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## REVENUE AND TAXATION Provide for a Definition of and Clarify Licensing Requirements for Low-Speed Vehicles; Provide for Applicability of Certain Provisions and Requirements with Respect to Low-Speed Vehicles; Revenue and Taxation Income Taxes: Change Provisions Regarding Income Tax Credits for Low and Zero Emission Vehicles Which are Also Low-Speed Vehicles; Provide for Additional Procedures, Conditions, and Limitations with Respect to Such Credit

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## REVENUE AND TAXATION

***Provide for a Definition of and Clarify Licensing Requirements for Low-Speed Vehicles; Provide for Applicability of Certain Provisions and Requirements with Respect to Low-Speed Vehicles; Revenue and Taxation Income Taxes: Change Provisions Regarding Income Tax Credits for Low and Zero Emission Vehicles Which are Also Low-Speed Vehicles; Provide for Additional Procedures, Conditions, and Limitations with Respect to Such Credit***

CODE SECTIONS: O.C.G.A. §§ 40-1-1 (amended), 40-2-20 (amended), 40-3-4 (amended), 40-6-330 (amended), -331 (amended), 48-7-40.16 (amended)

BILL NUMBER: HB 1439

ACT NUMBER: 500

GEORGIA LAWS: 2002 Ga. Laws 506

SUMMARY: The Act provides for income tax credits to individuals and corporations who purchased and placed in service a low emission or zero emission vehicle, which is also a low-speed vehicle, during the taxable year ending December 31, 2001. Low-speed vehicles placed in service after that date will not be eligible for a low emission or zero emission vehicle income tax credit. The Act defines a low-speed vehicle as any motor vehicle with four wheels whose top speed is between twenty and twenty-five miles per hour. The Act provides that such vehicles shall not be subject to licensing requirements or certificate of title requirements and may only be operated during daylight hours. A local governing authority may restrict

the use of such vehicles to designated public streets.

EFFECTIVE DATE: April 25, 2002.

### *History*

In 1998, the General Assembly passed an income tax credit to encourage people to lease or purchase low or zero emission vehicles to reduce Metropolitan Atlanta's pollution problems.<sup>1</sup> The legislation created a \$1,500 income tax credit for individuals and businesses electing to purchase or lease a low-emission vehicle in the area designated as being in "nonattainment" of the ambient air quality standards for ozone.<sup>2</sup> In the 2000 session, the Act was amended to increase the tax credit to \$2,500 for low emission vehicles and \$5,000 for zero emission vehicles.<sup>3</sup> At the time the General Assembly passed it, the sponsors did not contemplate that low-speed vehicles would be included.<sup>4</sup>

However, because low-speed vehicles were not specifically excluded from the definition of low emission vehicles, the Department of Motor Vehicles erroneously tagged low-speed vehicles as low emission vehicles, thereby triggering the tax credit.<sup>5</sup> Further, several car manufacturers "took advantage" of the ambiguity in the bill to "mislead the public" into thinking that golf carts were eligible for the income tax credit.<sup>6</sup> As a result, 740 people bought golf carts in 2001 thinking they would be eligible for the \$5,000 tax credit for zero emission vehicles.<sup>7</sup> However, the Department of Motor Vehicles and Safety realized that golf carts did not meet the standards of a "road-safe vehicle" and halted all low-speed electric vehicle registrations.<sup>8</sup> Consequently, the 740 people who bought golf

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1. *Review of Selected 1998 Georgia Legislation*, 15 GA. ST. U. L. REV. 224 (1998).

2. *Id.*

3. See HB 801, 2000 Ga. Gen. Assembly.

4. Audio Recording of House Proceedings, Feb. 28, 2002 (remarks by Rep. Richard Royal), at <http://www.ganet.org/services/leg/audio/2002archive.html> [hereinafter House Audio].

5. Telephone Interview with Rep. Richard Royal, House District No. 164 (Apr. 18, 2002) [hereinafter Royal Interview].

6. House Audio, *supra* note 4 (remarks by Rep. Richard Royal).

7. Clark Howard, *State Pulls Tax-Credit Plug on Electric Vehicle Owners*, ATLANTA J. CONST., Feb. 21, 2002, at BE2; House Audio, *supra* note 4 (remarks by Rep. Richard Royal).

