The off-duty employer agrees to pay and does pay to the department an amount determined by the commissioner to be sufficient to reimburse the department for the use of the vehicle and to pay the off-duty employee sufficient compensation. Pursuant to such contract, the department shall pay the employee of the department the compensation earned on off-duty employment whenever such employee performs such service in a department motor vehicle; and~~

~~(C) The commissioner has specifically approved, in writing, the individual use of the vehicle by the employee.~~

~~(2) At no time will an off-duty employee be allowed use of a department motor vehicle at any political function of any kind.~~

(c) The commissioner, in his or her sole discretion, in granting approval for such off-duty job in which a department motor vehicle is used, or at any instance or interval thereafter, but prior to the use of such vehicle, shall determine whether the off-duty employer provided for in subsection (b) of this Code section shall reimburse the department for use of the vehicle. When reimbursement is required, such off-duty employer shall enter into a written agreement with the department to pay the department an amount determined by the commissioner to be sufficient to reimburse the department for the use of the vehicle and to pay the off-duty employee sufficient compensation. Pursuant to such agreement, the department shall pay the employee of the department the compensation earned on off-duty employment whenever such employee performs such service in a department motor vehicle; provided, however, that such compensation shall not be characterized as direct employment compensation, but shall be paid as services under contract.

(d) Employees of the department operating a department motor vehicle pursuant to this Code section shall be deemed to be acting within the scope of their official duties and employment within the meaning of Code Section 50-21-20, et seq., and the commissioner of administrative services shall provide liability coverage for claims arising out of such use."

SECTION 2.

Said chapter is further amended in Code Section 35-2-101, relating to jurisdiction, duties and powers, use of dogs to detect controlled substances, and off-duty use vehicles, by revising subsection (e) as follows:

"(e)(1) Certified law enforcement officers employed by the Motor Carrier Compliance Enforcement Section may use a department motor vehicle while working an approved off-duty job, provided that: if such job requires vested police powers as a condition of employment, has been approved by the commissioner, and has been determined by the commissioner to be in furtherance of the department's mission and service to the state;

63 provided, however, that no employee shall, for purposes of this subsection, use a
 64 department motor vehicle at any political function.

65 ~~(A) The off-duty employment is of a general nature that is the subject of a contract~~
 66 ~~between the off-duty employer and the department and is service in which the use of~~
 67 ~~the department motor vehicle is a benefit to the department or is in furtherance of the~~
 68 ~~department's mission;~~

69 ~~(B) The off-duty employer agrees to pay and does pay to the department an amount~~
 70 ~~determined by the commissioner to be sufficient to reimburse the department for the use~~
 71 ~~of the vehicle and to pay the off-duty employee sufficient compensation. Pursuant to~~
 72 ~~such contract, the department shall pay the employee of the department the~~
 73 ~~compensation earned on off-duty employment whenever such employee performs such~~
 74 ~~service in a department motor vehicle; and~~

75 ~~(C) The commissioner has specifically approved, in writing, the individual use of the~~
 76 ~~vehicle by the employee.~~

77 (2) ~~At no time will an off-duty employee be allowed use of a department motor vehicle~~
 78 ~~at any political function of any kind The commissioner, in his or her sole discretion, in~~
 79 ~~granting approval for such off-duty job in which a department motor vehicle is used, or~~
 80 ~~at any instance or interval thereafter, but prior to the use of such vehicle, shall determine~~
 81 ~~whether the off-duty employer provided for in paragraph (1) of this subsection shall~~
 82 ~~reimburse the department for use of the vehicle. When reimbursement is required, such~~
 83 ~~off-duty employer shall enter into a written agreement with the department to pay the~~
 84 ~~department an amount determined by the commissioner to be sufficient to reimburse the~~
 85 ~~department for the use of the vehicle and to pay the off-duty employee sufficient~~
 86 ~~compensation. Pursuant to such agreement, the department shall pay the employee of the~~
 87 ~~department the compensation earned on off-duty employment whenever such employee~~
 88 ~~performs such service in a department motor vehicle; provided, however, that such~~
 89 ~~compensation shall not be characterized as direct employment compensation, but shall~~
 90 ~~be paid as services under contract.~~

91 (3) Employees of the department operating a department motor vehicle pursuant to this
 92 Code section shall be deemed to be acting within the scope of their official duties and
 93 employment within the meaning of Code Section 50-21-20, et seq., and the commissioner
 94 of administrative services shall provide liability coverage for claims arising out of such
 95 use."

96 SECTION 3.

97 Said chapter is further amended by revising Code Section 35-2-123, relating to use of
 98 vehicles by off-duty law enforcement officer, as follows:

99 "35-2-123.

100 (a) Certified law enforcement officers employed by the division shall be authorized to use
 101 ~~official department motor vehicles while engaging in approved off-duty employment;~~
 102 ~~provided that: if such employment requires vested police powers as a condition of~~
 103 ~~employment, has been approved by the commissioner, and has been determined by the~~
 104 ~~commissioner to be in furtherance of the department's mission and service to the state;~~
 105 ~~provided, however, that no employee shall, for purposes of this subsection, use a~~
 106 ~~department motor vehicle at any political function.~~

107 ~~(1) The off-duty employment is related to a contract between the off-duty employer and~~
 108 ~~the department and is service in which the use of the official vehicle is a benefit to the~~
 109 ~~department or is in furtherance of the department's mission;~~

110 ~~(2) The off-duty employer pays to the department an amount determined by the~~
 111 ~~commissioner to be sufficient to reimburse the department for the use of the official~~
 112 ~~vehicle; and~~

113 ~~(3) The commissioner has approved, in writing, the individual use of the official vehicle~~
 114 ~~by the law enforcement officer.~~

115 (b) ~~At no time shall an off-duty law enforcement officer be allowed the use of an official~~
 116 ~~vehicle at a political function of any kind~~ The commissioner, in his or her sole discretion,
 117 in granting approval for such off-duty job in which a department motor vehicle is used, or
 118 at any instance or interval thereafter, but prior to the use of such vehicle, shall determine
 119 whether the off-duty employer provided for in subsection (a) of this Code section shall
 120 reimburse the department for use of the vehicle. When reimbursement is required, such
 121 off-duty employer shall enter into a written agreement with the department to pay the
 122 department an amount determined by the commissioner to be sufficient to reimburse the
 123 department for the use of the vehicle. Pursuant to such agreement, the department shall pay
 124 the employee of the department the compensation earned on off-duty employment
 125 whenever such employee performs such service in a department motor vehicle; provided,
 126 however, that such compensation shall not be characterized as direct employment
 127 compensation, but shall be paid as services under contract.

128 (c) Employees of the department operating a department motor vehicle pursuant to this
 129 Code section shall be deemed to be acting within the scope of their official duties and
 130 employment within the meaning of Code Section 50-21-20, et seq., and the commissioner
 131 of administrative services shall provide liability coverage for claims arising out of such
 132 use."

133 SECTION 4.

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