

The House Committee on Public Safety and Homeland Security offers the following substitute to SB 141:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to
2 offenses against public order and safety, so as to revise provisions regarding carrying in
3 unauthorized locations; to clarify exemptions from weapons carry laws; to change provisions
4 relating to carrying weapons within certain school safety zones and at school functions; to
5 provide for a renewal period; to provide for and revise definitions; to revise persons to whom
6 no weapons carry license shall be issued; to revise procedures in the renewal of a license; to
7 revise procedures regarding the revocation, loss, or damage to a license; to clarify criteria for
8 the verification of a weapons carry license; to authorize employees to enter and access the
9 parking lots of employers with ammunition in the employee's personal vehicle under certain
10 circumstances; to revise provisions regarding preemption of local regulation and lawsuits;
11 to amend Code Section 17-5-52.1 of the Official Code of Georgia Annotated, relating to
12 disposal of forfeited or abandoned firearms, so as to correct a cross-reference; to amend Part
13 1 of Article 11 of Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating
14 to general provisions regarding elections, so as to clarify provisions regarding the carrying
15 of firearms within 150 feet of any polling place; to amend Article 4 of Chapter 18 of Title
16 50 of the Official Code of Georgia Annotated, relating to inspection of public records, so as
17 to provide for the disclosure of records relating to licensing and possession of firearms
18 between the judges of the probate court; to provide for related matters; to repeal conflicting
19 laws; and for other purposes.

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

21 **SECTION 1.**

22 Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against
23 public order and safety, is amended in Code Section 16-11-126, relating to having or carrying
24 handguns, long guns, or other weapons, license requirements, and exceptions for homes,
25 motor vehicles, private property, and other locations and conditions, by adding a new
26 subsection to read as follows:

S. B. 141 (SUB)

27 "(j) Nothing in this Code section shall in any way operate or be construed to affect, repeal,
 28 or limit the exemptions provided for under Code Section 16-11-130."

29 **SECTION 2.**

30 Said chapter is further amended in Code Section 16-11-127, relating to carrying weapons in
 31 unauthorized locations, by revising paragraphs (1) and (7) of subsection (b) and by adding
 32 a new subsection to read as follows:

33 "(1) In a government building as a nonlicense holder;"

34 "(7) Within 150 feet of any polling place when elections are being conducted and such
 35 polling place is being used as a polling place as provided for in paragraph (27) of Code
 36 Section 21-2-2, except as provided in subsection (i) of Code Section 21-2-413."

37 "(f) Nothing in this Code section shall in any way operate or be construed to affect, repeal,
 38 or limit the exemptions provided for under Code Section 16-11-130."

39 **SECTION 3.**

40 Said chapter is further amended in Code Section 16-11-127.1, relating to carrying weapons
 41 within school safety zones, at school functions, or on a bus or other transportation furnished
 42 by a school, by revising subsections (a) and (b) and by adding a new subsection to read as
 43 follows:

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

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

47 (2) 'Dangerous weapon' shall have the same meaning as set forth in Code Section
 48 16-11-121.

49 (3) 'Firearm' or 'weapon' means any handgun or long gun.

50 (4) 'Fireworks' shall have the same meaning as set forth in Code Section 25-10-1.

51 (5) 'Handgun' shall have the same meaning as set forth in Code Section 16-11-125.1.

52 (6) 'Long gun' shall have the same meaning as set forth in Code Section 16-11-125.1.

53 (7) 'Machine gun' shall have the same meaning as set forth in Code Section 16-11-121.

54 ~~(2)~~(8) 'School function' means a school function or related activity that occurs outside
 55 of a school safety zone and is for a public or private elementary or secondary school.

56 ~~(3)~~(9) 'School safety zone' means in or on any real property or building owned by or
 57 leased to:

58 (A) Any public or private elementary school, secondary school, or local board of
 59 education and used for elementary or secondary education; and

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

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

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

80 (2) Any license holder who violates this subsection shall be guilty of a misdemeanor.
 81 Any person who is not a license holder who violates this subsection shall be guilty of a
 82 felony and, upon conviction thereof, be punished by a fine of not more than \$10,000.00,
 83 by imprisonment for not less than two nor more than ten years, or both.

84 (3) Any person convicted of a violation of this subsection involving a dangerous weapon
 85 or machine gun, ~~as such terms are defined in Code Section 16-11-121,~~ shall be punished
 86 by a fine of not more than \$10,000.00 or by imprisonment for a period of not less than
 87 five nor more than ten years, or both.

88 (4) A child who violates this subsection may be subject to the provisions of Code Section
 89 15-11-601.

