



CURBSTONING

GIADA • Georgia Independent Automobile Dealers Association • July, 2007

Georgia General Assembly passes HB 144

Became law July 1st, 2007

WHAT IS CURBSTONING?

Curbstoners are scam artists. State laws prohibit private citizens from selling multiple cars or vehicles other than those titled to them. Curbstoning involves individuals who ignore these laws meant to protect consumers from unlicensed, unscrupulous sellers. Frequently, they sell vehicles reputable dealers won't touch, those with hidden problems in their past, problems that can affect both the safety and the value of these vehicles.

All too often a consumer goes to a curbstoner thinking that they will get a better deal. They may feel less intimidated approaching an individual seller they perceive to be a neighbor versus a professional salesman. They may think they can't afford a vehicle from a reputable, reliable dealer. Unfortunately, whatever the reason for going to a private seller, shoppers who buy from them without checking the vehicle's history can end up paying too much money for a poorly rebuilt wreck, a lemon or even a stolen vehicle.

Victims of curbstoners often end up making expensive repairs because a rolled back odometer led them to believe the vehicle was in better shape. Or, they may find themselves in a dangerous vehicle that has already been totaled due to a severe accident.

According to Larry Gamache, Director of CARFAX, "Law enforcement officials agree that many of the cars advertised in classified ads may be curbstoned vehicles. Curbstoning is nothing new, but it is now reaching epidemic proportions, which is bad news for consumers and dealers, alike.

Curbstoners weave elaborate, seemingly sincere, stories to gain a buyer's confidence or pity. The same story can be told with many variations, such as: a relative passed-away, they are sending a child off to college, a friend or relative has asked them to sell it for them, they are getting married, moving or getting a company car, etc. by recognizing these "tall tales," consumers can know to say "no."



GUARDING AGAINST CURBSTONERS

Buy from a reputable dealer -- More than 25,000 dealers nationwide subscribe to CARFAX to ensure that the vehicles they sell on their lots are safe and reliable. Through CARFAX, consumers can find a dealer and even find a car locally that meets their needs. Most CARFAX dealer subscribers even offer free copies of the Vehicle History Reports to their customers - all you need to do is ask!

But, if you still want to buy from an individual, there are a few ways to guard against curbstoners:

- Ask to see the driver's license of the seller along with the car's title. If the name on the title doesn't match the name on the license, don't buy it.
- Ask the seller for a detailed CARFAX Vehicle History Report to identify if the car has a salvage history, odometer fraud or flood damage. It will also show recent, frequent or excessive title transfers that may contradict the seller's story.
- Take the car to a trusted mechanic. A professional inspection can uncover weld marks, water spots and uneven tire treads - all clues to a potentially unsafe vehicle.
- Check the phone number. See if the same phone number appears in multiple ads, and make sure that you have a way to get back in touch with the car seller-not just a cell phone or pager number. Curbstoners often use them to change their locations without being caught.
- Always be a little leery if the price seems just too good to be true. If something feels wrong, walk away.

KNOWLEDGE



SUPPORT



SUCCESS

Legislation The New Curbstoning Laws

Effective July 1st, 2007



Consumer safety advocates say you can't be too careful when buying a used car today since rebuilt wrecks are more likely to fail in the event of another crash. It is especially dangerous when the driver has no idea the vehicle has been in a major accident before.

REASONS TO **NOT** BUY FROM CURBSTONERS (Unlicensed Car Sales)

- ✗ No recourse / No customer protection
- ✗ No monetary assurance for anything
- ✗ No guarantee of clear, lien free title
- ✗ No odometer accuracy guarantee
- ✗ Homeland Security jeopardized
- ✗ Promotes illegal money laundering
- ✗ Nobody to call to report a transaction gone bad



We strongly suggest that all consumers should make sure they know who they are dealing with, before, making a purchase. Legitimate dealers operate only from an established and permanent place of business, never from a parking lot or the side of the road. Any person who sells or offers for sale five or more vehicles in a calendar year must have a Retail Dealer License. Legitimate dealers help to protect the public by making sure that vehicles are properly registered at the time of sale.

REASONS TO BUY FROM A GEORGIA INDEPENDENT DEALER

- ✓ Laws in place to protect consumers
- ✓ \$35,000 customer surety bond
- ✓ Guaranteed title transfer within 30 days
- ✓ Federal Odometer Law compliance
- ✓ Suspected terrorists can't buy cars
- ✓ Anti-money laundering law compliance
- ✓ Used Car Board for consumer protection

Several bills crucial to GIADA were passed by both the House and the Senate this year. But the most important one is HB 144 which concerns the practice of curbstoning. We are pleased to report that your association has been successful in convincing law makers to recognize the seriousness and negative ramifications of those practicing curbstoning in our state.

The Governor signed this bill on May 18th, 2007. It is now law and will become effective on July 1st, 2007.

This bill changes certain exceptions concerning the sale or advertising of used motor vehicles displayed or parked on property and provides criminal penalties for violations. The bill also moves language from Code Section 43 to Code Section 40, enabling Georgia law enforcement access to the law in their patrol cars. Law enforcement, GIADA, House and Senate leadership, and several legislators were instrumental in getting this crucial legislation through both chambers and to the Governor's desk for his signature.

