

The House Committee on Public Safety & Homeland Security offers the following substitute to SB 98:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 11 of Title 16 and Article 3 of Chapter 5 of Title 17 of the Official Code
2 of Georgia Annotated, relating to offenses against public order and safety and disposition of
3 seized property, respectively, so as to change provisions regarding the carrying and
4 possession of firearms and weapons in this state and disposition of firearms; to provide for
5 persons holding a valid weapons carry license to carry a weapon into certain locations under
6 certain circumstances; to change provisions relating to the qualifications for licenses to carry
7 weapons and renewal licenses; to change provisions relating to fingerprinting; to provide for
8 the disposition of firearms seized in criminal investigations and surplus firearms of law
9 enforcement agencies; to define terms; to provide for related matters; to provide an effective
10 date; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

13 Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against
14 public order and safety, is amended by revising subsection (b) of Code Section 16-11-34.1,
15 relating to preventing or disrupting General Assembly sessions or other meetings of
16 members, as follows:

17 "(b)(1) As used in this subsection, the terms 'knife,' 'license holder,' and 'weapon' shall
18 have the same meanings as set forth in Code Section 16-11-125.1.

19 (2) Except as provided in paragraph (3) of this subsection, it shall be unlawful for any
20 person, other than those persons who are exempt from the provisions of Code
21 Sections 16-11-126 through 16-11-127.2, to enter, occupy, or remain within the state
22 capitol building or any building housing committee offices, committee rooms, or offices
23 of members, officials, or employees of the General Assembly or either house thereof
24 while in the possession of any firearm; knife as such term is defined in Code Section
25 16-11-125.1; explosive or incendiary device or compound; bludgeon; knuckles, whether

26 made from metal, thermoplastic, wood, or other similar material; or any other dangerous
27 or deadly weapon, instrument, or device.

28 (3) A license holder carrying a weapon shall be lawfully authorized to enter, occupy, or
29 remain within the state capitol building or any building housing committee offices,
30 committee rooms, or offices of members, officials, or employees of the General
31 Assembly or either house thereof."

32 **SECTION 2.**

33 Said chapter is further amended by adding a new Code section to read as follows:

34 "16-11-127.3.

35 (a) As used in this Code section, the terms 'bar,' 'courthouse,' and 'government building'
36 shall have the same meanings as set forth in Code Section 16-11-127.

37 (b) Notwithstanding the provisions of Code Section 16-11-127 or 16-11-127.1, a license
38 holder shall be authorized to carry a weapon in a bar and in a government building, so long
39 as the government building is not a courthouse; provided, however, that private property
40 owners or persons in legal control of property through a lease, rental agreement, licensing
41 agreement, contract, or any other agreement to control access to such property shall have
42 the right to forbid possession of a weapon, except as provided in Code Section 16-11-135.

43 (c) A violation of this Code section shall not create or give rise to a civil action for
44 damages."

45 **SECTION 3.**

46 Said chapter is further amended by revising subsections (c) and (d) of Code Section
47 16-11-129, relating to license to carry weapon, as follows:

48 **"(c) Fingerprinting.**

49 As used in this subsection, the term 'initial weapons carry license' means a weapons carry
50 license for an applicant who does not have a valid weapons carry license issued by another
51 probate judge of this state at the time of the individual's application for such license.

52 Following completion of the application for a an initial weapons carry license ~~or the~~
53 ~~renewal of a license~~, the judge of the probate court shall require the applicant to proceed
54 to ~~an appropriate~~ any law enforcement agency in the county with the completed
55 application. The ~~appropriate~~ local law enforcement agency ~~in each county~~ shall then
56 capture the fingerprints of the applicant for a an initial weapons carry license ~~or renewal~~
57 license and place the name of the applicant on the blank license form. ~~The appropriate~~
58 ~~local law enforcement agency shall place the fingerprint on a blank license form which has~~
59 ~~been furnished to the law enforcement agency by the judge of the probate court if a~~
60 ~~fingerprint is required to be furnished by subsection (f) of this Code section.~~ The law

61 enforcement agency shall be entitled to a fee of \$5.00 from the applicant for its services in
62 connection with the application. On or before September 1, 2012, each probate judge of
63 this state shall enroll in a Georgia Bureau of Investigation approved system that captures
64 fingerprints and reports results of a fingerprint based criminal background check.