8. Telephone Interview with Neil Childers, Department of Motor Vehicles (June 26, 2002) [hereinafter Childers Interview]; Howard, *supra* note 7.

carts of a tax credit could not get the license plate registration required to apply for the tax credit.<sup>9</sup> HB 1439 was intended to extend the tax credit to the “innocent people . . . caught up in a bill that was not clear,” while clarifying the language to prevent future problems.<sup>10</sup>

The bill sponsors were also concerned with encouraging economic development.<sup>11</sup> Don Panoz, founder of the Irish pharmaceuticals maker Elan Corp. P.L.C., planned to start an electric car rental program from subway stations and shopping malls in U.S. cities.<sup>12</sup> The firm, eMotion Mobility LLC, based in Atlanta, was scheduled to have 250 cars available for rent in Atlanta by the end of 2002 and 2,500 by the end of 2006.<sup>13</sup> Sponsors of HB 1439 saw the bill as an opportunity to encourage the switch to low emission vehicles and place Georgia in the center of the industry.<sup>14</sup>

### HB 1439

Representatives A. Richard Royal, Thomas Buck, Charlie Smith, Jr., Lynn Westmoreland, and Kathy Cox, of the 164th, 135th, 175th, 104th, and 105th Districts, respectively, sponsored HB 1439.<sup>15</sup> Representative Royal introduced the bill on the House floor on February 18, 2002.<sup>16</sup> The House assigned the bill to its Ways and Means committee, which favorably reported the bill on February 20, 2002.<sup>17</sup> The House adopted the bill on February 27, 2002, by a vote of 162 to 2.<sup>18</sup> On February 28, 2002, the Senate read and referred the bill to its Finance and Public Utilities Committee, which favorably reported the bill, without change, on March 8, 2002.<sup>19</sup> The Senate unanimously adopted the bill on April 9, 2002.<sup>20</sup> The General

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9. Childers Interview *supra* note 8.

10. House Audio, *supra* note 4 (remarks by Rep. Kathy Cox).

11. *Id.*

12. Tom Barry, *Small Car, Big City*, 16 GA. TREND 10 (2001); Will Pinkston and Scott Miller, *DaimlerChrysler Heads for Smart's U.S. Debut*, THE ASIAN WALL STREET JOURNAL, Aug. 21, 2001, at 10; see also Royal Interview, *supra* note 5.

13. Pinkston and Miller, *supra* note 12.

14. House Audio, *supra* note 4.

15. HB 1439, as introduced, 2002 Ga. Gen. Assem.

16. State of Georgia Final Composite Status Sheet, HB 1439, Apr. 12, 2002.

17. *Id.*

18. Georgia House of Representatives Voting Record, HB 1439 (Feb. 27, 2002); State of Georgia Final Composite Status Sheet, HB 1439, Apr. 12, 2002.

19. State of Georgia Final Composite Status Sheet, HB 1439, Apr. 12, 2002.

20. Georgia Senate Voting Record, HB 1439 (Apr. 9, 2002); State of Georgia Final Composite Status Sheet, HB 1439, Apr. 12, 2002.

Assembly forwarded the bill to Governor Roy Barnes, who signed HB 1439 into law on April 25, 2002.<sup>21</sup>

### *The Act*

In Section 1, the Act amends Title 48 of the Georgia Code by adding a new paragraph, 48-7-40.16(e)(6), which extends the tax credits to taxpayers who purchased or leased and placed in service a low or zero emission vehicle that is also a low-speed vehicle before December 31, 2001, “notwithstanding that such vehicle is not eligible for registration as a motor vehicle in Georgia.”<sup>22</sup>

The Act amends Code section 40-1-1, relating to definitions, by adding a new paragraph that defines a low-speed vehicle as any four-wheeled vehicle with a top speed between twenty and twenty-five miles per hour.<sup>23</sup>

Section 3 of the Act amends Code section 40-2-20 by adding a new paragraph, 40-2-20(b)(6), which states that the registration and licensing requirements for motor vehicles do not apply to any low-speed vehicles.<sup>24</sup> The Act also amends Code section 40-3-4 to exempt low-speed vehicles from Georgia certificate of title requirements by adding a new subsection 40-3-4(19).<sup>25</sup>

The Act amends Code section 40-6-330 by adding “low-speed vehicles” to the provision that motorized carts may be operated on streets only during daylight hours.<sup>26</sup> Further, the Act amends Code section 40-6-331 by stating that a local governing authority may pass its own ordinances governing the use of motorized carts as well as “low-speed vehicles.”<sup>27</sup>

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21. State of Georgia Final Composite Status Sheet, HB 1439, Apr. 12, 2002.

22. Compare 2001 Ga. Laws 26, § 1 at 111 (formerly found at O.C.G.A. § 48-7-40.16 (Supp. 2001)), with O.C.G.A. § 48-7-40.16 (Supp. 2002).

23. O.C.G.A. § 40-1-1 (Supp. 2002).

24. *Id.* § 40-2-20 (2002).

25. *Id.* § 40-3-4 (2002).

26. Compare 2001 Ga. Laws 951, § 5A-9 at 1018 (formerly found at O.C.G.A. § 40-6-330 (2000)), with O.C.G.A. 40-6-330 (Supp. 2002).

27. Compare 1990 Ga. Laws 2048, Part 3 at 2305 (formerly found at O.C.G.A. § 40-6-331 (2000)), with O.C.G.A. 40-6-331 (Supp. 2002).