The House Committee on Public Safety and Homeland Security offers the following substitute to HB 875:

A BILL TO BE ENTITLED

AN ACT

To amend Code Section 8-3-202, Article 2 of Chapter 3, Article 4 of Chapter 11, and Part 2 of Article 4 of Chapter 12 of Title 16, and Code Section 35-3-34 of the Official Code of Georgia Annotated, relating to unlawful practices in selling or renting dwellings and exceptions, justification and excuse, dangerous instrumentalities and practices, transportation passenger safety, and disclosure and dissemination of criminal records to private persons and businesses, resulting responsibility and liability of issuing center, and provision of certain information to the FBI in conjunction with the National Instant Criminal Background Check System, respectively, so as to change provisions relating to carrying weapons and the issuance of weapons carry licenses; to provide for a short title; to provide that persons who use threats, force, or deadly force in accordance with Code Section 16-3-21, 16-3-23, 16-3-23.1, or 16-3-24 shall be immune from criminal prosecution under Part 3 of Article 4 of Chapter 11 of Title 16; to change provisions relating to carrying weapons in unauthorized locations; to provide for and change definitions; to change provisions relating to carrying weapons within certain school safety zones and at school functions; to change provisions relating to exemptions for carrying weapons within school safety zones; to remove fingerprinting requirements for renewal licenses; to allow persons who have had their weapons carry licenses revoked to be eligible to be license holders under certain circumstances; to prohibit the creation or maintenance of data bases regarding persons issued weapons carry licenses; to provide for verification of weapons carry licenses; to provide for local boards of education to authorize personnel to carry weapons within school safety zones under certain circumstances; to provide for the offense of unlawfully carrying a weapon into a secure airport area; to provide for weapons carry licenses to be carried and exhibited on demand; to provide that defense of self or others is an absolute defense to any violation under Part 3 of Article 4 of Chapter 11 and Part 2 of Article 4 of Chapter 12 of Title 16; to change legislative findings; to change provisions relating to preemption of local regulations; to provide for the collection and dissemination of information pertinent to issuing weapons carry licenses; to amend Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, so as to repeal state laws regarding firearms dealers; to amend...
Chapter 3 of Title 38 of the Official Code of Georgia Annotated, relating to emergency management, so as to prohibit certain limitations regarding firearms during a declared state of emergency; to provide for definitions; to change provisions relating to emergency powers of the Governor; to amend Code Sections 16-5-21, 16-5-24, 16-12-1, 20-2-1180, 20-2-1185, and 43-38-10 of the Official Code of Georgia Annotated, relating to aggravated assault, aggravated battery, contributing to the delinquency, unruliness, or deprivation of a minor, loitering upon school premises or within a school safety zone, school safety plans, and private detectives and security agencies permits to carry firearms, respectively, so as to correct cross-references; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SECTION 1-1.

This Act shall be known and may be cited as the "Safe Carry Protection Act."

SECTION 1-2.

Code Section 8-3-202 of the Official Code of Georgia Annotated, relating to unlawful practices in selling or renting dwellings and exceptions, is amended in subsection (a) by striking "or" at the end of subparagraph (a)(6)(C), by replacing the period with "; or" at the end of subparagraph (a)(7)(D), and by adding a new paragraph to read as follows:

"(8) To require, as a condition of tenancy in public housing, any prohibition or restriction of any lawful possession of a firearm within an individual dwelling unless required by federal law or regulation."

SECTION 1-3.

Article 2 of Chapter 3 of Title 16 of the Official Code of Georgia Annotated, relating to justification and excuse, is amended by revising Code Section 16-3-24.2, relating to immunity from prosecution and exception, as follows:

"16-3-24.2. A person who uses threats or force in accordance with Code Section 16-3-21, 16-3-23, 16-3-23.1, or 16-3-24 shall be immune from criminal prosecution therefor unless in the use of deadly force, such person utilizes a weapon the carrying or possession of which is unlawful by such person under Part 2 or 3 of Article 4 of Chapter 11 of this title."

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SECTION 1-4.

Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to dangerous instrumentalities and practices, is amended by revising subsection (d) of Code Section 16-11-126, relating to having or carrying handguns, long guns, or other weapons, as follows:

"(d) Any person who is not prohibited by law from possessing a handgun or long gun who is eligible for a weapons carry license may transport a handgun or long gun in any private passenger motor vehicle; provided, however, that private property owners or persons in legal control of private property through a lease, rental agreement, licensing agreement, contract, or any other agreement to control access to such private property shall have the right to forbid, exclude or eject a person who is in possession of a weapon or long gun on their private property in accordance with paragraph (3) of subsection (b) of Code Section 16-7-21, except as provided in Code Section 16-11-135."

SECTION 1-5.

Said article is further amended by revising Code Section 16-11-127, relating to carrying weapons in unauthorized locations and penalty, as follows:

"16-11-127.

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

(1) 'Bar' means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including, but not limited to, taverns, nightclubs, cocktail lounges, and cabarets;

(2) 'Courthouse' means a building occupied by judicial courts and containing rooms in which judicial proceedings are held.

(3) 'Government building' means:

(A) The building in which a government entity is housed;

(B) The building where a government entity meets in its official capacity; provided, however, that if such building is not a publicly owned building, such building shall be considered a government building for the purposes of this Code section only during the time such government entity is meeting at such building; or

(C) The portion of any building that is not a publicly owned building that is occupied by a government entity.

(4) 'Government entity' means an office, agency, authority, department, commission, board, body, division, instrumentality, or institution of the state or any county, municipal corporation, consolidated government, or local board of education within this state.
'Parking facility' means real property owned or leased by a government entity, courthouse, jail, or prison, place of worship, or bar that has been designated by such government entity, courthouse, jail, or prison, place of worship, or bar for the parking of motor vehicles at a government building or at such courthouse, jail, or prison, place of worship, or bar.

