

House Bill 1310

By: Representatives Taylor of the 55<sup>th</sup>, Benfield of the 85<sup>th</sup>, Morgan of the 39<sup>th</sup>, Waites of the 60<sup>th</sup>, Scott of the 76<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,  
2 relating to dangerous instrumentalities, so as to regulate the sale of handguns; to provide for  
3 definitions; to prohibit any person who is not a licensed dealer to purchase more than one  
4 handgun within any 30 day period; to require a background check; to provide for collection  
5 of fees; to provide for the promulgation of rules and regulations; to provide for criminal  
6 penalties; to provide for exceptions; to provide for related matters; to provide an effective  
7 date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to  
11 dangerous instrumentalities, is amended by adding a new part to read as follows:

12 "Part 5A

13 16-11-190.

14 (a) As used in this Code section, the term:

15 (1) 'Actual buyer' means a buyer who executes the consent form required in  
16 subsection (b) or the enhanced background check application pursuant to paragraph (2)  
17 of subsection (i) of this Code section or other such handgun transaction records as may  
18 be required by federal law.

19 (2) 'Buyer' means a person who is a prospective purchaser, renter, trader, or transferor  
20 of a handgun to a dealer.

21 (3) 'Dealer' means any person licensed as a dealer pursuant to 18 U.S.C. Section 921, et  
22 seq., or Chapter 16 of Title 43.

23 (4) 'Dealer's next business day' shall not include December 25.

24 (5) 'Handgun' means a firearm of any description, loaded or unloaded, from which any  
 25 shot, bullet, or other missile can be discharged by an action of an explosive, where the  
 26 length of the barrel, not including any revolving, detachable, or magazine breech, does  
 27 not exceed 12 inches; provided, however, that the term 'handgun' shall not include a gun  
 28 which discharges a single shot of .46 centimeters or less in diameter.

29 (6) 'Lawfully admitted for permanent residence' means the status of having been lawfully  
 30 accorded the privilege of residing permanently in the United States as an immigrant in  
 31 accordance with the immigration laws.

32 (7) 'Person' means any individual, partnership, company, association, or corporation.

33 (b) Any person purchasing, renting, trading, or transferring a handgun from a dealer shall  
 34 consent in writing, on a form to be provided by the Georgia Bureau of Investigation, to  
 35 have the dealer obtain a fingerprint based criminal history records check from the Georgia  
 36 Crime Information Center and the Federal Bureau of Investigation. Such form shall  
 37 include the buyer's written consent; the buyer's name, birth date, gender, race, citizenship,  
 38 and social security number or any other identification number; the number of handguns the  
 39 buyer intends to purchase, rent, trade, or transfer; and answers to the following questions:

40 (1) Has the buyer been convicted of a felony offense or found guilty or adjudicated  
 41 delinquent as a juvenile 14 years of age or older at the time of the offense of a delinquent  
 42 act that would be a felony if committed by an adult;

43 (2) Is the buyer subject to a court order restraining the applicant from harassing, stalking,  
 44 or threatening the applicant's child, spouse, or former spouse or a child of such spouse of  
 45 former spouse, or is the applicant subject to a protective order; and

46 (3) Has the buyer ever been acquitted by reason of insanity and prohibited from  
 47 purchasing, possessing, or transporting a firearm in any jurisdiction, been adjudicated  
 48 legally incompetent, mentally incapacitated, or adjudicated an incapacitated person and  
 49 prohibited from purchasing a firearm in any jurisdiction, or been involuntarily admitted  
 50 to an inpatient facility or involuntarily ordered to outpatient mental health treatment and  
 51 prohibited from purchasing a firearm in any jurisdiction?

52 (c)(1)(A) No dealer shall sell, rent, trade, or transfer from his or her inventory any  
 53 firearm to any other person who is a resident of Georgia until the dealer has:

54 (i) Obtained from such other person written consent and the other information on the  
 55 consent form specified in subsection (b) of this Code section;

56 (ii) Provided the Georgia Bureau of Investigation with the name, birth date, gender,  
 57 race, citizenship, and social security or any other identification number of such other  
 58 person and the number of handguns intended to be sold, rented, traded, or transferred;  
 59 and

60 (iii) Requested the criminal history record information of such other person by a  
61 telephone call to or other communication authorized by the Georgia Bureau of  
62 Investigation and is authorized pursuant to subsection (d) of this Code section to  
63 complete the sale or other such transfer.

