

Senate Bill 291

By: Senators Shafer of the 48th, Douglas of the 17th, Sims of the 12th, Rogers of the 21st,  
Powell of the 23rd and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia  
2 Annotated, relating to carrying and possession of firearms, so as to revise comprehensively  
3 the laws concerning the carrying of concealed weapons; to revise the method by which  
4 licenses to carry weapons are issued; to prohibit the carrying of certain items in certain  
5 buildings; to provide exceptions; to provide a penalty; to prohibit the seizure or registration  
6 of firearms during official states of emergency; to prohibit any additional limitations on  
7 carrying firearms during states of emergency; to provide civil remedies for violations; to  
8 provide for related matters; to amend Part 1 of Article 3 of Chapter 3 of Title 38 of the  
9 Official Code of Georgia Annotated, relating to emergency powers of the Governor, so as  
10 to revise the powers of the Governor to suspend or limit the sale, dispensing, or  
11 transportation of firearms during states of emergency; to provide for related matters; to  
12 provide an effective date; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 style="text-align:center">**SECTION 1.**

15 Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,  
16 relating to carrying and possession of firearms, is amended by revising subsections (c) and  
17 (d) of Code Section 16-11-126, relating to carrying a concealed weapon, as follows:

18 "(c) This Code section shall not permit, outside of his or her home, motor vehicle, or place  
19 of business, the concealed carrying of a pistol, revolver, or concealable firearm weapon by  
20 any person unless that person has on his or her person a valid license issued under Code  
21 Section 16-11-129 ~~and the pistol, revolver, or firearm may only be carried in a shoulder~~  
22 ~~holster, waist belt holster, any other holster, hipgrip, or any other similar device,~~ in which  
23 event the weapon may be concealed by the person's clothing, or a handbag, purse, attache  
24 case, briefcase, or other closed container. Any person having been issued a license to carry  
25 a concealed weapon pursuant to Code Section 16-11-129 shall be permitted to carry such

26 weapon, subject to the limitations of this part, in all parks, historic sites, or recreational  
27 areas as defined by Code Section 12-3-10 and in all wildlife management areas.

28 (d) This Code section shall not forbid the transportation of any firearm by a person who  
29 is not among those enumerated as ineligible for a license under paragraph (1) of  
30 subsection (b) of Code Section 16-11-129, provided the firearm is enclosed in a case,  
31 unloaded, and separated from its ammunition."

### 32 SECTION 2.

33 Said part is further amended by revising subsection (e) of Code Section 16-11-127, relating  
34 to carrying deadly weapons to or at public gatherings, as follows:

35 "(e) A person licensed or permitted to carry a firearm by this part shall be permitted to  
36 carry such firearm, subject to the limitations of this part, in all parks, historic sites, and  
37 recreational areas, including all publicly owned buildings located in such parks, historic  
38 sites, and recreational areas and in wildlife management areas, notwithstanding Code  
39 Section 12-3-10, in wildlife management areas notwithstanding Code Section 27-3-1.1 and  
40 27-3-6, and in public transportation notwithstanding Code Sections 16-12-122 through  
41 16-12-127; provided, however, that a person shall not carry a firearm into a place  
42 prohibited by federal law. A person licensed or permitted to carry a firearm by this part  
43 shall also be permitted to carry such firearm, subject to the limitations of this part, in his  
44 or her vehicle while dropping off and picking up passengers at airports and airport  
45 facilities."

### 46 SECTION 3.

47 Said part is further amended by revising Code Section 16-11-128, relating to carrying pistol  
48 without license, as follows:

49 "16-11-128.