90 (5) This subsection shall not apply to any firearm used for classroom work authorized
 91 by a teacher."

92 "(h) Nothing in this Code section shall in any way operate or be construed to affect, repeal,
 93 or limit the exemptions provided for under Code Section 16-11-130."

94 SECTION 4.

95 Said chapter is further amended in Code Section 16-11-127.2, relating to weapons on
 96 premises of a nuclear power facility, by adding a new subsection to read as follows:

97 "(d) Nothing in this Code section shall in any way operate or be construed to affect, repeal,
 98 or limit the exemptions provided for under Code Section 16-11-130."

99 **SECTION 5.**

100 Said chapter is further amended in Code Section 16-11-129, relating to weapons carry
 101 licenses, by revising subsection (a), paragraph (1) of subsection (b), subparagraph (b)(2)(A),
 102 paragraph (1) of subsection (d), subsection (e), and subsection (l) as follows:

103 **"(a) Application for weapons carry license or renewal license; term.** The judge of the
 104 probate court of each county ~~may shall~~, on application under oath, ~~and~~ on payment of a fee
 105 of \$30.00, ~~and on investigation of applicant pursuant to subsections (b) and (d) of this Code~~
 106 ~~section~~, issue a weapons carry license or renewal license valid for a period of five years to
 107 any person whose domicile is in that county or who is on active duty with the United States
 108 armed forces and who is not a domiciliary of this state but who either resides in that county
 109 or on a military reservation located in whole or in part in that county at the time of such
 110 application. Such license or renewal license shall authorize that person to carry any
 111 weapon in any county of this state notwithstanding any change in that person's county of
 112 residence or state of domicile. Applicants shall submit the application for a weapons carry
 113 license or renewal license to the judge of the probate court on forms prescribed and
 114 furnished free of charge to persons wishing to apply for the license or renewal license. An
 115 application shall be considered to be for a renewal license if the applicant has a weapons
 116 carry license or renewal license with 90 or fewer days remaining before the expiration of
 117 such weapons carry license or renewal license or 30 or fewer days since the expiration of
 118 such weapons carry license or renewal license regardless of the county of issuance of the
 119 applicant's expired or expiring weapons carry license or renewal license. An applicant who
 120 is not a United States citizen shall provide sufficient personal identifying data, including
 121 without limitation his or her place of birth and United States issued alien or admission
 122 number, as the Georgia Bureau of Investigation may prescribe by rule or regulation. An
 123 applicant who is in nonimmigrant status shall provide proof of his or her qualifications for
 124 an exception to the federal firearm prohibition pursuant to 18 U.S.C. Section 922(y).
 125 Forms shall be designed to elicit information from the applicant pertinent to his or her
 126 eligibility under this Code section, including citizenship, but shall not require data which
 127 is nonpertinent or irrelevant, such as serial numbers or other identification capable of being
 128 used as a de facto registration of firearms owned by the applicant. The Department of
 129 Public Safety shall furnish application forms and license forms required by this Code
 130 section. The forms shall be furnished to each judge of each probate court within this state
 131 at no cost."

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

133 (A) 'Armed forces' means active duty or a reserve component of the United States
 134 Army, United States Navy, United States Marine Corps, United States Coast Guard,
 135 United States Air Force, United States National Guard, Georgia Army National Guard,
 136 or Georgia Air National Guard.

137 ~~(A)(B)~~ 'Controlled substance' means any drug, substance, or immediate precursor
 138 included in the definition of controlled substances in paragraph (4) of Code Section
 139 16-13-21.

140 ~~(B)(C)~~ 'Convicted' means an adjudication of guilt. Such term shall not include an order
 141 of discharge and exoneration pursuant to Article 3 of Chapter 8 of Title 42.

142 ~~(C)(D)~~ 'Dangerous drug' means any drug defined as such in Code Section 16-13-71."

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

153 (B) For requests for license renewals, the presentation of a weapons carry license
 154 issued by any probate judge in this state shall be evidence to the judge of the probate
 155 court to whom a request for license renewal is made that the fingerprints of the weapons
 156 carry license holder are on file with the judge of the probate court who issued the
 157 weapons carry license, and the judge of the probate court to whom a request for license
 158 renewal is made shall, within five business days following the receipt of the request,
 159 direct the law enforcement agency to request a nonfingerprint based criminal history
 160 records check from the Georgia Crime Information Center and Federal Bureau of
 161 Investigation for purposes of determining the suitability of the applicant and return an
 162 appropriate report to the judge of the probate court to whom a request for license
 163 renewal is made.