"Any person who violates this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine not to exceed \$1,000.00 for each violation or imprisonment for a period not to exceed 12 months, or both."

The next step will be GIADA and our lobbyists to train and educate all law enforcement as to the new law. After July 1st, we are hoping that all law enforcement will now have access to this law so they can begin to enforce it by writing tickets to violators.

By Paul R. John



07 HB 144/APE - House Bill 144 (AS PASSED HOUSE AND SENATE)
By: Representatives Reese of the 98th, Coan of the 101st, Lunsford of the 110th, Johnson of the 37th, and Forster of the 3rd

A BILL TO BE ENTITLED AN ACT
To amend Title 43 and Title 40 of the Official Code of Georgia Annotated, relat-

ing to professions and businesses and motor vehicles and traffic, respectively, so as to change certain exceptions concerning the sale or advertising of used motor vehicles displayed or parked on property and the practice of curbstoning; to provide criminal penalties for violations; to repeal Code Section 40-6-201, relating to leaving a motor vehicle unattended; to provide for related matters; to provide for applicability; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 47 of Title 43 of the Official Code of Georgia Annotated, relating to used motor vehicle and used motor vehicle parts dealers, is amended by revising Code Section 43-47-8.1, relating to restrictions on sale or advertising of used motor vehicles displayed or parked, as follows: "43-47-8.1. Any person who violates any provision of Code Section 40-2-39.1 shall be deemed to be a licensee for the purpose of imposing sanctions and penalties under this chapter and for the purpose of granting the board jurisdiction over such violator."

SECTION 2.

Article 2 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to registration and licensing of motor vehicles, is amended by adding a new Code Section 40-2-39.1 to read as follows: "40-2-39.1. (a)(1) An owner or lessee of any real property shall not authorize more than five used motor vehicles within any 12 month period displayed or parked on such real property for the purpose of selling or advertising the sale of such used motor vehicles by the owner or lessee of such vehicles. (2) An owner or lessee of any real property shall not authorize more than two used motor vehicles at the same time displayed or parked on such real property for the purpose of selling or advertising the sale of such used motor vehicles by the owner or lessee of such vehicles. (3) An owner or lessee of any used motor vehicle shall not display or park such used motor vehicle on the real property of another for the purpose of selling or advertising the sale of such used motor vehicle if the display or parking of such vehicle will cause the owner or lessee of the real property to be in violation of paragraph (1) or (2) of this subsection. (4) An owner or lessee of any used motor vehicle shall not display or park such used motor vehicle on the real property of

THE NEW CURBSTONING LAWS

Continued from page 2

another for the purpose of selling or advertising the sale of such used motor vehicle unless the owner or lessee of such vehicle has the prior permission of the owner or lessee of the real property. (b) The provisions of subsection (a) of this Code section shall not apply: (1) If the owner or lessee of the vehicle displayed or parked is employed by the owner or lessee of the real property on which the vehicle is displayed or parked; (2) If the owner or lessee of the vehicle displayed or parked is conducting business with the owner or lessee of the real property on which the vehicle is parked or displayed at the time such vehicle is displayed or parked; or (3) If the real property on which a vehicle is parked is a parking lot for which a fee is charged for the use of such parking lot, the owner or lessee of the parked vehicle has paid the fee for the use of such parking lot, and such vehicle is legitimately parked on the property for purposes other than displaying, selling, or advertising the sale of such vehicle. (c)(1) An owner or lessee of any real property shall not authorize any used motor vehicle to be displayed or parked on such real property for the purpose of selling or advertising the sale of such used motor vehicle if such vehicle is not lawfully titled and registered in the name of the individual or entity offering such vehicle for sale in accordance with the applicable provisions

sions of this chapter and Chapter 3 of this title. (2) A person shall not advertise, display, sell, or offer for sale any used motor vehicle unless such vehicle is lawfully titled and registered in such person's name in accordance with the applicable provisions of this chapter and Chapter 3 of this title. (d) Any law enforcement officer or agency, the board, or the owner or lessee of any real property upon which a vehicle is displayed or parked in violation of subsection (a) or (c) of this Code section for longer than 24 consecutive hours may have any such vehicle towed from such real property and stored at the expense of the owner or lessee of such vehicle and may then dispose of said vehicle in accordance with Chapter 11 of this title. (e) A violation of this Code section shall constitute an unfair or deceptive act or practice and shall be a violation of Part 2 of Article 15 of Chapter 1 of Title 10, the 'Fair Business Practices Act of 1975.' A violation of this Code section may be penalized as provided in Code Section 43-47-21 or any other applicable provision of this Code, including, but not limited to, the 'Fair Business Practices Act of 1975.' (f) This Code section shall not apply to any person licensed under Chapter 47 of Title 43 or to any franchised motor vehicle dealer or any subsidiary wholly owned or controlled by such dealer. This Code section shall not eliminate or change the requirement for any person to obtain a license under Chapter 47 of Title 43 if such person engages in any conduct or activity for which a license is required under Chapter 47 of Title 43. (g) Any person who violates this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine not to exceed \$1,000.00 for each violation or imprisonment

for a period not to exceed 12 months, or both."