50 ~~(a) A person commits the offense of carrying a pistol without a license when he has or~~  
51 ~~carries on or about his person, outside of his home, motor vehicle, or place of business, any~~  
52 ~~pistol or revolver without having on his person a valid license issued by the judge of the~~  
53 ~~probate court of the county in which he resides, provided that no permit shall be required~~  
54 ~~for persons with a valid hunting or fishing license on their person or for persons not~~  
55 ~~required by law to have hunting licenses who are engaged in legal hunting, fishing, or sport~~  
56 ~~shooting when the persons have the permission of the owner of the land on which the~~  
57 ~~activities are being conducted; provided, further, that the pistol or revolver, whenever~~  
58 ~~loaded, shall be carried only in an open and fully exposed manner.~~

59 ~~(b) Upon conviction of the offense of carrying a pistol without a license, a person shall be~~  
60 ~~punished as follows:~~

61 (1) ~~For the first offense, he shall be guilty of a misdemeanor; and~~  
 62 (2) ~~For the second offense, and for any subsequent offense, he is guilty of a felony, and,~~  
 63 ~~upon conviction thereof, shall be imprisoned for not less than one year nor more than five~~  
 64 ~~years.~~

65 (e) On and after October 1, 1996, a person licensed to carry a handgun in any state whose  
 66 laws recognize and give effect within such state to a license issued pursuant to this part  
 67 shall be authorized to carry a handgun in this state, but only while the licensee is not a  
 68 resident of this state; provided, however, that such license holder shall carry the handgun  
 69 in compliance with the laws of this state."

#### 70 SECTION 4.

71 Said part is further amended by revising Code Section 16-11-129, relating to license to carry  
 72 pistol or revolver, as follows:

73 "16-11-129.

74 (a)(1) *Application for license or renewal license; term.* The judge of the probate court  
 75 of each county may, on application under oath and on payment of a fee of \$15.00, issue  
 76 a license ~~or renewal license~~ valid for a period of five years to any person whose domicile  
 77 is in that county or who is on active duty with the United States armed forces and who  
 78 is not a domiciliary of this state but who either resides in that county or on a military  
 79 reservation located in whole or in part in that county at the time of such application,  
 80 which license ~~or renewal license~~ shall authorize that person to carry any pistol or revolver  
 81 in any county of this state notwithstanding any change in that person's county of  
 82 residence or state of domicile. Applicants shall submit the application for a license ~~or~~  
 83 ~~renewal license~~ to the judge of the probate court on forms prescribed and furnished free  
 84 of charge to persons wishing to apply for the license ~~or renewal license~~. An applicant  
 85 who is not a United States citizen shall provide sufficient personal identifying data,  
 86 including without limitation his or her place of birth and United States issued alien or  
 87 admission number, as the Georgia Bureau of Investigation may prescribe by rule or  
 88 regulation. An applicant who is in nonimmigrant status shall provide proof of his or her  
 89 qualifications for an exception to the federal firearm prohibition pursuant to 18 U.S.C.  
 90 Section 922(y). Forms shall be designed to elicit information from the applicant pertinent  
 91 to his or her eligibility under this Code section, including citizenship, but shall not require  
 92 data which is nonpertinent or irrelevant such as serial numbers or other identification  
 93 capable of being used as a de facto registration of firearms owned by the applicant. The  
 94 Department of Public Safety shall furnish application forms and license forms required  
 95 by this Code section. The forms shall be furnished to each judge of each probate court  
 96 within the state at no cost.

