



2021 SUMMARY OF ENACTED LEGISLATION

12-15-21

The full text of each bill summarized can be accessed at the Georgia General Assembly's Legislation Advanced Search webpage: <http://www.legis.ga.gov/Legislation/en-US/Search.aspx>

ADMINISTRATION

HB 98 (O.C.G.A. § 50-14-1)

This bill allows for State agencies to hold public meetings by teleconference in certain circumstances. When a state of emergency is formerly declared or if a State agency (including the Department of Revenue) determines that emergency conditions exist which necessitates meeting by teleconference, a teleconference meeting is permissible. The State agency must afford the public a means to participate fully in the meeting in the same manner as if the member of the public were physically present. This bill became effective May 4, 2021.

HB 156 (O.C.G.A. §§ 38-3-22.2 and 38-3-22.3)

This bill requires the Department (and other "Agencies") to report "any cyber-attack, data breach or identified use of malware on an agency or computer or network" as defined by the Director of GEMA to "create a life safety event, substantially impact the security of data and information systems, or affect critical systems, equipment, or service delivery." All relevant incidents must be reported to the director of emergency management and homeland security. This bill became effective March 25, 2021.

HB 611 (O.C.G.A. §§ 50-5-121, 50-5-122, and 50-7-90)

This bill amends the definition of "small business" in Georgia to include three separate and distinct tiers. Tier One includes businesses that have ten or fewer employees or \$1 million or less in gross receipts per year. Tier Two includes businesses that have 100 or fewer employees or \$10 million or less in gross receipts per year. Tier Three includes businesses that have 300 or fewer employees or \$30 million or less in gross receipts per year. This bill requires that every State of Georgia agency, including the Department of Revenue, provide data related to Georgia resident businesses and small businesses to the Department of Administrative Services unless otherwise barred by another confidentiality statute to further ensure that a fair proportion of State of Georgia contracts go to Georgia resident small businesses. This bill became effective July 1, 2021.

SB 185 (O.C.G.A. §§ 48-2-18, 48-2-35, 48-2-59, and 50-13A-14)

This bill alters the application of judicial deference by the Georgia Tax Tribunal or any court relating to claims for refund, appeals of taxes assessed, appeals of tax liens, and State Board of Equalization appeals. Previously, the courts could show deference to Department of Revenue decisions, materials, and other guidance. This bill limits the scope of judicial deference to only regulations promulgated pursuant to Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." This new judicial standard applies to all proceedings commenced on or after the effective date of the bill. This bill became effective April 29, 2021.

SB 201 (O.C.G.A. §§ 48-2-63 and 48-5-359.1)

This bill requires financial institutions to provide certain information related to delinquent taxpayers to the Department of Revenue electronically. The data matching program allows the Department to inquire with financial institutions if delinquent taxpayers who have exhausted their appeal rights and have an active, recorded tax

execution currently have an account with the institution. This allows the Department to verify the existence of an account prior to serving a levy, which saves time and effort for both the Department and the financial institutions. The Department may not request the data more than four times a year. To the extent possible, this program is to be administered in the same manner as the financial data matching program utilized by the Department of Human Services. This bill became effective May 10, 2021.

Alcohol and Tobacco

HB 273 (O.C.G.A. §§ 3-4-24.2 and 3-5-24.1)

This legislation modifies the limited exception to the three-tier system for both breweries and distilleries. The bill amends the limitations on retail sales to individuals, allows for the transfer of liquids between licensed premises, and requires quarterly reporting.

Distilleries:

- Allows the sale of up to 750 barrels per calendar year to individuals on the premises and the licensee is limited to a maximum of 3 licensed premises for retail sales.
- Limits retail sales for consumption off premises to a maximum of 4,500 milliliters per individual per day, but retail sales for consumption on premises are not subject to the daily maximum amount.
- Provides that distilled spirits sold must be distilled, rectified, blended, aged or bottled at one or more of the licensed premises and the licensee must be the sole owner of the brand and brand label.
- Allows for the transfer of any liquid to or from any of the licensed premises to be sold to individuals present at such licensed premises, subject to the limitations on retail sales.
- Requires the licensee to file quarterly reports with the Department of Revenue documenting all retail sales to individuals on the licensed premises.
- Beginning April 1, 2022, retail sales are permitted only at licensed premises that report on-site production volume. This new legislation allows licensed premises that meet certain requirements to be included in this provision and allowed to make retail sales. The bill also provides a method to calculate the maximum volume allowed for retail sales among all licensed premises.