(b) Except as provided in subsection (d) or (e) of this Code section, a person shall be guilty of carrying a weapon or long gun in an unauthorized location and punished as for a misdemeanor when he or she carries a weapon or long gun while:

(1) In a government building, except as provided in subsection (e) of this Code section;
(2) In a courthouse;
(3) In a jail or prison;
(4) In a place of worship;
(5) In a state mental health facility as defined in Code Section 37-1-1 which admits individuals on an involuntary basis for treatment of mental illness, developmental disability, or addictive disease; provided, however, that carrying a weapon or long gun in such location in a manner in compliance with paragraph (3) of subsection (d) of this Code section shall not constitute a violation of this subsection;
(6) In a bar, unless the owner of the bar permits the carrying of weapons or long guns by license holders;
(7) On the premises of a nuclear power facility, except as provided in Code Section 16-11-127.2, and the punishment provisions of Code Section 16-11-127.2 shall supersede the punishment provisions of this Code section; or
(8) Within 150 feet of any polling place, except as provided in subsection (i) of Code Section 21-2-413.

(c) Except as provided in Code Section 16-11-127.1, a license holder or person recognized under subsection (e) of Code Section 16-11-126 shall be authorized to carry a weapon as provided in Code Section 16-11-135 and in every location in this state not listed in subsection (b) or prohibited by subsection (e) of this Code section; provided, however, that private property owners or persons in legal control of private property through a lease, rental agreement, licensing agreement, contract, or any other agreement to control access to such private property shall have the right to forbid, exclude or eject a person who is in possession of a weapon or long gun on their private property in accordance with paragraph (3) of subsection (b) of Code Section 16-7-21, except as provided in Code Section 16-11-135. A violation of subsection (b) of this Code section shall not create or give rise to a civil action for damages.

(d) Subsection (b) of this Code section shall not apply:
(1) To the use of weapons or long guns as exhibits in a legal proceeding, provided such weapons or long guns are secured and handled as directed by the personnel providing courtroom security or the judge hearing the case;

(2) To a license holder who approaches security or management personnel upon arrival at a location described in subsection (b) of this Code section and notifies such security or management personnel of the presence of the weapon or long gun and explicitly follows the security or management personnel's direction for removing, securing, storing, or temporarily surrendering such weapon or long gun; and

(3) To a weapon or long gun possessed by a license holder which is under the possessor's control in a motor vehicle or is in a locked compartment of a motor vehicle or one which is in a locked container in or a locked firearms rack which is on a motor vehicle and such vehicle is parked in a parking facility.

e) A license holder shall be authorized to carry a weapon in a government building where ingress into such building is not restricted or screened by security personnel during the hours the government building is open for business. A person who is not a license holder and who attempts to enter a government building carrying a weapon shall be guilty of a misdemeanor. A license holder who enters or attempts to enter a government building carrying a weapon where ingress is restricted or screened by security personnel shall be guilty of a misdemeanor; provided, however, that:

(1) A license holder who immediately exits such building or immediately leaves such location upon notification of his or her failure to clear security due to the carrying of a weapon shall not be guilty of violating this subsection or paragraph (1) of subsection (b) of this Code section; and

(2) A license holder shall not be guilty of violating this subsection or paragraph (1) of subsection (b) of this Code section if no member of the security personnel restricting or screening ingress is certified as a peace officer pursuant to Chapter 8 of Title 35 and the license holder immediately exits such building or immediately leaves such location upon request by the security personnel due to the carrying of the weapon.

SECTION 1-6.

Said article is further amended by revising subsection (a), paragraphs (1) and (2) of subsection (b), and subsections (c) through (f) of Code Section 16-11-127.1, relating to carrying weapons within school safety zones, at school functions, or on school property, as follows:

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

(1) 'Bus or other transportation furnished by a school' means a bus or other transportation furnished by a public or private elementary or secondary school.

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(2) 'School function' means a school function or related activity that occurs outside of a school safety zone and is for a public or private elementary or secondary school.

(3) 'School safety zone' means in or on any real property owned or leased to:

(A) Any public or private elementary school, secondary school, or school local board of education and used for elementary or secondary education; and in or on the campus of any

(B) Any public or private technical school, vocational school, college, university, or other institution of postsecondary education.

(4) 'Weapon' means and includes any pistol, revolver, or any weapon designed or intended to propel a missile of any kind, or any dirk, bowie knife, switchblade knife, ballistic knife, any other knife having a blade of two or more inches, straight-edge razor, razor blade, spring stick, knuckles, whether made from metal, thermoplastic, wood, or other similar material, blackjack, any bat, club, or other bludgeon-type weapon, or any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain, or any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart, or any weapon of like kind, and any stun gun or taser as defined in subsection (a) of Code Section 16-11-106. This paragraph excludes any of these instruments used for classroom work authorized by the teacher.

(b)(1) Except as otherwise provided in subsection (c) of this Code section, it shall be unlawful for any person to carry to or to possess or have under such person's control while within a school safety zone or at a school building, school function, or school property or on a bus or other transportation furnished by the school any weapon or explosive compound, other than fireworks the possession of which is regulated by Chapter 10 of Title 25.

(A) Any license holder who violates this subsection in or on any real property owned by or leased to any public or private elementary or secondary school or school board and used for elementary or secondary education or in or on the campus of any private technical school, vocational school, college, university, or other institution of postsecondary education shall be guilty of a misdemeanor.

