

Senate Bill 528

By: Senators Tolleson of the 18th, Butler of the 55th and Kemp of the 46th

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Chapter 16 of Title 43 of the Official Code of Georgia Annotated, relating to
2 firearms dealers, so as to transfer authority for the regulation of firearms dealers from the
3 Department of Public Safety to the state revenue commissioner; to provide for a definition;
4 to provide for the promulgation of rules and regulations regarding firearms dealers; to require
5 that firearms dealers applying for a license must submit to a criminal background check as
6 part of the licensing process; to change the provisions relating to surety bonds; to provide for
7 the collection of amounts due under this chapter; to provide for penalties; to provide for the
8 inspection of licensees and their books records, and other materials and premises; to provide
9 for practices and procedures; to repeal conflicting laws; and for other purposes.

10 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

11 **SECTION 1.**

12 Chapter 16 of Title 43 of the Official Code of Georgia Annotated, relating to firearms
13 dealers, is amended by striking Code Section 43-16-1, relating to definitions, and inserting
14 in its place the following:

15 "43-16-1.

16 (a) As used in this chapter, the term 'department' 'commissioner' means the Department of
17 Public Safety state revenue commissioner.

18 (b) The state revenue commissioner shall administer and enforce this chapter. The
19 commissioner may make and publish reasonable rules and regulations that the
20 commissioner deems appropriate for the administration of this chapter, provided that the
21 promulgation of rules and regulations shall be conducted in conformity with Chapter 13
22 of Title 50, the 'Georgia Administrative Procedure Act'."

SECTION 2.

Said chapter is further amended by striking Code Section 43-16-2, relating to license requirements and the applicability of the chapter to casual sales, and inserting in its place the following:

"43-16-2.

Any person, firm, retail dealer, wholesale dealer, pawnbroker, or corporation who shall sell, dispose of, or offer for sale or cause or permit to be sold, disposed of, or offered for sale any pistol, revolver, or short-barreled firearm of less than 15 inches in length, whether the same shall be his or her own property or whether he or she shall sell the same as an agent or employee of another, shall obtain from the ~~department~~ commissioner a license permitting the sale of such pistols, revolvers, and firearms. Nothing in this chapter shall apply to or prohibit the casual sales of the articles referred to in this Code section between individuals or bona fide gun collectors."

SECTION 3.

Said chapter is further amended by striking Code Section 43-16-3, relating to the affidavit of the applicant for a license, and inserting in its place the following:

"43-16-3.

Any person, firm, retail dealer, wholesale dealer, pawnbroker, or corporation who makes application for a license under this chapter must submit to a criminal background check to be conducted by the commissioner and must accompany such application with an affidavit of the applicant sworn to before an officer authorized by law to administer oaths, stating that the applicant is a citizen of the United States, has reached the age of 21 years, and has not been convicted of a felony."

SECTION 4.

Said chapter is further amended by striking Code Section 43-16-4, relating to surety bonds, and inserting in its place the following:

"43-16-4.

There shall be filed with the application for a license under this chapter a bond for the sum of \$1,000.00, payable to the State of Georgia and conditioned upon the faithful performance of all provisions of this chapter, as well as payment of all sums which may become due to the state as taxes, penalties, or fees related to the operation of applicant's business. The bond shall be in such form as approved by the commissioner, shall be signed by the applicant as principal, and with shall be guaranteed by a surety company ~~or two individuals as securities. Such bond must be approved by the department~~ authorized to do business in this state."

SECTION 5.

Said chapter is further amended by striking Code Section 43-16-5, relating to license fees, and inserting in its place the following:

"43-16-5.

(a) All annual license fees described by this chapter shall be paid to the ~~department~~ commissioner on or before July 1 of each year. The ~~department~~ commissioner shall issue its receipt for every payment. The annual license payment to acquire such license shall be \$25.00 for the owner of any establishment which sells any firearms listed in Code Section 43-16-2. The annual employee license fee shall be \$3.00.

(b) All fees, penalties, and other obligations under this chapter shall be paid to the commissioner by certified or cashier's check or in such other manner as approved by the commissioner. In the event of any delinquency in fees, penalties, or obligations required under this chapter, the commissioner shall be permitted to collect such amounts in the same manner as taxes due the commissioner under Title 48."

SECTION 6.