Breweries:

- Allows for the sale of malt beverages to individuals physically present on the licensed premises.
- Limits retail sales of malt beverages for consumption off the premises to a maximum of 288 ounces per individual per day, however retail sales for consumption on the premises are not subject to a daily maximum cap.
- The maximum retail sales combined for all of the licensee's premises is 6,000 barrels of malt beverages per year.
- Allows for the transfer of any liquid to or from any of the licensed premises and can be sold to individuals present at such licensed premises, subject to the limitations on retail sales.
- A licensee may sell malt beverages it owns and produces at one licensed brewery that has been transferred to another licensed brewery, provided the licensed premises are under common ownership.

- The maximum barrels of malt beverages to be transferred from one licensed premises to another shall not exceed the number of barrels of malt beverages solely owned by the brewer and produced at the receiving licensed premises.
- The licensee is required to file quarterly reports with the Department of Revenue documenting all transfers of liquids between licensed premises.

HB 273 is effective May 5, 2021 (unless otherwise specified in the above summary)

HB 392 (O.C.G.A. § 3-3-21)

This bill amends distance limitations for where certain retail licensees may be located and allows local jurisdictions to enact less restrictive distance requirements from schools and educational buildings for the sale of wine and malt beverages for consumption off the premises.

HB 392 is effective May 4, 2021.

SB 236 (O.C.G.A. § 3-3-11)

This bill allows for the retail sale of mixed drinks for off-premises consumption by a food service establishment, provided the mixed drink is:

- Purchased with a food order (a maximum of two (2) mixed drinks per entrée)
- Sold in an approved sealed tamper-evident container that does not contain openings or straw holes.
- No more than 3 ounces of distilled spirits per mixed drink.
- Transported in a locked glove compartment, the trunk or the area behind the last upright seat, if the vehicle is not equipped with a trunk.

Mixed drinks may also be picked up via curbside, however mixed drinks are not permitted to be transferred to the consumer by delivery or a third-party delivery service.

HB 236 is effective May 5, 2021.

SB 145 (O.C.G.A. §§ 3-4-41 and 3-4-46)

This legislation modifies the requirements and allows a local jurisdiction to enact an ordinance or resolution to initiate a referendum election to authorize the issuance of licenses for package sale of distilled spirits. Additionally, this bill reduces the required number of signatures on a petition from 35 percent to 20 percent to proceed with such referendum election.

HB 145 is effective May 4, 2021.

INCOME TAX

HB 32 (O.C.G.A. § 48-7-29.23)

This bill creates a credit for a taxpayer who is designated by the Department of Education as a participating teacher in the teacher recruitment and retention program provided for in Code Section 20-2-251. The credit amount is equal to \$3,000 for no more than 5 school years and is limited to 1,000 teachers per school year. In no event shall the total amount of the tax credit exceed the taxpayer's income tax liability. Any unused tax credit is allowed to be carried forward for 3 years. The bill is applicable to taxable years beginning on or after January 1, 2022.

HB 114 (O.C.G.A. § 48-7-29.15)

This bill changes the foster child adoption tax credit for foster child adoptions occurring in taxable years beginning on or after January 1, 2021. The credit amount is now \$6,000 per year for the first 5 years and \$2,000 per year for each subsequent year but still ends in the year in which the adopted child attains the age of 18. In no event shall the total amount of the tax credit exceed the taxpayer's income tax liability. Any unused tax credit is not allowed to be carried forward.

HB 149 (O.C.G.A. §§ 48-7-21, 48-7-23, 48-7-24, 48-7-27, 48-7-100, and 48-7-129)

This bill allows Subchapter 'S' corporations and partnerships to annually make an irrevocable election to pay income tax at the entity level. The bill is applicable to taxable years beginning on or after January 1, 2022.