97 (2) At least 90 days before the expiration of a license issued under this subsection, the  
98 judge of the probate court shall notify the license holder in writing at the license holder's  
99 last known address that such license is expiring and provide forms for renewing such  
100 license. If the license holder desires to renew the license, the license holder shall submit  
101 the forms for renewal to the judge of the probate court of his or her county of domicile  
102 or residence, as applicable, in this state not less than 45 days prior to the expiration of  
103 such license along with a fee of \$15.00. The forms for renewal shall be completed fully  
104 by the applicant, shall affirm under oath that the license holder still meets the  
105 qualifications for eligibility for the license, and shall contain sufficient information to  
106 allow the judge of the probate court to cause a criminal history records check to be  
107 performed on the license holder to verify such eligibility for a license. Within two  
108 business days after receiving the forms for license renewal with the required fees, the  
109 judge of the probate court shall cause a criminal history records check from the Georgia  
110 Crime Information Center and the Federal Bureau of Investigation to be conducted for  
111 purposes of determining the eligibility of the license holder for a renewal license, and an  
112 appropriate report shall be returned to the judge of the probate court with the results of  
113 such check. Such check shall be conducted and the report returned to the judge of the  
114 probate court within 30 days. After receiving the results of the criminal history check,  
115 the judge of the probate court shall verify the eligibility of the license holder for a  
116 renewal license within ten days after receiving such report. The judge of the probate  
117 court shall date stamp the report to show the date on which the report was received by the  
118 judge of the probate court. Upon verifying the license holder's eligibility, the judge of  
119 the probate court shall issue the license holder a renewal license which shall be valid for  
120 a period of five years. The Georgia Bureau of Investigation may charge such fee as is  
121 necessary to cover the cost of the records search which shall be added to the fee for the  
122 license renewal and shall be paid at the time of making the application for license  
123 renewal. When a person who is not a United States citizen applies for renewal of a  
124 license under this paragraph, the judge of the probate court shall cause a search to be  
125 made of the records maintained by United States Immigration and Customs Enforcement  
126 to verify the eligibility of the license holder for renewal of such license. As a condition  
127 to the issuance of a renewal of a license, a license holder who is in nonimmigrant status  
128 shall provide proof of his or her qualifications for an exception to the federal firearm  
129 prohibition pursuant to 18 U.S.C. Section 922(y). If the judge of the probate court finds  
130 that the person is not eligible for a license under this Code section, the judge of the  
131 probate court shall deny the license renewal and shall notify the license holder in writing  
132 of the reasons for such denial. The Department of Public Safety shall furnish license

133 renewal forms required by this paragraph. The forms shall be furnished to each judge of  
134 each probate court within the state at no cost.

135 (b) *Licensing exceptions.* No license or renewal license shall be granted to:

136 (1) Any person who is prohibited from possessing firearms pursuant to 18 U.S.C. Section  
137 922;

138 (1.1) Any person under 21 years of age;

139 (2) Any person who is a fugitive from justice or against whom proceedings are pending  
140 for any felony, forcible misdemeanor, or violation of Code Section 16-11-126,  
141 16-11-127, or 16-11-128 until such time as the proceedings are adjudicated;

142 (3) Any person who has been convicted of a felony by a court of this state or any other  
143 state; by a court of the United States including its territories, possessions, and dominions;  
144 or by a court of any foreign nation and has not been pardoned for such felony by the  
145 President of the United States, the State Board of Pardons and Paroles, or the person or  
146 agency empowered to grant pardons under the constitution or laws of such state or nation  
147 or any person who has been convicted of a forcible misdemeanor and has not been free  
148 of all restraint or supervision in connection therewith for at least five years or any person  
149 who has been convicted of a violation of Code Section 16-11-126, 16-11-127, or  
150 16-11-128 and has not been free of all restraint or supervision in connection therewith for  
151 at least three years, immediately preceding the date of the application;

152 (4) Any individual who has been hospitalized as an inpatient in any mental hospital or  
153 alcohol or drug treatment center within five years of the date of his or her application.  
154 The probate judge may require any applicant to sign a waiver authorizing any mental  
155 hospital or treatment center to inform the judge whether or not the applicant has been an  
156 inpatient in any such facility in the last five years and authorizing the superintendent of  
157 such facility to make to the judge a recommendation regarding whether a license to carry  
158 a pistol or revolver should be issued. When such a waiver is required by the probate  
159 judge, the applicant shall pay to the probate judge a fee of \$3.00 for reimbursement of the  
160 cost of making such a report by the mental health hospital, alcohol or drug treatment  
161 center, or the Department of Human Resources, which the probate judge shall remit to  
162 the hospital, center, or department. The judge shall keep any such hospitalization or  
163 treatment information confidential. It shall be at the discretion of the probate judge,  
164 considering the circumstances surrounding the hospitalization and the recommendation  
165 of the superintendent of the hospital or treatment center where the individual was a  
166 patient, to issue the license or renewal license;

167 (5)(A) Any person, the provisions of paragraph (3) of this subsection notwithstanding,  
168 who has been convicted of an offense arising out of the unlawful manufacture,  
169 distribution, possession, or use of a controlled substance or other dangerous drug.

170 (B) As used in this paragraph, the term:

171 (i) 'Controlled substance' means any drug, substance, or immediate precursor  
172 included in the definition of controlled substances in paragraph (4) of Code Section  
173 16-13-21.