164 (2) For both weapons carry license applications and requests for license renewals, the
 165 judge of the probate court shall within five business days following the receipt of the
 166 application or request also direct the law enforcement agency, in the same manner as
 167 provided for in subparagraph (d)(1)(B) of this subsection, to conduct a background check
 168 using the Federal Bureau of Investigation's National Instant Criminal Background Check
 169 System and return an appropriate report to the probate judge."

170 "(e) **Revocation, loss, or damage to license.**

171 (1) If, at any time during the period for which the weapons carry license was issued, the
172 judge of the probate court of the county in which the license was issued shall learn or
173 have brought to his or her attention in any manner any reasonable ground to believe the
174 licensee is not eligible to retain the license, the judge may, after notice and hearing,
175 revoke the license of the person upon a finding that such person is not eligible for a
176 weapons carry license pursuant to subsection (b) of this Code section or an adjudication
177 of falsification of application, mental incompetency, or chronic alcohol or narcotic usage.
178 The judge of the probate court shall report such revocation to the Georgia Crime
179 Information Center immediately but in no case later than ten days after such revocation.
180 It shall be unlawful for any person to possess a license which has been revoked pursuant
181 to this paragraph, and any person found in possession of any such revoked license, except
182 in the performance of his or her official duties, shall be guilty of a misdemeanor.

183 (2) If a person is convicted of any crime or involved in any matter which would make
184 the maintenance of a weapons carry license by such person unlawful pursuant to
185 subsection (b) of this Code section, the judge of the superior court or state court hearing
186 such case or presiding over such matter shall inquire whether such person is the holder
187 of a weapons carry license. If such person is the holder of a weapons carry license, then
188 the judge of the superior court or state court shall inquire of such person the county of the
189 probate court which issued such weapons carry license, or if such person has ever had his
190 or her weapons carry license renewed, then of the county of the probate court which most
191 recently issued such person a renewal license. The judge of the superior court or state
192 court shall notify the judge of the probate court of such county of the matter which makes
193 the maintenance of a weapons carry license by such person to be unlawful pursuant to
194 subsection (b) of this Code section. The Council of Superior Court Judges of Georgia
195 and The Council of State Court Judges of Georgia shall provide by rule for the
196 procedures which judges of the superior court and the judges of the state courts,
197 respectively, are to follow for the purposes of this paragraph.

198 (3) Loss of any license issued in accordance with this Code section or damage to the
199 license in any manner which shall render it illegible shall be reported to the judge of the
200 probate court of the county in which it was issued within 48 hours of the time the loss or
201 damage becomes known to the license holder. The judge of the probate court shall
202 thereupon issue a replacement for and shall take custody of and destroy a damaged
203 license; and in any case in which a license has been lost, he or she shall issue a
204 cancellation order ~~and notify by telephone and in writing each of the law enforcement~~
205 ~~agencies whose records were checked before issuance of the original license.~~ The judge

206 shall charge the fee specified in subsection (k) of Code Section 15-9-60 for such
207 services."

208 "(1) **Verification of license.** The judge of a probate court or his or her designee shall be
209 authorized to verify the legitimacy and validity of a weapons carry license ~~to~~ of a license
210 holder; pursuant to a subpoena or court order, ~~or~~ for public safety purposes, ~~but to law~~
211 enforcement agencies pursuant to paragraph (40) of subsection (a) of Code Section
212 50-18-72, and for licensing to a judge of a probate court or his or her designee pursuant to
213 paragraph (40) of subsection (a) of Code Section 50-18-72; provided, however, that the
214 judge of a probate court or his or her designee shall not be authorized to provide any further
215 information regarding license holders."

216 **SECTION 6.**

217 Said chapter is further amended in Code Section 16-11-135, relating to public or private
218 employer's parking lots, right of privacy in vehicles in employer's parking lot or invited
219 guests on lot, severability, and rights of action, by revising subsection (b) as follows:

220 "(b) Except as provided in this Code section, no private or public employer, including the
221 state and its political subdivisions, shall condition employment upon any agreement by a
222 prospective employee that prohibits an employee from entering the parking lot and access
223 thereto when the employee's privately owned motor vehicle contains a firearm or
224 ammunition, or both, that is locked out of sight within the trunk, glove box, or other
225 enclosed compartment or area within such privately owned motor vehicle, provided that
226 any applicable employees possess a Georgia weapons carry license."