HB 265 (O.C.G.A. § 48-1-2)

For taxable years beginning on or after January 1, 2020, this bill updates certain provisions of state tax law in response to federal changes to the Internal Revenue Code. For detailed information on what federal changes were adopted please see [Income Tax Federal Tax Changes | Georgia Department of Revenue](#).

HB 7EX (O.C.G.A. § 48-1-2)

For taxable years beginning on or after January 1, 2021, this bill updates certain provisions of state tax law in response to federal changes to the Internal Revenue Code. For detailed information on what federal changes were adopted please see [Income Tax Federal Tax Changes | Georgia Department of Revenue](#). Note, this bill was from the 2021 Special Session of the Georgia General Assembly.

HB 593 (O.C.G.A. § 48-7-27)

This bill raises the standard deduction for individual taxpayers as follows:

- In the case of a single taxpayer or a head of household, \$5,400;
- In the case of a married taxpayer filing a separate return, \$3,550; and
- In the case of a married couple filing a joint return, \$7,100;

The bill is applicable to taxable years beginning on or after January 1, 2022.

SB 6 (O.C.G.A. §§ 28-5-41.1, 48-7-40.1B, 48-7-40.1A, 48-7-40.24, 48-7-40.25, 48-7-40.34, 48-7-29.8, and 48-7-40.12)

The following sections of this bill affect income tax:

Section 1-2

Section 1-2 provides that on or before May 1 of each year, the chairperson of the House Committee on Ways and Means and the chairperson of the Senate Finance Committee may each request up to five economic analyses. Each request is limited to one existing provision of law or proposed law and shall specify one particular exemption, exclusion, or deduction from the base of a tax; credit against a tax; deferral of a tax; a rebate of taxes paid; tax abatement; or preferential tax rate to be analyzed.

Section 2-1 and 2-2

These sections of the bill provide that for taxable years beginning on and after January 1, 2021 and if certain requirements are met, a medical equipment and supplies manufacturer or pharmaceutical and medicine manufacturer that qualifies for and claims the jobs tax credit under O.C.G.A. § 48-7-40 or O.C.G.A. § 48-7-40.1 may

claim an additional job tax credit of \$1,250 per job for jobs engaged in the qualifying activity of manufacturing medical equipment or supplies or manufacturing pharmaceuticals or medicine. The credit may be used to offset 100 percent of the taxpayer's Georgia income tax liability in the taxable year. Where the amount of the credit exceeds the taxpayer's tax liability in a taxable year, the excess may be taken as a credit against such taxpayer's quarterly or monthly withholding tax. No taxpayer shall be eligible for this tax credit for any job for which the taxpayer claims the tax credit provided for under Code Section 48-7-40.1A, or for any job created pursuant to Code Section 48-7-40 or 48-7-40.1 prior to July 1, 2021.

Section 2-3

This section of the bill modifies the New Facilities Jobs Credit under O.C.G.A. § 48-7-40.24.

Section 2-4

This section of the bill modifies the New Manufacturing Facilities Property Credit under O.C.G.A. § 48-7-40.25.

Section 4-1

This section of the bill extends the railroad tax credit under O.C.G.A. § 48-7-40.34 until 2026.

Section 6-1 and 6-2

This section of the bill extends the historic rehabilitation tax credit under O.C.G.A. § 48-7-29.8 until 2022 and places a cap on projects for 2022 where the credit amount is \$300,000 or less.

Section 7-1

This section of the bill modifies the research tax credit under O.C.G.A. § 48-7-40.12 by providing that any business or the headquarters of any such business that otherwise meets the definition of a business enterprise shall not be considered a retail business due to the retail activities of any of its affiliate entities, as such term is defined in subsection (a) of O.C.G.A. § 48-7-42.

SB 6 is effective on July 1, 2021.

SB 66 (O.C.G.A. § 48-7-29.21)

This bill modifies the Qualified Education Donation Tax Credit by providing that for donations made on or after January 1, 2022, the donation is made to the Georgia Foundation for Public Education instead of to the Public Education Innovation Fund Foundation.