(B) Any license holder who violates this subsection in or on the campus of any public technical school, vocational school, college, university, or other institution of postsecondary education shall not be arrested but shall be fined not more than $100.00. Such fine shall be remitted to the local jurisdiction where the offense occurred.
Any person who is not a license holder who violates this subsection shall be guilty of a felony and, upon conviction thereof, be punished by a fine of not more than $10,000.00, by imprisonment for not less than two nor more than ten years, or both."

The provisions of this Code section shall not apply to:

1. Baseball bats, hockey sticks, or other sports equipment possessed by competitors for legitimate athletic purposes;
2. Participants in organized sport shooting events or firearm training courses;
3. Persons participating in military training programs conducted by or on behalf of the armed forces of the United States or the Georgia Department of Defense;
4. Persons participating in law enforcement training conducted by a police academy certified by the Georgia Peace Officer Standards and Training Council or by a law enforcement agency of the state or the United States or any political subdivision thereof;
5. The following persons, when acting in the performance of their official duties or when en route to or from their official duties:
   A. A peace officer as defined by Code Section 35-8-2;
   B. A law enforcement officer of the United States government;
   C. A prosecuting attorney of this state or of the United States;
   D. An employee of the Georgia Department of Corrections or a correctional facility operated by a political subdivision of this state or the United States who is authorized by the head of such correctional agency or facility to carry a firearm;
   E. A person employed as a campus police officer or school security officer who is authorized to carry a weapon in accordance with Chapter 8 of Title 20; and
   F. Medical examiners, coroners, and their investigators who are employed by the state or any political subdivision thereof;
6. A person who has been authorized in writing by a duly authorized official of the school, a public or private elementary or secondary school or a public or private technical school, vocational school, college, university, or other institution of postsecondary education or a local board of education as provided in Code Section 16-11-130.1 to have in such person's possession or use as part of any activity being conducted at a school building, school property, or within a school safety zone, at a school function, or on a bus or other transportation furnished by a school a weapon which would otherwise be prohibited by this Code section. Such authorization shall specify the weapon or weapons which have been authorized and the time period during which the authorization is valid;
7. A person who is licensed in accordance with Code Section 16-11-129 or issued a permit pursuant to Code Section 43-38-10, when such person carries or picks up a student at a school building, within a school safety zone, at a school function, or school property or on a bus or other transportation furnished by the a school or a person who is licensed
in accordance with Code Section 16-11-129 or issued a permit pursuant to Code Section 43-38-10 when he or she has any weapon legally kept within a vehicle when such vehicle is parked at such school property within a school safety zone or is in transit through a designated school safety zone;

(8) A weapon possessed by a license holder which is under the possessor's control in a motor vehicle or which is in a locked compartment of a motor vehicle or one which is in a locked container in or a locked firearms rack which is on a motor vehicle which is being used by an adult over 21 years of age to bring to or pick up a student at a school building, within a school safety zone, at a school function, or school property or on a bus or other transportation furnished by the school, or when such vehicle is used to transport someone to an activity being conducted on school property within a school safety zone which has been authorized by a duly authorized official of the school or local board of education as provided by paragraph (6) of this subsection; provided, however, that this exception shall not apply to a student attending such a public or private elementary or secondary school;

(9) Persons employed in fulfilling defense contracts with the government of the United States or agencies thereof when possession of the weapon is necessary for manufacture, transport, installation, and testing under the requirements of such contract;

(10) Those employees of the State Board of Pardons and Paroles when specifically designated and authorized in writing by the members of the State Board of Pardons and Paroles to carry a weapon;

(11) The Attorney General and those members of his or her staff whom he or she specifically authorizes in writing to carry a weapon;

(12) Probation supervisors employed by and under the authority of the Department of Corrections pursuant to Article 2 of Chapter 8 of Title 42, known as the 'State-wide Probation Act,' when specifically designated and authorized in writing by the director of the Division of Probation;

(13) Public safety directors of municipal corporations;

(14) State and federal trial and appellate judges;

(15) United States attorneys and assistant United States attorneys;

(16) Clerks of the superior courts;

(17) Teachers and other school personnel who are otherwise authorized to possess or carry weapons, provided that any such weapon is in a locked compartment of a motor vehicle or one which is in a locked container in or a locked firearms rack which is on a motor vehicle; or

(18) Constables of any county of this state.
(d)(1) This Code section shall not prohibit any person who resides or works in a business or is in the ordinary course transacting lawful business or any person who is a visitor of such resident located within a school safety zone from carrying, possessing, or having under such person's control a weapon within a school safety zone; provided, however, that it shall be unlawful for any such person to carry, possess, or have under such person's control while at a school building or school function or on school property, a school bus, a bus or other transportation furnished by a school any weapon or explosive compound, other than fireworks the possession of which is regulated by Chapter 10 of Title 25.

(2) Any person who violates this subsection shall be subject to the penalties specified in subsection (b) of this Code section.

(3) This subsection shall not be construed to waive or alter any legal requirement for possession of weapons or firearms otherwise required by law.

(e) It shall be no defense to a prosecution for a violation of this Code section that:

(1) School was or was not in session at the time of the offense;

(2) The real property was being used for other purposes besides school purposes at the time of the offense; or

(3) The offense took place on a bus or other transportation furnished by a school vehicle.

(f) In a prosecution under this Code section, a map produced or reproduced by any municipal or county agency or department for the purpose of depicting the location and boundaries of the area of the real property of a school board or a private or public elementary or secondary school that is used for school purposes or the area of any campus of any public or private technical school, vocational school, college, university, or other institution of postsecondary education, or a true copy of the map, shall, if certified as a true copy by the custodian of the record, be admissible and shall constitute prima-facie evidence of the location and boundaries of the area, if the governing body of the municipality or county has approved the map as an official record of the location and boundaries of the area. A map approved under this Code section may be revised from time to time by the governing body of the municipality or county. The original of every map approved or revised under this subsection or a true copy of such original map shall be filed with the municipality or county and shall be maintained as an official record of the municipality or county. This subsection shall not preclude the prosecution from introducing or relying upon any other evidence or testimony to establish any element of this offense. This subsection shall not preclude the use or admissibility of a map or diagram other than the one which has been approved by the municipality or county.”
SECTION 1-7.