SECTION 3.

Article 10 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to stopping, standing, and parking, is amended by repealing Code Section 40-6-201, relating to leaving a motor vehicle unattended, and designating said Code section as reserved.

SECTION 4.

This Act shall be effective on July 1, 2007. Prosecutions for or cases involving any violation of law occurring prior to the effective date of this Act shall not be affected by the repeals or amendments made by it or abated by reason thereof.

SECTION 5.

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



CURBSTONING: Facts and Tips To Avoid Being Taken

Herta Soman learned about curbstoning the hard way when she fell for a curbstoner's story and ended up paying \$15,000 for a '97 Honda only to find out the warranties were void because the vehicle had been totaled nearly three (3) years earlier.

"I was pretty angry—I was in shock," said Soman after discovering through CARFAX that the car she purchased from a private seller had once been salvaged. "I was speechless—I feel like I'm driving a fraud." Sadly, Soman is not alone. Law enforcement officials estimate that many of the cars advertised in classified ads or sold at the curb may be curbstoned vehicles – vehicles sold by scam artists who pose as private sellers. These curbstoners often sell vehicles reputable dealers won't touch because of hidden problems, such as salvage titles, that can affect both safety and value.

"Unfortunately, dishonesty sometimes is very profitable," laments John Creel, Consumer Investigator. Creel has been busting curbstoners for years. He explains how this scam works. Curbstoners pick up bad cars—"cars that may have spun odometers or salvage vehicles" for example—from junkyards or wholesale auctions, then pass them off to unsuspecting consumers as quality family cars. "You don't tell him you got it a week ago, and you cleaned it up and now you're selling it," reveals a former curbstoner caught by Creel who requested anonymity. "It's possible even to hide the fact that a car has been totaled by registering it or changing the title in another state," he adds.

"Your chance of being in a serious auto crash in your lifetime are 1 out of 2," says Jackie Gillan of Advocates for Highway and Auto Safety. "Those are very high odds, so you want to make sure when you're buying a used car that it's not only going to provide the transportation you need, but is also going to provide you and your family with a safe driving environment."

Creel always recommends that consumers do their homework before buying any pre-owned vehicle—especially from a private seller. "The first thing you want to do is get a CARFAX report," he says.

Herta Soman, who—because of a curbstoner—got stuck with a now failing rebuilt wreck echoes Creel's sentiment. "I wish I would have done that prior to purchasing my car—it would have saved me a lot of grief, and a lot of money."



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- Always be a little leery if the price seems just too good to be true. If something feels wrong, walk away.

**Georgia Independent
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CURBSTONING CREATES PROBLEMS FOR LAW ENFORCEMENT

Legitimate Dealers are required to verify a purchaser's identity and make a timely transfer of vehicle ownership. The Motor Vehicle Dealer Law requires most transfers to take place within 30 days from the date of purchase. Further, the Dealer Law requires that accurate records are to be kept and be made available to law enforcement authorities upon demand. Legitimate dealers help to protect the public by making sure that vehicles are properly registered at the time of sale and forward the appropriate amount of sales tax. Since Curbstoners usually "hand over" a title (as opposed to making the proper transfer of ownership) a large number of vehicles are being placed in the hands of criminals, uninsured motorists, and unknown parties such as those trying to avoid child support payments. Unlicensed or otherwise incompetent drivers can easily make a purchase from a curbstoner. Law enforcement investigators spend a lot of time tracking down "Toll Road" violators and "Hit and Run" drivers. Just ask any hit and run investigator and they'll likely tell you "unregistered vehicles are a major

problem of law enforcement." It is common practice for a Curbstoner to pay gas station and convenience store clerks for permission to park and, in some cases, keep custody of the vehicle keys in order that it may readily be available to prospective customers. Undercover officers have been told that clerks or managers receive from \$20 to \$50 per day (for parking) plus a commission of as much as \$300 if the vehicle sells. Such collusion makes Curbstoning an even bigger and heinous crime as it often involves persons who are not in a position to say no. In other words, an otherwise innocent clerk may be fearful of losing their job if they do not participate in the illegal curbstoning activity. Curbstoners would like to mention that it's likely that gas station/convenience store owners have no knowledge that such illegal activity may take place at any of their locations. We feel certain they do not approve of this type of offering nor would want a motor vehicle sale of any type to take place on their premises.

INCLUDED IN THE NEW LAW

Any person who violates this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine not to exceed \$1,000.00 for each violation or imprisonment for a period not to exceed 12 months, or both.

Any law enforcement officer or owner or lessee of real property upon which vehicle(s) is displayed for sale for longer than 24 hours may have vehicle(s) towed and stored at vehicle owners expense.

An owner or lessee of real property shall not authorize more than 2 vehicles at one time displayed for sale and/or no more than 5 vehicles in a 12 month period.