174 (ii) 'Convicted' means a plea of guilty, a finding of guilt by a court of competent  
175 jurisdiction, the acceptance of a plea of nolo contendere, or the affording of first  
176 offender treatment by a court of competent jurisdiction irrespective of the pendency  
177 or availability of an appeal or an application for collateral relief.

178 (iii) 'Dangerous drug' means any drug defined as such in Code Section 16-13-71; or  
179 (6) Any person not lawfully present in the United States.

180 (c) *Fingerprinting.*

181 Following completion of the application for a license ~~or the renewal of a license~~, the  
182 judge of the probate court shall require the applicant to proceed to an appropriate law  
183 enforcement agency in the county with the completed application. The appropriate local  
184 law enforcement agency in each county shall then capture the fingerprints of the applicant  
185 for a license ~~or renewal license~~ to carry a pistol or revolver, ~~place the fingerprint required~~  
186 ~~by subsection (f) of this Code section on a blank license form which has been furnished~~  
187 ~~to the law enforcement agency by the judge of the probate court, and place the name of~~  
188 ~~the applicant on the blank license form.~~ The law enforcement agency shall be entitled to  
189 a fee of \$5.00 from the applicant for its services in connection with the application.

190 (d) *Investigation of applicant; issuance of license; renewal.*

191 (1) For ~~both~~ license applications ~~and requests for license renewals~~, the judge of the  
192 probate court shall within two business days following the receipt of the application ~~or~~  
193 ~~request~~ direct the law enforcement agency to request a fingerprint based criminal history  
194 records check from the Georgia Crime Information Center and Federal Bureau of  
195 Investigation for purposes of determining the suitability of the applicant and return an  
196 appropriate report to the judge of the probate court. Fingerprints shall be in such form  
197 and of such quality as prescribed by the Georgia Crime Information Center and under  
198 standards adopted by the Federal Bureau of Investigation. The Georgia Bureau of  
199 Investigation may charge such fee as is necessary to cover the cost of the records search.

200 (2) For ~~both~~ license applications ~~and requests for license renewals~~, the judge of the  
201 probate court shall within two business days following the receipt of the application ~~or~~  
202 ~~request~~ also direct the law enforcement agency to conduct a background check using the  
203 Federal Bureau of Investigation's National Instant Criminal Background Check System  
204 and return an appropriate report to the probate judge.

205 (3) When a person who is not a United States citizen applies for a license ~~or renewal of~~  
206 ~~a license~~ under this Code section, the judge of the probate court shall direct the law

207 enforcement agency to conduct a search of the records maintained by ~~the~~ United States  
208 ~~Bureau~~ of Immigration and Customs Enforcement. As a condition to the issuance of a  
209 license or the renewal of a license, an applicant who is in nonimmigrant status shall  
210 provide proof of his or her qualifications for an exception to the federal firearm  
211 prohibition pursuant to 18 U.S.C. Section 922(y).

212 (4) The law enforcement agency shall report to the judge of the probate court within 30  
213 days, by telephone and in writing, of any findings relating to the applicant which may  
214 bear on his or her eligibility for a license ~~or renewal license~~ under the terms of this Code  
215 section. When no derogatory information is found on the applicant bearing on his or her  
216 eligibility to obtain a license or renewal license, a report shall not be required. The law  
217 enforcement agency shall return the application and the blank license form with the  
218 fingerprint thereon directly to the judge of the probate court within such time period. Not  
219 later than ten days after the judge of the probate court receives the report from the law  
220 enforcement agency concerning the suitability of the applicant for a firearms license, the  
221 judge of the probate court shall issue such applicant a license ~~or renewal license~~ to carry  
222 any pistol or revolver unless facts establishing ineligibility have been reported or unless  
223 the judge determines such applicant has not met all the qualifications, is not of good  
224 moral character, or has failed to comply with any of the requirements contained in this  
225 Code section. The judge of the probate court shall date stamp the report from the law  
226 enforcement agency to show the date on which the report was received by the judge of  
227 the probate court.