Said article is further amended by revising Code Section 16-11-129, relating to license to carry weapons, as follows:

"16-11-129.  

(a) Application for weapons carry license or renewal license; term. The judge of the probate court of each county may, on application under oath and on payment of a fee of $30.00, issue a weapons carry license or renewal license valid for a period of five years to any person whose domicile is in that county or who is on active duty with the United States armed forces and who is not a domiciliary of this state but who either resides in that county or on a military reservation located in whole or in part in that county at the time of such application. Such license or renewal license shall authorize that person to carry any weapon in any county of this state notwithstanding any change in that person's county of residence or state of domicile. Applicants shall submit the application for a weapons carry license or renewal license to the judge of the probate court on forms prescribed and furnished free of charge to persons wishing to apply for the license or renewal license. An applicant who is not a United States citizen shall provide sufficient personal identifying data, including without limitation his or her place of birth and United States issued alien or admission number, as the Georgia Bureau of Investigation may prescribe by rule or regulation. An applicant who is in nonimmigrant status shall provide proof of his or her qualifications for an exception to the federal firearm prohibition pursuant to 18 U.S.C. Section 922(y). Forms shall be designed to elicit information from the applicant pertinent to his or her eligibility under this Code section, including citizenship, but shall not require data which is nonpertinent or irrelevant, such as serial numbers or other identification capable of being used as a de facto registration of firearms owned by the applicant. The Department of Public Safety shall furnish application forms and license forms required by this Code section. The forms shall be furnished to each judge of each probate court within the state at no cost.

(b) Licensing exceptions.  

(1) As used in this subsection, the term:

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

(B) 'Convicted' means a plea of guilty or a finding of guilt by a court of competent jurisdiction or the acceptance of a plea of nolo contendere, irrespective of the pendency or availability of an appeal or an application for collateral relief an adjudication of guilt. Such term shall not include an order of discharge and exoneration pursuant to Article 3 of Chapter 8 of Title 42.

(C) 'Dangerous drug' means any drug defined as such in Code Section 16-13-71.
(2) No weapons carry license shall be issued to:

(A) Any person under younger than 21 years of age unless he or she:

(i) Is at least 18 years of age;

(ii) Provides proof that he or she has completed basic training in the armed forces of the United States; and

(iii) Provides proof that he or she is actively serving in the armed forces of the United States or has been honorably discharged from such service;

(B) Any person who has been convicted of a felony by a court of this state or any other state; by a court of the United States, including its territories, possessions, and dominions; or by a court of any foreign nation and has not been pardoned for such felony by the President of the United States, the State Board of Pardons and Paroles, or the person or agency empowered to grant pardons under the constitution or laws of such state or nation;

(C) Any person against whom proceedings are pending for any felony;

(D) Any person who is a fugitive from justice;

(E) Any person who is prohibited from possessing or shipping a firearm in interstate commerce pursuant to subsections (g) and (n) of 18 U.S.C. Section 922;

(F) Any person who has been convicted of an offense arising out of the unlawful manufacture or distribution of a controlled substance or other dangerous drug;

(G) Any person who has had his or her weapons carry license revoked pursuant to subsection (e) of this Code section within three years of the date of his or her application;

(H) Any person who has been convicted of any of the following:

(i) Pointing a gun or a pistol at another in violation of Code Section 16-11-102;

(ii) Carrying a weapon without a weapons carry license in violation of Code Section 16-11-126; or

(iii) Carrying a weapon or long gun in an unauthorized location in violation of Code Section 16-11-127 and has not been free of all restraint or supervision in connection therewith and free of any other conviction for at least five years immediately preceding the date of the application;

(I) Any person who has been convicted of any misdemeanor involving the use or possession of a controlled substance and has not been free of all restraint or supervision in connection therewith or free of:

(i) A second conviction of any misdemeanor involving the use or possession of a controlled substance; or

(ii) Any conviction under subparagraphs (E) through (G) of this paragraph
(J) Any person who has been hospitalized as an inpatient in any mental hospital or alcohol or drug treatment center within the five years immediately preceding the application. The judge of the probate court may require any applicant to sign a waiver authorizing any mental hospital or treatment center to inform the judge whether or not the applicant has been an inpatient in any such facility in the last five years and authorizing the superintendent of such facility to make to the judge a recommendation regarding whether the applicant is a threat to the safety of others and whether a license to carry a weapon should be issued. When such a waiver is required by the judge, the applicant shall pay a fee of $3.00 for reimbursement of the cost of making such a report by the mental health hospital, alcohol or drug treatment center, or the Department of Behavioral Health and Developmental Disabilities, which the judge shall remit to the hospital, center, or department. The judge shall keep any such hospitalization or treatment information confidential. It shall be at the discretion of the judge, considering the circumstances surrounding the hospitalization and the recommendation of the superintendent of the hospital or treatment center where the individual was a patient, to issue the weapons carry license or renewal license;

(K) Any person who has been adjudicated mentally incompetent to stand trial; or

(L) Any person who has been adjudicated not guilty by reason of insanity at the time of the crime pursuant to Part 2 of Article 6 of Chapter 7 of Title 17.