64 (B) To establish personal identification and residence in Georgia for purposes of this  
65 paragraph, a dealer shall require any buyer to present one form of photo identification  
66 issued by a governmental agency of the state, or by the United States Department of  
67 Defense, and other documentation of residence. Except where the photo identification  
68 was issued by the United States Department of Defense, the other documentation of  
69 residence shall show an address identical to that shown on the photo identification, such  
70 as evidence of currently paid personal property tax or real estate tax, a current lease,  
71 utility, or telephone bill, voter registration card, bank check, passport, automobile  
72 registration, or hunting or fishing license; other current identification allowed as  
73 evidence of residency by Part 178.124 of Title 27 of the Code of Federal Regulations  
74 and ATF Ruling 2001-5; or other documentation of residence determined to be  
75 acceptable by the Georgia Bureau of Investigation, that corroborates that the buyer  
76 currently resides in Georgia. Where the photo identification was issued by the United  
77 States Department of Defense, permanent orders assigning the buyer to a duty post in  
78 Georgia shall be the only other required documentation of residence. For the purposes  
79 of this subparagraph and establishment of residency for a handgun purchase, residency  
80 shall be deemed to be the permanent duty post of a member of the armed forces. When  
81 the photo identification presented to a dealer by the buyer is a driver's license or other  
82 photo identification issued by the Department of Driver Services, and such  
83 identification contains a date of issue, the dealer shall not, except for a renewed driver's  
84 license or other photo identification issued by the Department of Driver Services, sell  
85 or otherwise transfer a firearm to the buyer until 30 days after the date of issue of an  
86 original or duplicate driver's license unless the prospective purchaser also presents a  
87 copy of his or her Georgia Department of Driver Services driver's record showing that  
88 the original date of issue of the driver's license was more than 30 days prior to the  
89 attempted purchase.

90 (2) No dealer shall sell, rent, trade, or transfer from his or her inventory any handgun to  
91 any person who is not a citizen of the United States or who is not a person lawfully  
92 admitted for permanent residence. To establish citizenship or lawful admission for  
93 permanent residence for purposes of purchasing a handgun, a dealer shall require a buyer  
94 to present a certified birth certificate or a certificate of birth abroad issued by the United  
95 States State Department, a certificate of citizenship or a certificate of naturalization  
96 issued by the United States Citizenship and Immigration Services, an unexpired United

97 States passport, a United States citizen identification card, a current voter registration  
98 card, a current selective service registration card, or an immigrant visa or other  
99 documentation of status as a person lawfully admitted for permanent residence issued by  
100 the United States Citizenship and Immigration Services.

101 (d)(1) Upon receipt of the request for a criminal history record information check, the  
102 Georgia Bureau of Investigation shall:

103 (A) Review its criminal history record information to determine if the buyer is  
104 prohibited from possessing or transporting a firearm by state or federal law;

105 (B) Inform the dealer if its record indicates that the buyer is so prohibited; and

106 (C) Provide the dealer with a unique reference number for that inquiry.

107 (2) The Georgia Bureau of Investigation shall provide its response to the requesting  
108 dealer during the dealer's request, or by return call without delay. If the criminal history  
109 record information check indicates the buyer has a disqualifying criminal record or has  
110 been acquitted by reason of insanity and committed to a state mental health facility, the  
111 Georgia Bureau of Investigation shall have until the end of the dealer's next business day  
112 to advise the dealer if its records indicate the buyer is prohibited from possessing or  
113 transporting a firearm by state or federal law. If not so advised by the end of the dealer's  
114 next business day, a dealer who has fulfilled the requirements of subsection (c) of this  
115 Code section may immediately complete the sale or transfer and shall not be deemed in  
116 violation of this Code section with respect to such sale or transfer. In case of electronic  
117 failure or other circumstances beyond the control of the Georgia Bureau of Investigation,  
118 the dealer shall be advised immediately of the reason for such delay and given an  
119 estimate of the length of such delay. After such notification, the Georgia Bureau of  
120 Investigation shall, as soon as possible but in no event later than the end of the dealer's  
121 next business day, inform the requesting dealer if its records indicate the buyer is  
122 prohibited from possessing or transporting a firearm by state or federal law. A dealer  
123 who fulfills the requirements of subsection (c) of this Code section and is told by the  
124 Georgia Bureau of Investigation that a response will not be available by the end of the  
125 dealer's next business day may immediately complete the sale or transfer and shall not  
126 be deemed in violation of this Code section with respect to such sale or transfer.