228 (e) *Revocation, loss, or damage to license.* If, at any time during the period for which the  
229 license was issued, the judge of the probate court of the county in which the license was  
230 issued shall learn or have brought to his or her attention in any manner any reasonable  
231 ground to believe the licensee is not eligible to retain the license, the judge may, after  
232 notice and hearing, revoke the license of the person upon adjudication of falsification of  
233 application, mental incompetency, chronic alcohol or narcotic usage, conviction of any  
234 felony or forcible misdemeanor, or for violation of Code Section 16-11-126, 16-11-127,  
235 or 16-11-128. It shall be unlawful for any person to possess a license which has been  
236 revoked, and any person found in possession of any such revoked license, except in the  
237 performance of his or her official duties, shall be guilty of a misdemeanor. It shall be  
238 required that any license holder under this Code section have in his or her possession his  
239 or her valid license whenever he or she is carrying a pistol or revolver under the authority  
240 granted by this Code section, and his or her failure to do so shall be prima-facie evidence  
241 of a violation of Code Section 16-11-128. Loss of any license issued in accordance with  
242 this Code section or damage to the license in any manner which shall render it illegible  
243 shall be reported to the judge of the probate court of the county in which it was issued

244 within 48 hours of the time the loss or damage becomes known to the license holder. The  
245 judge of the probate court shall thereupon issue a replacement for and shall take custody  
246 of and destroy a damaged license; and in any case in which a license has been lost, he or  
247 she shall issue a cancellation order and notify by telephone and in writing each of the law  
248 enforcement agencies whose records were checked before issuance of the original license.  
249 The judge shall charge the fee specified in subsection (k) of Code Section 15-9-60 for such  
250 services.

251 (f) *License specifications.* Licenses issued as prescribed in this Code section shall be  
252 printed on durable but lightweight card stock, and the completed card shall be laminated  
253 in plastic to improve its wearing qualities and to inhibit alterations. Measurements shall  
254 be 3 1/4 inches long; and 2 1/4 inches wide. Each shall be serially numbered within the  
255 county of issuance and shall bear the full name, residential address, birth date, weight,  
256 height, color of eyes, ~~sex, and a clear print of the right index finger~~ and gender of the  
257 licensee. ~~If the right index fingerprint cannot be secured for any reason, the print of~~  
258 ~~another finger may be used but such print shall be marked to identify the finger from which~~  
259 ~~the print is taken.~~ The license shall show the date of issuance, the expiration date, and the  
260 probate court in which issued and shall be signed by the licensee and bear the signature or  
261 facsimile thereof of the judge. The seal of the court shall be placed on the face before the  
262 license is laminated. The reverse side of the license shall have imprinted thereon in its  
263 entirety Code Section 16-11-127.

264 (g) *Alteration or counterfeiting of license; penalty.* A person who deliberately alters or  
265 counterfeits such a license card commits a felony and, upon conviction thereof, shall be  
266 punished by imprisonment for a period of not less than one nor more than five years.

267 (h) *Licenses for former law enforcement officers.* Except as otherwise provided in Code  
268 Section 16-11-130, any person who has served as a law enforcement officer for at least ten  
269 of the 12 years immediately preceding the retirement of such person as a law enforcement  
270 officer shall be entitled to be issued a license as provided for in this Code section without  
271 the payment of any of the fees provided for in this Code section. Such person must comply  
272 with all the other provisions of this Code section relative to the issuance of such licenses.  
273 As used in this subsection, the term 'law enforcement officer' means any peace officer who  
274 is employed by the United States government or by the State of Georgia or any political  
275 subdivision thereof and who is required by the terms of his or her employment, whether by  
276 election or appointment, to give his or her full time to the preservation of public order or  
277 the protection of life and property or the prevention of crime. Such term shall include  
278 conservation rangers. Licenses issued to such former law enforcement officers shall be  
279 distinctive in design by the use of color or style or other means from other licenses issued  
280 under this Code section.

281 (i) *Temporary renewal licenses.*

282 (1) Any person who holds a license under this Code section to carry a pistol or revolver  
 283 may, at the time he or she applies for a renewal of the license, also apply for a temporary  
 284 renewal license if less than ~~90~~ 45 days remain before expiration of the license he or she  
 285 then holds or if his or her previous license has expired within the last 30 days.