(3) If first offender treatment without adjudication of guilt for a conviction contained in subparagraph (F) or (I) of paragraph (2) of this subsection was entered and such sentence was successfully completed and such person has not had any other conviction since the completion of such sentence and for at least five years immediately preceding the date of the application, he or she shall be eligible for a weapons carry license provided that no other license exception applies.

(c) Fingerprinting. Following completion of the application for a weapons carry license or the renewal of a license, the judge of the probate court shall require the applicant to proceed to an appropriate law enforcement agency in the county or to any vendor approved by the Georgia Bureau of Investigation for fingerprint submission services with the completed application. The appropriate local law enforcement agency in each county shall then so that such agency or vendor can capture the fingerprints of the applicant for a weapons carry license or renewal license and place the name of the applicant on the blank license form. The appropriate local law enforcement agency shall place the fingerprint on a blank license form which has been furnished to the law enforcement agency by the judge of the probate court if a fingerprint is required to be furnished by subsection (f) of this Code section. The law enforcement agency shall be entitled to a fee of $5.00 from the
applicant for its services in connection with the fingerprinting and processing of an application. Fingerprinting shall not be required for applicants seeking temporary renewal licenses or renewal licenses.

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

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

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

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

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

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good moral character, or has failed to comply with any of the requirements contained in
this Code section. The judge of the probate court shall date stamp the report from the law
enforcement agency to show the date on which the report was received by the judge of
the probate court.

(e) Revocation, loss, or damage to license. If, at any time during the period for which
the weapons carry license was issued, the judge of the probate court of the county in which
the license was issued shall learn or have brought to his or her attention in any manner any
reasonable ground to believe the licensee is not eligible to retain the license, the judge may,
after notice and hearing, revoke the license of the person upon a finding that such person
is not eligible for a weapons carry license pursuant to subsection (b) of this Code section
or an adjudication of falsification of application, mental incompetency, or chronic alcohol
or narcotic usage. It shall be unlawful for any person to possess a license which has been
revoked, and any person found in possession of any such revoked license, except in the
performance of his or her official duties, shall be guilty of a misdemeanor. It shall be
required that any license holder under this Code section have in his or her possession his
or her valid license whenever he or she is carrying a weapon under the authority granted
by this Code section, and his or her failure to do so shall be prima-facie evidence of a
violation of Code Section 16-11-126. Loss of any license issued in accordance with this
Code section or damage to the license in any manner which shall render it illegible shall
be reported to the judge of the probate court of the county in which it was issued within 48
hours of the time the loss or damage becomes known to the license holder. The judge of
the probate court shall thereupon issue a replacement for and shall take custody of and
destroy a damaged license; and in any case in which a license has been lost, he or she shall
issue a cancellation order and notify by telephone and in writing each of the law
enforcement agencies whose records were checked before issuance of the original license.
The judge shall charge the fee specified in subsection (k) of Code Section 15-9-60 for such
services.

(f)(1) Weapons carry license specifications. Weapons carry licenses issued as
prescribed in this Code section shall be printed on durable but lightweight card stock, and
the completed card shall be laminated in plastic to improve its wearing qualities and to
inhibit alterations. Measurements shall be 3 1/4 inches long and 2 1/4 inches wide. Each
shall be serially numbered within the county of issuance and shall bear the full name,
residential address, birth date, weight, height, color of eyes, and sex of the licensee. The
license shall show the date of issuance, the expiration date, and the probate court in which
issued and shall be signed by the licensee and bear the signature or facsimile thereof of
the judge. The seal of the court shall be placed on the face before the license is
laminated. Licenses issued on and before December 31, 2011, shall bear a clear print of
the licensee's right index finger; however, if the right index fingerprint cannot be secured
for any reason, the print of another finger may be used but such print shall be marked to
identify the finger from which the print is taken prior to January 1, 2012, shall be in the
format specified by the former provisions of this paragraph as they existed on June 30,
2013.

(2)(A) On and after January 1, 2012, newly issued or renewal weapons carry licenses
shall incorporate overt and covert security features which shall be blended with the
personal data printed on the license to form a significant barrier to imitation, replication,
and duplication. There shall be a minimum of three different ultraviolet colors used to
enhance the security of the license incorporating variable data, color shifting
characteristics, and front edge only perimeter visibility. The weapons carry license shall
have a color photograph viewable under ambient light on both the front and back of the
license. The license shall incorporate custom optical variable devices featuring the great
seal of the State of Georgia as well as matching demetalized optical variable devices
viewable under ambient light from the front and back of the license incorporating
microtext and unique alphanumeric serialization specific to the license holder. The
license shall be of similar material, size, and thickness of a credit card and have a
holographic laminate to secure and protect the license for the duration of the license
period.

(B)(3) Using the physical characteristics of the license set forth in subparagraph (A) of
this paragraph (2) of this subsection, The Council of Probate Court Judges of Georgia
shall create specifications for the probate courts so that all weapons carry licenses in this
state shall be uniform and so that probate courts can petition the Department of
Administrative Services to purchase the equipment and supplies necessary for producing
such licenses. The department shall follow the competitive bidding procedure set forth
in Code Section 50-5-102.

(g) Alteration or counterfeiting of license; penalty. A person who deliberately alters
or counterfeits a weapons carry license or who possesses an altered or counterfeit weapons
carry license with the intent to misrepresent any information contained in such license shall
be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for
a period of not less than one nor more than five years.

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

(i) **Temporary renewal licenses.**

1. Any person who holds a weapons carry license under this Code section may, at the time he or she applies for a renewal of the license, also apply for a temporary renewal license if less than 90 days remain before expiration of the license he or she then holds or if the previous license has expired within the last 30 days.