65 **(d) Investigation of applicant; issuance of weapons carry license; renewal.**

66 (1) For ~~both~~ weapons carry license applications ~~and requests for license renewals~~, the
67 judge of the probate court shall within five days following the receipt of the application
68 or request direct the law enforcement agency to request a fingerprint based criminal
69 history records check from the Georgia Crime Information Center and Federal Bureau of
70 Investigation for purposes of determining the suitability of the applicant and return an
71 appropriate report to the judge of the probate court. Fingerprints shall be in such form
72 and of such quality as prescribed by the Georgia Crime Information Center and under
73 standards adopted by the Federal Bureau of Investigation. The Georgia Bureau of
74 Investigation may charge such fee as is necessary to cover the cost of the records search.

75 (2) For both weapons carry license applications and requests for license renewals, the
76 judge of the probate court shall within five days following the receipt of the application
77 or request also direct the law enforcement agency to conduct a background check using
78 the Federal Bureau of Investigation's National Instant Criminal Background Check
79 System and return an appropriate report to the probate judge.

80 (3) When a person who is not a United States citizen applies for a weapons carry license
81 or renewal of a license under this Code section, the judge of the probate court shall direct
82 the law enforcement agency to conduct a search of the records maintained by United
83 States Immigration and Customs Enforcement and return an appropriate report to the
84 probate judge. As a condition to the issuance of a license or the renewal of a license, an
85 applicant who is in nonimmigrant status shall provide proof of his or her qualifications
86 for an exception to the federal firearm prohibition pursuant to 18 U.S.C. Section 922(y).

87 (4) The law enforcement agency shall report to the judge of the probate court within 30
88 days, by telephone and in writing, of any findings relating to the applicant which may
89 bear on his or her eligibility for a weapons carry license or renewal license under the
90 terms of this Code section. When no derogatory information is found on the applicant
91 bearing on his or her eligibility to obtain a license or renewal license, a report shall not
92 be required. The law enforcement agency shall return the application and the blank
93 license form with the fingerprint thereon directly to the judge of the probate court within
94 such time period. Not later than ten days after the judge of the probate court receives the
95 report from the law enforcement agency concerning the suitability of the applicant for a
96 license, the judge of the probate court shall issue such applicant a license or renewal
97 license to carry any weapon unless facts establishing ineligibility have been reported or

98 unless the judge determines such applicant has not met all the qualifications, is not of
 99 good moral character, or has failed to comply with any of the requirements contained in
 100 this Code section. The judge of the probate court shall date stamp the report from the law
 101 enforcement agency to show the date on which the report was received by the judge of
 102 the probate court.

103 (5) For both weapons carry license applications and requests for license renewals, if the
 104 probate judge requires an applicant to sign a waiver as provided in subparagraph (b)(2)(J)
 105 of this Code section, the judge shall request the report within 72 hours of receiving the
 106 waiver and shall issue or deny the weapons carry license or renewal license within 14
 107 days of receiving such report."

108 SECTION 4.

109 Said chapter is further amended by revising Code Section 16-11-173, relating to legislative
 110 findings and preemption of local regulation and lawsuits, as follows:

111 "16-11-173.

112 (a)(1) As used in this Code section, the term 'weapon' shall have the same meaning as
 113 set forth in Code Section 16-11-127.1.

114 (2) It is declared by the General Assembly that the regulation of firearms and weapons
 115 is properly an issue of general, state-wide concern.

116 ~~(2)~~(3) The General Assembly further declares that the lawful design, marketing,
 117 manufacture, and sale of firearms and ammunition and other weapons to the public is not
 118 unreasonably dangerous activity and does not constitute a nuisance per se.