127 (3) The Georgia Bureau of Investigation shall not maintain records generated pursuant  
128 to this Code section for longer than 30 days, except for multiple handgun transactions for  
129 which records shall be maintained for 12 months, from any dealer's request for a criminal  
130 history record information check pertaining to a buyer who is not found to be prohibited  
131 from possessing and transporting a handgun under state or federal law; provided,  
132 however, that the log on requests made may be maintained for a period of 12 months, and

133 such log shall consist of the name of the buyer, the dealer identification number, the  
134 unique approval number, and the transaction date.

135 (e) On the last day of the week following the sale or transfer of any handgun, the dealer  
136 shall mail or deliver the written consent form required by subsection (b) of this Code  
137 section to the Georgia Bureau of Investigation. The Georgia Bureau of Investigation shall  
138 immediately initiate a search of all available criminal history record information to  
139 determine if the buyer is prohibited from possessing or transporting a handgun under state  
140 or federal law. If the search discloses information indicating that the buyer is so prohibited  
141 from possessing or transporting a firearm, the Georgia Bureau of Investigation shall inform  
142 the chief law enforcement officer in the jurisdiction where the sale or transfer occurred and  
143 the dealer without delay.

144 (f) If any actual buyer is denied the right to purchase a handgun under this Code section,  
145 he or she may exercise his or her right of access to and review the criminal history record  
146 information within 30 days of such denial.

147 (g) The Georgia Bureau of Investigation shall promulgate rules and regulations to ensure  
148 the identity, confidentiality, and security of all records and data provided by the Georgia  
149 Bureau of Investigation pursuant to this Code section.

150 (h) All dealers shall collect a fee of \$3.00 for every transaction for which a criminal  
151 history record information check is required pursuant to this Code section. Such fee shall  
152 be transmitted to the Georgia Bureau of Investigation by the last day of the month  
153 following the sale.

154 (i)(1) Except as provided in paragraphs (2), (3), and (4) of this subsection, it shall be  
155 unlawful for any person who is not a licensed dealer to purchase more than one handgun  
156 within any 30 day period. A violation of this subsection shall be punishable as a  
157 misdemeanor of a high and aggravated nature.

158 (2)(A) Purchases in excess of one handgun within a 30 day period may be made upon  
159 completion by the Georgia Bureau of Investigation of an enhanced background check  
160 by special application to the Georgia Bureau of Investigation listing the number and  
161 type of handguns to be purchased and transferred for lawful business or personal use,  
162 in a collector series, for collections, as a bulk purchase from estate sales, and for similar  
163 purposes. Such applications shall be signed under oath by the applicant on forms  
164 provided by the Georgia Bureau of Investigation, shall state the purpose for the  
165 purchase above the limit, and shall require satisfactory proof of residency and identity.  
166 Such application shall be in addition to the firearms sales report required by the United  
167 States Bureau of Alcohol, Tobacco, and Firearms (ATF). The Georgia Bureau of  
168 Investigation shall promulgate rules and regulations for the implementation of an  
169 application process for purchases of handguns above the limit.

170 (B) Upon being satisfied that the requirements of this paragraph have been met, the  
 171 Georgia Bureau of Investigation shall forthwith issue to the applicant a nontransferable  
 172 certificate, which shall be valid for seven days from the date of issue. The certificate  
 173 shall be surrendered to the dealer by the prospective purchaser prior to the  
 174 consummation of such sale and shall be kept on file at the dealer's place of business for  
 175 inspection for a period of not less than two years. Upon request of any local law  
 176 enforcement agency, and pursuant to its regulations, the Georgia Bureau of  
 177 Investigation may certify such local law enforcement agency to serve as its agent to  
 178 receive applications and, upon authorization by the Georgia Bureau of Investigation,  
 179 issue certificates pursuant to this subsection. Applications and certificates issued under  
 180 this subsection shall be maintained as records as provided in paragraph (3) of  
 181 subsection (d) of this Code section. The Georgia Bureau of Investigation shall make  
 182 available to local law enforcement agencies all records concerning certificates issued  
 183 pursuant to this subparagraph and all records provided for in paragraph (3) of this  
 184 subsection.