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

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

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

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

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

(j) **Applicant may seek relief.** When an eligible applicant fails to receive a license, temporary permit renewal license, or renewal license within the time period required by this Code section and the application or request has been properly filed, the applicant may bring an action in mandamus or other legal proceeding in order to obtain a license, temporary renewal license, or renewal license. When an applicant is otherwise denied a license, temporary renewal license, or renewal license and contends that he or she is qualified to be issued a license, temporary renewal license, or renewal license, the applicant may bring an action in mandamus or other legal proceeding in order to obtain such license. Additionally, the applicant may request a hearing before the judge of the probate court relative to the applicant's fitness to be issued such license. Upon the issuance of a denial, the judge of the probate court shall inform the applicant of his or her rights pursuant to this
subsection. If such applicant is the prevailing party, he or she shall be entitled to recover his or her costs in such action, including reasonable attorney's fees.

(k) **Data base prohibition.** A person or entity shall not create or maintain a multijurisdictional data base of information regarding persons issued weapons carry licenses.

(l) **Verification of license.** The judge of a probate court or his or her designee shall be authorized to verify the legitimacy and validity of a weapons carry license to a license holder, pursuant to a subpoena or court order, or for public safety purposes, but shall not be authorized to provide any further information regarding license holders.'

**SECTION 1-8.**

Said article is further amended by adding two new Code sections to read as follows:

"16-11-130.1.

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

1. 'Bus or other transportation furnished by a school' means a bus or other transportation furnished by a public or private elementary or secondary school.

2. 'School function' means a school function or related activity that occurs outside of a school safety zone for a public or private elementary or secondary school.

3. 'School safety zone' means in or on any real property or building owned by or leased to any public or private elementary or secondary school or local board of education and used for elementary or secondary education.

4. 'Weapon' shall have the same meaning as set forth in Code Section 16-11-127.1.

(b) This Code section shall not be construed to require or otherwise mandate that any local board of education or school administrator adopt or implement a practice or program for the approval of personnel to possess or carry weapons within a school safety zone, at a school function, or on a bus or other transportation furnished by a school nor shall this Code section create any liability for adopting or declining to adopt such practice or program. Such decision shall rest with each individual local board of education. If a local board of education adopts a policy to allow certain personnel to possess or carry weapons as provided in paragraph (6) of subsection (c) of Code Section 16-11-127.1, such policy shall include approval of personnel to possess or carry weapons and provide for:

1. Training of approved personnel prior to authorizing such personnel to carry weapons. The training shall at a minimum include training on judgment pistol shooting, marksmanship, and a review of current laws relating to the use of force for the defense of self and others; provided, however, that the local board of education training policy may substitute for certain training requirements the personnel's prior military or law
enforcement service if the approved personnel has previously served as a certified law enforcement officer or has had military service which involved similar weapons training;

(2) An approved list of the types of weapons and ammunition and the quantity of weapons and ammunition authorized to be possessed or carried;

(3) The exclusion from approval of any personnel who has had an employment or other history indicating any type of mental or emotional instability as determined by the local board of education; and

(4) A mandatory method of securing weapons which shall include at a minimum a requirement that the weapon, if permitted to be carried concealed by personnel, shall be carried on the person and not in a purse, briefcase, bag, or similar other accessory which is not secured on the body of the person and, if maintained separate from the person, shall be maintained in a secured lock safe or similar lock box that cannot be easily accessed by students.

(c) Any personnel selected to possess or carry weapons within a school safety zone, at a school function, or on a bus or other transportation furnished by a school shall be a license holder, and the local board of education shall be responsible for conducting a criminal history background check of such personnel annually to determine whether such personnel remains qualified to be a license holder.

(d) The selection of approved personnel to possess or carry a weapon within a school safety zone, at a school function, or on a bus or other transportation furnished by a school shall be done strictly on a voluntary basis. No personnel shall be required to possess or carry a weapon within a school safety zone, at a school function, or on a bus or other transportation furnished by a school and shall not be terminated or otherwise retaliated against for refusing to possess or carry a weapon.

(e) The local board of education shall be responsible for any costs associated with approving personnel to carry or possess weapons within a school safety zone, at a school function, or on a bus or other transportation furnished by a school; provided, however, that nothing contained in this Code section shall prohibit any approved personnel from paying for part or all of such costs or using any other funding mechanism available, including donations or grants from private persons or entities.

(f) Documents and meetings pertaining to personnel approved to carry or possess weapons within a school safety zone, at a school function, or on a bus or other transportation furnished by a school shall be considered employment and public safety security records and shall be exempt from disclosure under Article 4 of Chapter 18 of Title 50.
16-11-130.2.
(a) No person shall enter the restricted access area of a commercial service airport, in or beyond the airport security screening checkpoint, knowingly possessing or knowingly having under his or her control a weapon or long gun. Such area shall not include an airport drive, general parking area, walkway, or shops and areas of the terminal that are outside the screening checkpoint and that are normally open to unscreened passengers or visitors to the airport. Any restricted access area shall be clearly indicated by prominent signs indicating that weapons are prohibited in such area.
(b) A person who is not a license holder and who violates this Code section shall be guilty of a misdemeanor. A license holder who violates this Code section shall be guilty of a misdemeanor; provided, however, that a license holder who immediately leaves the restricted access area upon notification that he or she is in possession of a weapon or long gun shall not be guilty of violating this Code section.
(c) Any person who violates this Code section with the intent to commit a separate felony offense shall be guilty of a felony and, upon conviction thereof, shall be punished by a fine of not less than $1,000.00 nor more than $15,000.00, imprisonment for not less than one nor more than ten years, or both.
(d) Any ordinance, resolution, regulation, or policy of any county, municipality, or other political subdivision of this state which is in conflict with this Code section shall be null, void, and of no force and effect, and this Code section shall preempt any such ordinance, resolution, regulation, or policy.