MOTOR VEHICLES

HB 43 (O.C.G.A. § 40-2-26)

This bill requires the Department to collect certain information at registration and share it with law enforcement to be used when running a license plate check. The certain information is the fact that a driver of the vehicle may have a physical, mental, or neurological condition which impedes ability to communicate.

HB 43 is effective July 1, 2021.

HB 63 (O.C.G.A. § 48-5C-1)

This bill revises the definition of terms used to determine the fair market value of a leased vehicle when calculating the title ad valorem tax ("TAVT"). The term used to determine taxable amount was changed from "the total of the

base payments” to “depreciation plus any amortized amounts.” Down payments must still be included in the taxable amount.

HB 63 is effective January 1, 2022.

HB 179 (O.C.G.A. § 40-2-86)

This bill revises the design of the breast cancer plate and creates two new revenue-sharing plates: Support Our Troops, Inc. and a new “fight cancer” plate for the Georgia Center for Oncology Research and Education, Inc.

HB 179 is effective July 1, 2021.

HB 207 (O.C.G.A. §§ 40-2-38, 40-3-36, and 40-11-19.2)

This bill requires motor vehicle dealers and manufacturers to register electronically each year. It also requires companies cancelling liens to send that information electronically to the Department and requires towing and salvage companies to file certain reports electronically.

HB 207 is effective July 1, 2021.

HB 210 (O.C.G.A. § 40-3-25)

This bill changes the rules regarding the disclosure of odometer readings when vehicles are transferred to match federal standards. For newer vehicles, the odometer reading will have to be disclosed each time the vehicle is sold/transferred until the vehicle is 20 years old. Previously, federal and state law only required disclosure until a vehicle was 10 years old.

HB 210 is effective July 1, 2021.

HB 453 (O.C.G.A. § 40-2-86.1)

This bill requires the Department to maintain a list of all firefighters eligible for the firefighter plate.

HB 453 is effective July 1, 2021.

SB 165 (O.C.G.A. § 40-2-151)

This bill creates a new alternative fueled vehicle registration fee of \$100 for low-speed vehicles. It also provides that county tag offices shall issue permits for the use of amber strobe lights on low-speed vehicles so that owners may obtain permits in their own counties instead of from the Department of Public Safety.

SB 165 is effective July 1, 2021.

SB 210 (O.C.G.A. §§ 40-2-1, 40-2-4, 40-2-31, 40-2-33, 40-2-57, 40-2-58, 40-2-59, 40-2-59.1, 40-2-59.2, 40-2-59.3, and 40-2-136)

This bill provides that vehicle owners may obtain electronic license plates from third-party providers and provides for the Department to promulgate regulations to manage the new plate program.

SB 210 is effective July 1, 2021.

SB 225 (O.C.G.A. § 40-2-85.1)

This bill creates a new license plate for veterans who served for the military of another country that was a U.S. ally in any of the following: Korean War, Vietnam War, Operation Desert Storm or Global War on Terrorism.

SB 225 is effective July 1, 2021.

SB 237 (O.C.G.A. § 40-2-86)

This bill creates a revenue-sharing plate to support the National Ranger Memorial Fund, Inc.

SB 237 is effective July 1, 2021.

PROPERTY TAX

HB 282 (O.C.G.A. §§ 48-5-600, 48-5-602, and 48-5-604)

Section 1

This section of the bill defines the term “Contiguous” for use in the Qualified Timberland Property code section. Under this new definition, a land which is divided by a county boundary, public roadway, public easement, public right of way, natural boundary, land lot line, or railroad track can be deemed a single parcel of property. To qualify, the owner must make an election with the department to treat the divided parcels as contiguous.

Section 2

This section of the bill establishes the weighted average of the valuation approach for determining fair market value for the Qualified Timberland Property table of values. Under this section, the department is now required to weight the income approach and the market approach at 50% each.