185 (3) A person whose handgun is stolen or irretrievably lost who deems it essential that  
 186 such handgun be replaced immediately may purchase another handgun, even if such  
 187 person has previously purchased a handgun within a 30 day period, provided that:

188 (A) Such person provides the firearms dealer with a copy of the official police report  
 189 or a summary thereof, on forms provided by the Georgia Bureau of Investigation, from  
 190 the law enforcement agency that took the report of the lost or stolen handgun;

191 (B) The official police report or summary thereof contains the name and address of the  
 192 handgun owner, the description of the handgun, the location of the loss or theft, the date  
 193 of the loss or theft, and the date the loss or theft was reported to the law enforcement  
 194 agency; and

195 (C) The date of the loss or theft as reflected on the official police report or summary  
 196 thereof occurred within 30 days of such person's attempt to replace the handgun.

197 The dealer shall attach a copy of the official police report or summary thereof to the  
 198 original copy of the Georgia handgun transaction report completed for the transaction and  
 199 retain it for the period prescribed by the Georgia Bureau of Investigation.

200 (4) A person who trades in a handgun shall be permitted to make a handgun purchase at  
 201 the same time as a part of the same transaction, provided that not more than one  
 202 transaction of this nature shall be completed per day.

203 (j) Any dealer who willfully and intentionally requests, obtains, or seeks to obtain criminal  
 204 history record information under false pretenses, or who willfully and intentionally  
 205 disseminates or seeks to disseminate criminal history record information except as

206 authorized by this Code section, shall be guilty of a misdemeanor of a high and aggravated  
207 nature.

208 (k) Any person willfully and intentionally making a materially false statement on the  
209 consent form required in subsection (b) of this Code section or on such handgun transaction  
210 records as may be required by federal law shall be guilty of a felony and, upon conviction  
211 thereof, shall be punished by a fine of not less than \$1,000.00 nor more than \$5,000.00 or  
212 by imprisonment for not less than one nor more than three years, or both.

213 (l) Any dealer who willfully and intentionally sells, rents, trades, or transfers a handgun  
214 in violation of this Code section shall be guilty of a felony and, upon conviction thereof,  
215 shall be punished by a fine of not less than \$1,000.00 nor more than \$5,000.00 or by  
216 imprisonment for not less than one nor more than three years, or both.

217 (m) Any person who attempts to solicit, persuade, encourage, or entice any dealer to  
218 transfer or otherwise convey a handgun other than to the actual buyer, as well as any other  
219 person who willfully and intentionally aids or abets such person, shall be guilty of a felony  
220 and, upon conviction thereof, shall be punished by a fine of not less than \$1,000.00 nor  
221 more than \$5,000.00 or by imprisonment for not less than one nor more than three years,  
222 or both.

223 (n) Any person who purchases a handgun with the intent to (i) resell or otherwise provide  
224 such handgun to any person who he or she knows or has reason to believe is ineligible to  
225 purchase or otherwise receive from a dealer a firearm for whatever reason; or (ii) transport  
226 such firearm out of this state to be resold or otherwise provided to another person who the  
227 transferor knows is ineligible to purchase or otherwise receive a firearm shall be guilty of  
228 a felony and, upon conviction thereof, shall be punished by a fine of not less than  
229 \$1,000.00 nor more than \$5,000.00 or by imprisonment for not less than one nor more than  
230 three years, or both. However, if the violation of this subsection involves a transfer of  
231 more than one handgun, the person shall be punished by imprisonment for a mandatory  
232 minimum term of five years.

233 (o) Any person who is ineligible to purchase or otherwise receive or possess a handgun  
234 in this state who solicits, employs, or assists any person in violating this Code section shall  
235 be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for  
236 a mandatory minimum term of five years.

237 (p) The provisions of this Code section shall not apply to:

238 (1) Transactions between persons who are licensed as firearms importers or collectors,  
239 manufacturers, or dealers pursuant to 18 U.S.C. § 921, et seq.;

240 (2) Restrict purchase, trade, or transfer of handguns by a resident of Georgia when such  
241 resident of Georgia makes such purchase, trade, or transfer in another state, in which case