SECTION 1-9.

Said article is further amended by adding two new Code sections to read as follows:

16-11-137.
(a) Every license holder shall have his or her valid weapons carry license in his or her immediate possession at all times when carrying a weapon, or if such person is exempt from having a weapons carry license pursuant to Code Section 16-11-130 or subsection (c) of Code Section 16-11-127.1, he or she shall have proof of his or her exemption in his or her immediate possession at all times when carrying a weapon, and his or her failure to do so shall be prima-facie evidence of a violation of the applicable provision of Code Sections 16-11-126 through 16-11-127.2.
(b) A person carrying a weapon shall not be subject to detention for the sole purpose of investigating whether such person has a weapons carry license.
(c) A person convicted of a violation of this Code section shall be fined not more than $10.00 if he or she produces in court his or her weapons carry license, provided that it was valid at the time of his or her arrest, or produces proof of his or her exemption.
16-11-138.
Defense of self or others, as contemplated by and provided for under Article 2 of Chapter 3 of Title 16, shall be an absolute defense to any violation under this part.*

SECTION 1-10.
Said article is further amended by revising Code Section 16-11-173, relating to legislative findings and preemption of local regulation and lawsuits, as follows:

"16-11-173.
(a)(1) It is declared by the General Assembly that the regulation of firearms and other weapons is properly an issue of general, state-wide concern.
(2) The General Assembly further declares that the lawful design, marketing, manufacture, and sale of firearms and ammunition and other weapons to the public is not unreasonably dangerous activity and does not constitute a nuisance per se.
(b)(1) Except as provided in subsection (c) of this Code section, no county or municipal corporation, by zoning or by ordinance; or resolution, or other enactment; nor any agency, board, department, commission, or authority of this state, other than the General Assembly, by rule or regulation shall regulate in any manner:
   (A) Gun shows;
   (B) The possession, ownership, transport, carrying, transfer, sale, purchase, licensing, or registration of firearms or other weapons or components of firearms or other weapons;
   (C) Firearms dealers or dealers of other weapons firearms dealers; or
   (D) Dealers in dealers in firearms components of firearms or other weapons.
(2) The authority to bring suit and right to recover against any weapons, firearms, or ammunition manufacturer, trade association, or dealer by or on behalf of any governmental unit created by or pursuant to an Act of the General Assembly or the Constitution, or any department, agency, or authority thereof, for damages, abatement, or injunctive relief resulting from or relating to the lawful design, manufacture, marketing, or sale of weapons, firearms, or ammunition to the public shall be reserved exclusively to the state. This paragraph shall not prohibit a political subdivision or local government authority from bringing an action against a weapons, firearms, or ammunition manufacturer or dealer for breach of contract or express warranty as to weapons, firearms, or ammunition purchased by the political subdivision or local government authority.
(c)(1) A county or municipal corporation may regulate the transport, carrying, or possession of firearms by employees of the local unit of government in the course of their employment with such local unit of government; provided, however, that the sheriff or
chief of police shall be solely responsible for regulating and determining the possession, carrying, and transportation of firearms and other weapons by employees under his or her respective supervision so long as such regulations comport with state and federal law.

(2) The commanding officer of any law enforcement agency shall regulate and determine the possession, carrying, and transportation of firearms and other weapons by employees under his or her supervision so long as such regulations comport with state and federal law.

(3) The district attorney, and the solicitor-general in counties where there is a state court, shall regulate and determine the possession, carrying, and transportation of firearms and other weapons by county employees under his or her supervision so long as such regulations comport with state and federal law.

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

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

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

(g) Any person may bring an action to enforce the provisions of this Code section, or any person aggrieved as a result of a violation of this Code section may bring an action against the person who caused such aggrievement. The aggrieved person shall be entitled to reasonable attorney's fees and expenses of litigation and may recover or obtain against the person who caused such damages any of the following:

(1) Actual damages or $100.00, whichever is greater;

(2) Equitable relief, including, but not limited to, an injunction or restitution of money and property; and

(3) Any other relief which the court deems proper."

SECTION 1-11.

Part 2 of Article 4 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to transportation passenger safety, is amended by adding a new Code section to read as follows:

"16-12-129. Defense of self or others, as contemplated by and provided for under Article 2 of Chapter 3 of Title 16, shall be an absolute defense to any violation under this part."

H. B. 875 (SUB)
SECTION 1-12.

Code Section 35-3-34 of the Official Code of Georgia Annotated, relating to disclosure and dissemination of criminal records to private persons and businesses, resulting responsibility and liability of issuing center, and provision of certain information to the FBI in conjunction with the National Instant Criminal Background Check System, is amended in subsection (e) by adding a new paragraph to read as follows:

“(3)(A) The records of the center shall include information as to whether a person has been involuntarily hospitalized. In order to carry out the provisions of Code Section 16-11-129, the center shall be provided such information and no other mental health information from the records of the probate and superior courts ordering persons to be involuntarily hospitalized. With respect to probate court records, such information shall be provided in a manner agreed upon by the Probate Judges Training Council and the bureau. With respect to superior court records, such information shall be provided in a manner agreed upon by The Council of Superior Court Clerks of Georgia and the bureau. Such records shall be provided in a manner so as to preserve the confidentiality of patients' rights in all other respects.

(B) In order to carry out the provisions of Code Section 16-11-129, the center shall be provided information as to whether a person has been adjudicated mentally incompetent to stand trial or has been found not guilty by reason of insanity at the time of the crime. The clerk of court shall report such information to the center immediately but in no case later than ten days after such adjudication of mental incompetence or finding of not guilty by reason of insanity.”