286 (2) Unless the judge of the probate court knows or is made aware of any fact which  
 287 would make the applicant ineligible for a five-year renewal license, the judge shall at the  
 288 time of application issue a temporary renewal license to the applicant.

289 (3) Such a temporary renewal license shall be in the form of a paper receipt indicating  
 290 the date on which the court received the renewal application and shall show the name,  
 291 address, ~~sex~~ gender, age, and race of the applicant and that the temporary renewal license  
 292 expires 90 days from the date of issue.

293 (4) During its period of validity the temporary renewal permit, if carried on or about the  
 294 holder's person together with the holder's previous license, shall be valid in the same  
 295 manner and for the same purposes as a five-year license.

296 (5) A \$1.00 fee shall be charged by the probate court for issuance of a temporary renewal  
 297 license.

298 (6) A temporary renewal license may be revoked in the same manner as a five-year  
 299 license.

300 (j) When an eligible applicant who is a United States citizen fails to receive a license,  
 301 temporary permit, or renewal license within the time period required by this Code section  
 302 and the application or request has been properly filed, the applicant may bring an action in  
 303 mandamus or other legal proceeding in order to obtain a license, temporary license, or  
 304 renewal license, and such applicant shall be entitled to recover his or her costs in such  
 305 action, including reasonable attorney's fees."

## 306 SECTION 5.

307 Said part is further amended by adding a new Code section to read as follows:

308 "16-11-136.

309 (a) No officer or employee of the state or any political subdivision thereof, member of the  
 310 National Guard in the service of the state, or any person operating pursuant to or under  
 311 color of state law, receiving state funds, under control of any official of the state or political  
 312 subdivision thereof, or providing services to such officer, employee, or other person, while  
 313 acting during a declared official state of emergency, shall:

314 (1) Temporarily or permanently seize, or authorize seizure of, any firearm the possession  
 315 of which is not prohibited under Article 4 of Chapter 11 of this title, other than as  
 316 evidence in a criminal investigation;

317 (2) Require registration of any firearm for which registration is not required by Article 4  
 318 of Chapter 11 of this title;  
 319 (3) Prohibit possession of any firearm, or promulgate any rule, regulation, or order  
 320 prohibiting possession of any firearm, in any place or by any person where such  
 321 possession is not otherwise prohibited by Article 4 of Chapter 11 of this title; or  
 322 (4) Prohibit the carrying of firearms by any person otherwise authorized to carry firearms  
 323 under Article 4 of Chapter 11 of this title, solely because such person is operating under  
 324 the direction, control, or supervision of an agency of the state or political subdivision  
 325 thereof during a declared official state of emergency.  
 326 (b) Any individual aggrieved by a violation of this Code section may seek in the courts of  
 327 this state relief in an action at law or in equity or other proper proceeding for redress  
 328 against any person who subjects such individual, or causes such individual to be subjected,  
 329 to the deprivation of any of the rights, privileges, or immunities provided by this Code  
 330 section.  
 331 (c) In addition to any other remedy at law or in equity, an individual aggrieved by the  
 332 seizure or confiscation of a firearm in violation of this Code section may bring an action  
 333 for return of such firearm in the superior court of the county in which that individual  
 334 resides or in which such firearm is located. In any action or proceeding to enforce this  
 335 Code section, the court shall award the prevailing party, other than the state or political  
 336 subdivision thereof, reasonable attorney fees."

337 **SECTION 6.**

338 Part 1 of Article 3 of Chapter 3 of Title 38 of the Official Code of Georgia Annotated,  
 339 relating to emergency powers of the Governor, is amended by revising paragraph (8) of  
 340 subsection (d) of Code Section 38-3-51, relating to emergency powers of Governor, as  
 341 follows:

342 "(8) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages,  
 343 firearms, explosives, and combustibles; provided, however, that any limitation on  
 344 firearms under this Code section shall not include an individual firearm owned by a  
 345 private citizen which was legal and owned by that citizen prior to the declaration of state  
 346 of emergency or disaster or thereafter acquired in compliance with all applicable laws of  
 347 this state and the United States; and".

348 **SECTION 7.**

349 This Act shall become effective upon its approval by the Governor or upon its becoming law  
 350 without such approval.

351

**SECTION 8.**

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