119 (b)(1) No county or municipal corporation, by zoning, ~~or by~~ ordinance, resolution, or
 120 other enactment, and no state agency, board, or authority other than the General
 121 Assembly, by rule, regulation, or other enactment, shall regulate in any manner gun
 122 shows; the possession, ownership, transport, carrying, transfer, sale, purchase, licensing,
 123 or registration of firearms or other weapons or components of firearms or other weapons;
 124 firearms dealers; or dealers in firearms components or components of other weapons.

125 (2) The authority to bring suit and right to recover against any firearms or ammunition
 126 manufacturer, trade association, or dealer by or on behalf of any governmental unit
 127 created by or pursuant to an Act of the General Assembly or the Constitution, or any
 128 department, agency, or authority thereof, for damages, abatement, or injunctive relief
 129 resulting from or relating to the lawful design, manufacture, marketing, or sale of
 130 firearms or ammunition to the public shall be reserved exclusively to the state. This
 131 paragraph shall not prohibit a political subdivision or local government authority from
 132 bringing an action against a firearms or ammunition manufacturer or dealer for breach

133 of contract or express warranty as to firearms or ammunition purchased by the political
134 subdivision or local government authority.

135 (c) A county or municipal corporation may regulate the transport, carrying, or possession
136 of firearms by employees of the local unit of government in the course of their employment
137 with such local unit of government.

138 (d) Nothing contained in this Code section shall prohibit municipalities or counties, by
139 ordinance, resolution, or other enactment, from requiring the ownership of guns by heads
140 of households within the political subdivision.

141 (e) Nothing contained in this Code section shall prohibit municipalities or counties, by
142 ordinance, resolution, or other enactment, from reasonably limiting or prohibiting the
143 discharge of firearms within the boundaries of the municipal corporation or county."

144 **SECTION 5.**

145 Article 3 of Chapter 5 of Title 17 of the Official Code of Georgia Annotated, relating to
146 disposition of seized property, is amended by adding a new Code section to read as follows:

147 "17-5-52.1.

148 (a) Notwithstanding any other provision of law to the contrary, all firearms, as defined in
149 paragraph (3) of Code Section 16-11-171, that are forfeited or abandoned to any law
150 enforcement agency of this state or a political subdivision of this state, including the
151 Department of Natural Resources, or that are otherwise acquired by the state or a political
152 subdivision, shall be disposed of as provided in this Code section.

153 (b) Prior to the disposal of any firearm that has been forfeited or abandoned to the state or
154 a political subdivision of the state, the agency with custody of the firearm shall use best
155 efforts to determine if the firearm has been lost by, stolen from, or otherwise illegally
156 obtained from an innocent owner and, if so, shall return the firearm to its innocent owner,
157 if ascertainable, unless that person is ineligible to receive or possess a firearm under state
158 or federal law.

159 (c)(1) Except as provided in subsection (b) of this Code section, the custodial agency
160 shall dispose of the firearms that it receives under subsection (a) of this Code section by
161 sale to persons licensed as firearms dealers, importers, or manufacturers under the
162 provisions of 18 U.S.C. Section 921, et seq., and Chapter 16 of Title 43 and who are
163 authorized to receive such firearms under the terms of such license.

164 (2) Employees of the agency shall not be eligible to purchase firearms sold under this
165 Code section or to retain any proceeds from any sale required by this Code section, nor
166 shall the agency or its employees retain any firearm required to be sold under this Code
167 section.

168 (d) All agencies subject to the provisions of this Code section shall keep records of the
169 firearms acquired and disposed of as herein provided as well as the proceeds of the sales
170 thereof and the disbursement of such proceeds and shall maintain such records for not less
171 than ten years from the date on which a firearm is disposed of or on which a disbursement
172 of funds is made, as the case may be.

173 (e) Neither the state nor any political subdivision of the state nor any of its officers, agents,
174 or employees shall be liable to any person, including the purchaser of a firearm, for
175 personal injuries or damage to property arising from the sale of a firearm under this Code
176 section unless the state or political subdivision acted with gross negligence or
177 recklessness."

178 **SECTION 6.**

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

181 **SECTION 7.**

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