SECTION 1-13.

Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, is amended by repealing Chapter 16, relating to firearms dealers, and designating said chapter as reserved.

PART II

SECTION 2-1.

This part shall be known to be in honor of Representative Bobby Franklin.

SECTION 2-2.

Chapter 3 of Title 38 of the Official Code of Georgia Annotated, relating to emergency management, is amended by adding a new Code section to read as follows:

H. B. 875 (SUB)
(a) As used in this Code section, the term:

(1) 'Firearm' means any handgun, rifle, shotgun, or similar device or weapon which will or can be converted to expel a projectile by the action of an explosive or electrical charge.

(2) 'License holder' shall have the same meaning as set forth in Code Section 16-11-125.1.

(3) 'Weapon' shall have the same meaning as set forth in Code Section 16-11-125.1.

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

(1) Temporarily or permanently seize, or authorize the seizure of, any firearm or ammunition or any component thereof the possession of which was not prohibited by law at the time immediately prior to the declaration of a state of emergency, other than as provided by the criminal or forfeiture laws of this state;

(2) Prohibit possession of any firearm or ammunition or any component thereof or promulgate any rule, regulation, or order prohibiting possession of any firearm or ammunition or any component thereof if such possession was not otherwise prohibited by law at the time immediately prior to the declaration of a state of emergency;

(3) Prohibit any license holder from carrying any weapon or promulgate any rule, regulation, or order prohibiting such carrying if such carrying was not otherwise prohibited by law at the time immediately prior to the declaration of a state of emergency; or

(4) Require the registration of any firearm.

SECTION 2-3.

Said chapter is further amended by revising paragraph (8) of subsection (d) of Code Section 38-3-51, relating to emergency powers of the Governor, as follows:

'(8) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and or combustibles; provided, however, that any limitation on firearms under this Code section shall not include an individual firearm owned by a private citizen which was legal and owned by that citizen prior to the declaration of state of emergency or disaster or thereafter acquired in compliance with all applicable laws of this state and the United States for purposes of this paragraph, the terms 'explosives' and 'combustibles' shall not include firearms or ammunition or any component thereof; and'
PART III
SECTION 3-1.

Code Section 16-5-21 of the Official Code of Georgia Annotated, relating to aggravated assault, is amended by revising subsection (i) as follows:

"(i) Any person who commits the offense of aggravated assault involving the use of a firearm upon a student or teacher or other school personnel within a school safety zone as defined in paragraph (1) of subsection (a) of Code Section 16-11-127.1 shall, upon conviction thereof, be punished by imprisonment for not less than five nor more than 20 years."

SECTION 3-2.

Code Section 16-5-24 of the Official Code of Georgia Annotated, relating to aggravated battery, is amended by revising subsection (g) as follows:

"(g) Any person who commits the offense of aggravated battery upon a student or teacher or other school personnel within a school safety zone as defined in paragraph (1) of subsection (a) of Code Section 16-11-127.1 shall, upon conviction thereof, be punished by imprisonment for not less than five nor more than 20 years."

SECTION 3-3.

Code Section 16-12-1 of the Official Code of Georgia Annotated, relating to contributing to the delinquency, unruliness, or deprivation of a minor, is amended by revising paragraph (5) of subsection (b) as follows:

"(5) Knowingly and willfully provides to a minor any weapon as defined in paragraph (2) of subsection (a) of Code Section 16-11-127.1 or any weapon as defined in Code Section 16-11-121 to commit any felony which encompasses force or violence as an element of the offense or delinquent act which would constitute a felony which encompasses force or violence as an element of the offense if committed by an adult; or"

SECTION 3-4.

Code Section 20-2-1180 of the Official Code of Georgia Annotated, relating to loitering upon school premises or within a school safety zone, is amended by revising subsection (a) as follows:

"(a) It shall be unlawful for any person to remain upon the premises or within the school safety zone as defined in paragraph (1) of subsection (a) of Code Section 16-11-127.1 of any public or private school in this state or to remain upon such premises or within such school safety zone when that person does not have a legitimate cause or need to be present"
thereon. Each principal or designee of each public or private school in this state shall have
the authority to exercise such control over the buildings and grounds upon which a school
is located so as to prohibit any person who does not have a legitimate need or cause to be
present thereon from loitering upon such premises. Each principal or designee of each
public or private school in this state shall notify the appropriate law enforcement agency
to prohibit any person who does not have a legitimate need or cause to be present therein
from loitering within the school safety zone.”

SECTION 3-5.

Code Section 20-2-1185 of the Official Code of Georgia Annotated, relating to school safety
plans, is amended by revising subsection (c) as follows:

“(c) School safety plans prepared by public schools shall address security issues in school
safety zones as defined in paragraph (1) of subsection (a) of Code Section 16-11-127.1.
School safety plans should also address security issues involving the transportation of
pupils to and from school and school functions when such transportation is furnished by
the school or school system and school functions held during noninstructional hours.”

SECTION 3-6.

Code Section 43-38-10 of the Official Code of Georgia Annotated, relating to private
detectives and security agencies permits to carry firearms, is amended by revising subsection
(a) as follows:

“(a) The board may grant a permit to carry a pistol, revolver, or other firearm to any person
who is at least 21 years of age and is a license holder as defined in Code Section
16-11-125.1, who is licensed or registered in accordance with this chapter, and who meets
the qualifications and training requirements set forth in this Code section and such other
qualifications and training requirements as the board by rule may establish. The board
shall have the authority to establish limits on type and caliber of such weapons by rule.
Application for such permit and for renewal thereof shall be made on forms provided by
the division director. No weapons permit issued under this Code section shall be
transferable to another individual.”

PART IV

SECTION 4-1.

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