Section 3

This section of the bill requires all applicants to include an affidavit attesting to the qualifying use of the property as commercial production of timber. This section of the bill also provides for the acceptable means of identifying the parcels submitted for review to the commissioner to include a parcel map drawn by the county cartographer or a GIS technician signed by the county board of assessors, legal description, a land survey prepared by a licensed land surveyor, and a metes and bounds legal description. This section of the bill states that the applicant is not required to submit a simple Forest Management Plan as part of the application.

HB 282 is effective on July 1, 2021.

HB 292 (O.C.G.A. § 48-5-311)

This bill eliminates certain ongoing training requirements formerly required for continuing qualification to serve on the county board of equalization.

HB 292 is effective on May 4, 2021.

HB 498 (O.C.G.A. § 48-5-41.1)

The following section of this bill affect property tax:

Section 2-1

Section 2-1 of the bill adds additional qualifying requirements to meet the definition of a Family owned farm entity under Code Section 48-5-41.1. Effective with this bill, during the year prior to claiming such tax preferred status, a family owned farm entity must show that at least 80 percent of its gross income was derived from bona fide agricultural uses within this state. The bill also adds a requirement where the entity applying is the product or result of a merger or consolidation. In such case, the organization surviving merger must demonstrate the 80 percent rule as to the merging organizations.

HB 498 is effective May 7, 2021.

SALES TAX

HB 160 (O.C.G.A. §§ 48-8-200 and 48-8-212)

This bill expands the definition of “municipality” in O.C.G.A. § 48-8-200, which relates to water and sewer projects and costs tax, to include municipalities’ waste-water systems that interconnect with municipalities with average waste-water flow that is not less than 85 million gallons per day. O.C.G.A. § 48-8-212(b)(2) allows the Governor, Speaker of the House of Representatives, or the Lieutenant Governor to order an independent and comprehensive audit of tax imposed under Article 4 of Chapter 8 or Title 48 once a year.

Effective May 10, 2021.

HB 317 (O.C.G.A. §§ 48-13-50.2, 48-13-50.3, and 48-13-50.4)

This bill revises and expands the definition of “innkeeper” to include any person furnishing for value to the public any room(s), lodgings, or accommodations and that is required to pay taxes for operating a hotel, motel, inn, lodge, tourist camp, tourist cabin, campground, or any other place which room(s), lodgings, or accommodations are regularly furnished for value, or a dealer as defined in O.C.G.A. § 48-8-2(8)(M.3) for acting as a marketplace facilitator. This bill provides the definition of “marketplace innkeeper” in O.C.G.A. § 48-13-50.2(2)(B). The bill further imposes a tax of \$5.00 per night for the rental or lease of any room, lodging, or accommodation by an innkeeper, to be collected by the innkeeper at the time the customer pays for its rental or lease. The bill provides a new section providing that a marketplace innkeeper shall constitute an innkeeper regarding taxable transactions pursuant to Article 3 of Chapter 13 of Title 48.

Effective July 1, 2021.

HB 374 (O.C.G.A. § 48-8-3)

This bill adds a subsection to allow the exemption of sales to any authority created by local law enacted by the General Assembly or local constitutional amendment, which authority provides public water or sewer service.

Effective July 1, 2021.

HB 498 (O.C.G.A. § 48-8-3(33.1))

Section 1-1 of this bill creates an exemption for the sale of mechanically propelled watercraft by a licensed dealer to a purchaser who resides outside of Georgia. The bill requires that the watercraft must be taken immediately out of

and used exclusively out of Georgia by the purchaser. The bill further requires the purchaser to provide documentary proof of his or her residency to the dealer, which is to be filed with the Department.

Effective May 7, 2021.

HB 575 (O.C.G.A. § 48-8-97)

This bill creates a new code section which allows any consolidated government created by the consolidation of a county and one or more municipalities and where the tax authorized by Article 2 of Chapter 8 or Title 48 is in effect, to impose a sales tax increase from one to two percent if the increase is approved by a resolution and referendum. The new tax will become effective 60 days after the date of the election in which voters approved the tax.

Effective May 4, 2021.