227 **SECTION 7.**

228 Said article is further amended in Code Section 16-11-171, relating to definitions for Brady
229 Law Regulations, by revising paragraph (2) as follows:

230 "(2) 'Dealer' means any person licensed as a dealer pursuant to 18 U.S.C. Section 921,
231 et seq., ~~or Chapter 16 of Title 43.~~"

232 **SECTION 8.**

233 Said chapter is further amended in Code Section 16-11-173, relating to legislative findings
234 and preemption of local regulation and lawsuits, by revising the introductory language of
235 paragraph (1) of subsection (b), paragraph (1) of subsection (c), and subsection (f) as follows:

236 "(b)(1) Except as provided in subsection (c) of this Code section, no county or municipal
237 corporation, by zoning, ~~or~~ by ordinance or resolution, or by any other means, nor any
238 agency, board, department, commission, political subdivision, school district, or authority

239 of this state, other than the General Assembly, by rule or regulation or by any other
 240 means shall regulate in any manner:"

241 "(c)(1) A county or municipal corporation may regulate the transport, carrying, or
 242 possession of firearms by employees of the local unit of government, or by unpaid
 243 volunteers of such local unit of government, in the course of their employment or
 244 volunteer functions with such local unit of government; provided, however, that the
 245 sheriff or chief of police shall be solely responsible for regulating and determining the
 246 possession, carrying, and transportation of firearms and other weapons by employees
 247 under his or her respective supervision so long as such regulations comport with state and
 248 federal law."

249 "(f) As used in this Code section, the term 'weapon' ~~shall have the same meaning as set~~
 250 ~~forth in Code Section 16-11-127.1~~ means any device designed or intended to be used, or
 251 capable of being used, for offense or defense, including but not limited to firearms, bladed
 252 devices, clubs, electric stun devices, and defense sprays."

253 **SECTION 9.**

254 Code Section 17-5-52.1 of the Official Code of Georgia Annotated, relating to disposal of
 255 forfeited or abandoned firearms, is amended by revising subsection (d) as follows:

256 "(d) If an innocent owner of a firearm cannot be located or after proper notification he or
 257 she fails to pay for the return of his or her firearm, if the political subdivision is:

258 (1) A municipal corporation, it shall dispose of its firearms as provided for in Code
 259 Section 36-37-6; provided, however, that municipal corporations shall not have the right
 260 to reject any and all bids or to cancel any proposed sale of such firearms, and all sales
 261 shall be to persons who are licensed as firearms collectors, dealers, importers, or
 262 manufacturers under the provisions of 18 U.S.C. Section 921, et seq., ~~and Chapter 16 of~~
 263 ~~Title 43~~ and who are authorized to receive such firearms under the terms of such license.

264 Any political subdivision which disposes of firearms shall use proceeds from the sale of
 265 a firearm as are necessary to cover the costs of administering this Code section, with any
 266 surplus to be transferred to the general fund of the political subdivision; or

267 (2) Not a municipal corporation, the state custodial agency or the political subdivision
 268 shall dispose of its firearms by sale at public auction to persons who are licensed as
 269 firearms collectors, dealers, importers, or manufacturers under the provisions of 18
 270 U.S.C. Section 921, et seq., ~~and Chapter 16 of Title 43~~ and who are authorized to receive
 271 such firearms under the terms of such license. A state custodial agency shall retain only
 272 such proceeds as are necessary to cover the costs of administering this Code section, with
 273 any surplus to be transferred to the general fund of ~~the~~ this state, provided that a state

274 custodial agency may be reimbursed for any firearms formerly in use by the state
275 custodial agency that are sold under this Code section."

276 **SECTION 10.**

277 Part 1 of Article 11 of Chapter 2 of Title 21 of the Official Code of Georgia Annotated,
278 relating to general provisions regarding elections, is amended in Code Section 21-2-413,
279 relating to the conduct of voters, campaigners, and others at polling places generally, by
280 revising subsection (i) as follows:

281 "(i) No person except peace officers regularly employed by the federal, state, county, or
282 municipal government or certified security guards shall be permitted to carry firearms
283 within 150 feet of any polling place as provided for in subsection (b) of Code Section
284 16-11-127."

285 **SECTION 11.**

286 Article 4 of Chapter 18 of Title 50 of the Official Code of Georgia Annotated, relating to
287 inspection of public records, is amended in Code Section 50-18-72, relating to when public
288 disclosure not required, by revising paragraph (40) of subsection (a) as follows:

289 "(40) Any permanent records maintained by a judge of the probate court pursuant to
290 Code Section 16-11-129, relating to weapons carry licenses, or pursuant to any other
291 requirement for maintaining records relative to the possession of firearms, except to the
292 extent that such records relating to licensing and possession of firearms are sought by law
293 enforcement agencies or a judge of the probate court as provided by law;"

294 **SECTION 12.**

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