Said chapter is further amended by striking Code Section 43-16-6, relating to disposition of fees and expenses of administering the chapter, and inserting in its place the following:

"43-16-6.

All fees derived under this chapter shall be paid into the general fund of the state treasury; and the funds necessary to pay the expense of administering this chapter shall be derived from appropriations made to the ~~department~~ Department of Revenue."

SECTION 7.

Said chapter is further amended by striking Code Section 43-16-8, relating to revocation of licenses for nonpayment of fees, and inserting in its place the following:

"43-16-8.

Should any licensee fail or neglect to pay his or her annual license fee on or before July 1 of every year, the ~~department~~ commissioner shall notify ~~him~~ such licensee that his or her license will be revoked. Unless the fee is paid in full before August 1 of the same year, the ~~department~~ commissioner shall revoke the license."

SECTION 8.

Said chapter is further amended by striking Code Section 43-16-9, relating to the fee for reinstatement of a license, and inserting in its place the following:

1 "43-16-9.

2 The owner of any establishment or employee thereof whose license for selling such
3 firearms has been revoked for failure to pay the annual license fee may make application
4 to the ~~department~~ commissioner for reinstatement. Such application shall be accompanied
5 by a fee of \$10.00, in addition to the regular license fee required. If the ~~department~~
6 commissioner shall find the applicant guilty only of default in payment of annual license
7 fees, the license may be immediately reinstated."

8 **SECTION 9.**

9 Said chapter is further amended by striking Code Section 43-16-10, relating to the authority
10 to revoke a license for fraud, unethical practice, or crime, and inserting in its place the
11 following:

12 "43-16-10.

13 The ~~department~~ commissioner shall have the power to revoke any license granted by it the
14 commissioner under this chapter to any person, firm, retail dealer, wholesale dealer,
15 pawnbroker, or corporation, or any agent or employee thereof, found by the ~~Board of~~
16 ~~Public Safety~~ commissioner to be guilty of fraud or willful misrepresentation, or found
17 guilty under the laws of this state of any crime involving moral turpitude, or found guilty
18 of violating Code Section 16-11-101. The commissioner shall also have the power to
19 impose fines upon, or suspend or revoke the license of, any licensee for the violation of any
20 provision of this chapter, the rules and regulations of the Department of Revenue
21 promulgated pursuant to this chapter, or any other laws or regulations administered by the
22 commissioner that are applicable to the licensee."

23 **SECTION 10.**

24 Said chapter is further amended by striking Code Section 43-16-10.1, relating to
25 record-keeping requirements, and inserting in its place the following:

26 "43-16-10.1.

27 (a) As a condition of any license issued pursuant to this chapter, each licensee shall be
28 required to keep a record of the acquisition and disposition of firearms as provided in this
29 Code section.

30 (b) The record required by subsection (a) of this Code section shall be identical in form
31 and context to the firearms acquisition and disposition record required by Part ~~178~~ 478 of
32 Chapter ~~1~~ II of Title 27 of the Code of Federal Regulations as it exists on July 1, ~~1988~~
33 2003.

34 (c) ~~The record required by subsection (a) of this Code section shall be maintained on the~~
35 ~~licensed premises and shall be open to the inspection of any duly authorized law~~

1 ~~enforcement officer during the ordinary hours of business or at any reasonable time.~~
 2 Special agents and enforcement officers appointed by the commissioner and any other duly
 3 authorized law enforcement officers may enter upon the licensed premises of any licensee
 4 at any reasonable time to inspect the premises and enforce this chapter and shall have
 5 access during such inspection to the records required by subsection (a) of this Code section
 6 as well as other books, records, and supplies relating to the acquisition and disposition of
 7 firearms by the licensee. The record of each acquisition or disposition of a firearm shall
 8 be maintained for a period of not less than five years.

9 (d) The failure of a licensee to keep and maintain the records required by this Code section
 10 shall be grounds for revocation of the license."

11 **SECTION 11.**

12 Said chapter is further amended by striking Code Section 43-16-11, relating to applicability
 13 of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," and inserting in its
 14 place the following:

15 "43-16-11.

16 ~~All proceedings for the revocation of licenses issued~~ Proceedings regarding licenses issued
 17 under this chapter shall be conducted in accordance with procedures established by the
 18 commissioner in the rules and regulations promulgated under this chapter and shall not be
 19 governed by Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'"

20 **SECTION 12.**

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