242 the laws and regulations of that state and the United States governing the purchase, trade,  
243 or transfer of firearms shall apply;  
244 (3) The exchange or replacement of a handgun by a dealer for a handgun purchased  
245 from such dealer by the same person seeking the exchange or replacement within the 30  
246 day period immediately preceding the date of exchange or replacement;  
247 (4) Peace officers, as such term is defined in paragraph (11) of Code Section 16-1-3, and  
248 retired peace officers, so long as they remain certified, whether employed by the state or  
249 a political subdivision of the state or another state or a political subdivision of another  
250 state, but only if such other state provides a similar privilege for the peace officers of this  
251 state;  
252 (5) Wardens, superintendents, and keepers of correctional institutions, jails, or other  
253 institutions for the detention of persons accused or convicted of an offense;  
254 (6) Persons in the military service of this state or of the United States;  
255 (7) Persons employed in fulfilling defense contracts with the government of the United  
256 States or agencies thereof when possession of the handgun is necessary for manufacture,  
257 transport, installation, and testing under the requirements of such contract;  
258 (8) District attorneys, investigators employed by and assigned to a district attorney's  
259 office, assistant district attorneys, attorneys or investigators employed by the Prosecuting  
260 Attorneys' Council of the State of Georgia, and any retired district attorney, assistant  
261 district attorney, district attorney's investigator, or attorney or investigator retired from  
262 the Prosecuting Attorneys' Council of the State of Georgia, if such retiree is retired in  
263 good standing and is receiving benefits under Title 47 or is retired in good standing and  
264 receiving benefits from a county or municipal retirement system;  
265 (9) State court solicitors-general; investigators employed by and assigned to the office  
266 of a state court solicitors general; assistant state court solicitors-general; the  
267 corresponding personnel of any municipal court expressly continued in existence as a  
268 municipal court pursuant to Article VI, Section X, Paragraph I, subparagraph (5) of the  
269 Constitution; and the corresponding personnel of any civil court expressly continued as  
270 a civil court pursuant to said subparagraph of the Constitution;  
271 (10) The Attorney General;  
272 (11) Public safety directors of municipal corporations;  
273 (12) State and federal trial and appellate judges, full-time and permanent part-time  
274 judges of municipal and city courts, and former state trial and appellate judges retired  
275 from their respective offices under state retirement;  
276 (13) United States attorneys and assistant United States attorneys;  
277 (14) County medical examiners and coroners and their sworn officers employed by  
278 county government;

- 279 (15) Constables employed by a magistrate court of this state;  
 280 (16) Any sheriff, retired sheriff, deputy sheriff, or retired deputy sheriff if such retired  
 281 sheriff or deputy sheriff is eligible to receive or is receiving benefits under the Peace  
 282 Officers' Annuity and Benefit Fund provided under Chapter 17 of Title 47, the Sheriffs'  
 283 Retirement Fund of Georgia provided under Chapter 16 of Title 47, or any other public  
 284 retirement system established under the laws of this state for service as a law enforcement  
 285 officer;  
 286 (17) Any member of the Georgia State Patrol or agent of the Georgia Bureau of  
 287 Investigation or retired member of the Georgia State Patrol or agent of the Georgia  
 288 Bureau of Investigation if such retired member or agent is receiving benefits under the  
 289 Employees' Retirement System of Georgia;  
 290 (18) Any full-time law enforcement chief executive engaging in the management of a  
 291 county, municipal, state, state authority, or federal law enforcement agency in the State  
 292 of Georgia, including any college or university law enforcement chief executive that is  
 293 registered or certified by the Georgia Peace Officer Standards and Training Council; or  
 294 any retired law enforcement chief executive that formerly managed a county, municipal,  
 295 state, state authority, or federal law enforcement agency in the State of Georgia, including  
 296 any college or university law enforcement chief executive that was registered or certified  
 297 at the time of his or her retirement by the Georgia Peace Officer Standards and Training  
 298 Council, if such retired law enforcement chief executive is receiving benefits under the  
 299 Peace Officers' Annuity and Benefit Fund provided under Chapter 17 of Title 47 or is  
 300 retired in good standing and receiving benefits from a county, municipal, State of  
 301 Georgia, state authority, or federal retirement system; or  
 302 (19) Any police officer of any county, municipal, state, state authority, or federal law  
 303 enforcement agency in the State of Georgia, including any college or university police  
 304 officer that is registered or certified by the Georgia Peace Officer Standards and Training  
 305 Council, or retired police officer of any county, municipal, state, state authority, or  
 306 federal law enforcement agency in the State of Georgia, including any college or  
 307 university police officer that was registered or certified at the time of his or her retirement  
 308 by the Georgia Peace Officer Standards and Training Council, if such retired employee  
 309 is receiving benefits under the Peace Officers' Annuity and Benefit Fund provided under  
 310 Chapter 17 of Title 47 or is retired in good standing and receiving benefits from a county,  
 311 municipal, State of Georgia, state authority, or federal retirement system."

312 **SECTION 2.**  
 313 This Act shall become effective on January 1, 2013.

314

**SECTION 3.**

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