

House Bill 100

By: Representatives Dutton of the 157th, Cooke of the 18th, Allison of the 8th, Setzler of the 35th, Powell of the 32nd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 3 of Title 38 of the Official Code of Georgia Annotated,
2 relating to the organization and administration of emergency management, and to amend
3 Code Section 38-3-51 of the Official Code of Georgia Annotated, relating to emergency
4 powers of the Governor, termination of emergency, limitations in energy emergency, and
5 immunity, so as to prohibit certain limitations regarding the possession and carrying of
6 firearms during a declared state of emergency; to provide for civil remedies for violations;
7 to provide for related matters; to provide an effective date; to repeal conflicting laws; and for
8 other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

11 Article 2 of Chapter 3 of Title 38 of the Official Code of Georgia Annotated, relating to the
12 organization and administration of emergency management, is amended by adding a new
13 Code section to read as follows:

14 "38-3-37.

15 (a) No official or employee of the state or any political subdivision thereof, member of the
16 National Guard in the service of the state, or any person operating pursuant to or under
17 color of state law, while acting during or pursuant to a declared state of emergency, shall:

18 (1) Temporarily or permanently seize, or authorize the seizure of, any firearm or
19 ammunition or any component thereof the possession of which is not prohibited by law
20 at the time immediately prior to the declaration of an official state of emergency, other
21 than as evidence in a criminal investigation;

22 (2) Require registration of any firearm for which registration is not required by Article 4
23 of Chapter 11 of Title 16; or

24 (3) Prohibit possession or carrying of any firearm or ammunition or any component
25 thereof or promulgate any rule, regulation, or order prohibiting possession or carrying of
26 any firearm or ammunition or any component thereof where such possession or carrying

27 is not otherwise prohibited by law at the time immediately prior to the declaration of an
 28 official state of emergency.

29 (b) Any individual aggrieved by a violation of this Code section may seek relief in the
 30 courts of this state in an action at law or in equity or other proper proceeding for redress
 31 against any person who subjects such individual, or causes such individual to be subjected,
 32 to a violation of this Code section. In addition to any other remedy at law or in equity, an
 33 individual aggrieved by the seizure of a firearm or ammunition or any component thereof,
 34 in violation of this Code section, may bring an action for return of such item in the superior
 35 court of the county in which that individual resides or the item was seized or is being held.
 36 In any action or proceeding to enforce or seek relief under this Code section, the court shall
 37 award the prevailing party, other than the state or political subdivision thereof, reasonable
 38 attorney fees."

39 **SECTION 2.**

40 Code Section 38-3-51 of the Official Code of Georgia Annotated, relating to emergency
 41 powers of the Governor, termination of emergency, limitations in emergency, and
 42 immunity, is amended by revising paragraph (8) of subsection (d) as follows:

43 "(8) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages,
 44 firearms, explosives, and combustibles; provided, however, that any limitation on
 45 firearms under this Code section shall not include an individual firearm owned by a
 46 private citizen which was legal and owned by that citizen prior to the declaration of state
 47 of emergency or disaster or thereafter acquired in compliance with all applicable laws of
 48 this state and the United States for purposes of this paragraph the terms 'explosives' and
 49 'combustibles' shall not include firearms or ammunition or any component thereof; and"

50 **SECTION 3.**

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

53 **SECTION 4.**

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