HB 588 (O.C.G.A. §§ 48-8-78 and 48-13-50.3)

Section 7 of this bill adds a new code section O.C.G.A. § 48-8-78 which defines “freight and logistics projects” as any project for capital construction and maintenance on freight rail assets owned or leased by a common carrier regulated by the United States Surface Transportation Board and found to be an expenditure for a substantial public benefit. The section also states that sales tax is to be appropriated to the Department of Transportation for use exclusively on freight and logistics projects located on or connected to publicly owned roads. If the sales tax collected are not appropriated for two consecutive or nonconsecutive fiscal years to freight and logistics projects, the sales tax shall be reduced by 50 percent. In the third year of sales tax unappropriated, O.C.G.A. § 48-8-78 will be repealed and reserved.

O.C.G.A. § 48-13-50.3(f) provides that if sales tax collected under O.C.G.A. § 48-13-50.3 regarding the \$5.00/night hotel motel fee is ever not appropriated for two consecutive or nonconsecutive fiscal years to transportation purposes, the amount collected will be reduced by 50 percent. In the third year of sales tax unappropriated, O.C.G.A. § 48-13-50.3 will be repealed and reserved.

Effective July 1, 2021.

SB 6 (O.C.G.A. §§ 48-8-3(93), 48-8-3(100), 48-8-3.2, 48-8-3.4, and 48-8-3(68))

The following sections of this bill affect sales and use tax:

Section 5-1

This section provides that the exemption for sales of tangible personal property used for and in the construction of a competitive project of regional significance under O.C.G.A. § 48-8-3(93) is extended until June 30, 2023.

Section 5-2

This section reinstates, for the period of July 1, 2021, through December 31, 2022, an exemption for the sale of tickets, fees, or charges for admission to a fine arts performance or exhibition in a facility in Georgia owned or operated by a non-profit organization or museum if the mission is to advance arts. The phrase “fine arts” is defined as music performed by a symphony orchestra, poetry, photography, ballet, dance, opera, theater, dramatic arts, painting, sculpture, ceramics, drawing, watercolor, graphics, printmaking, and architecture.

Section 5-3

This section reinstates, for the period of July 1, 2021, through June 30, 2026, an exemption for maintenance and replacement parts for machinery or equipment stationary or in transit used to mix, agitate, and transport freshly mixed concrete in a plastic or hardened state as an example of generally qualifying manufacturing machinery and

equipment. Examples of such maintenance and replacement parts include but are not limited to mixers and components, engines and components, interior and exterior controls and components, hydraulics and components, all structural components, and all safety components. Motor fuel used as energy in a concrete mixer truck shall not be exempt.

Section 5-4

This section extends through June 30, 2031, the partial sales and use tax exemption for the repair, maintenance, or retrofit of certain boats. Sales and use tax imposed and collected shall not exceed \$35,000 for any single repair, maintenance, or retrofit event. Boat dealers performing such services will be required to annually report the following data elements to the Department of Revenue, and the chairpersons of the House Ways and Means and Senate Finance Committee:

- The number of full-time and part-time positions created by the seller during the preceding tax year;
- The average salary of individuals employed in the reported positions; and
- The total revenue generated and sales and use taxes collected from qualifying events during the preceding year.

Section 7-2

This section revises the classification codes used for the eligibility of a company to qualify as a high technology company to the 2017 version of the North American Industrial Classification System. O.C.G.A. § 48-8-3(68)(C) revises the term “computer equipment” to not include any wireline or wireless telecommunication system. O.C.G.A. § 48-8-3(68)(E) includes the reporting requirements for high-technology companies claiming this exemption: companies which have been issued a certificate of exemption must report to the Department a list of the facilities for which all computer equipment exempted under O.C.G.A. § 48-8-3(68) during the preceding calendar year was incorporated, and the amount of taxes exempted under the subsection during the preceding calendar year. Such report is due within 90 days after the end of the calendar year following the year the high-technology company utilized a certificate of exemption. The Department will not issue a certificate of exemption under O.C.G.A. § 48-8-3(68) for the calendar year following the reporting year to any high-technology company that has failed to comply with the required reporting. The exemption provided under O.C.G.A. § 48-8-3(68) will expire June 30, 2023.

Effective July 1, 2021.