

The Senate Committee on Judiciary offered the following substitute to HB 292:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 15 of Chapter 1 of Title 10, Part 3 of Article 4 of Chapter 11 of Title 16,
2 and Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to deceptive
3 or unfair practices, carrying and possession of firearms, and general provisions regarding
4 torts, respectively, so as to prohibit the discriminatory refusal to provide credit or financial
5 services to those persons engaged in the lawful commerce of firearms or ammunition
6 products; to provide for a short title; to provide definitions; to provide for civil causes of
7 action; to provide for action by the Attorney General; to revise the definition of knife; to
8 revise the requirements for the reciprocity of recognizing and giving effect to licenses to
9 carry from other states; to require the Attorney General to maintain a certain public list; to
10 provide for, revise, and clarify laws relating to the carrying of weapons and safety; to permit
11 certain new residents to carry a weapon in this state for a limited time without a weapons
12 carry license; to revise provisions relating to carrying weapons within school safety zones,
13 at school functions, or on a bus or other transportation furnished by a school; to allow the
14 judge of the probate court to provide for printed information on gun safety; to provide for the
15 maintenance of gun safety information on the website of the Department of Natural
16 Resources; to revise and clarify the determinations to be made and the procedures to be
17 followed by law enforcement agencies and the judge of the probate court in the issuance of
18 a weapons carry license; to provide for replacement weapons carry licenses for persons who
19 have a legal name change or address change; to clarify that certain active and retired law
20 enforcement officers shall be authorized to carry a handgun on or off duty anywhere within
21 this state; to clarify the meaning of commercial service airport relative to the carrying of a
22 weapon or long gun; to provide for civil immunity of firearm instructors; to provide for
23 definitions; to provide for findings; to provide for related matters; to provide for an effective
24 date; to repeal conflicting laws; and for other purposes.

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

26 **SECTION 1.**

27 The General Assembly finds that:

- 28 (1) The ownership of firearms is a clear and explicit right protected by the United States
 29 Constitution and the Constitution of this state;
- 30 (2) Access to financial services provides for the functioning of a firearms industry and,
 31 thus, the constitutionally protected right of firearm ownership; and
- 32 (3) The provisions of this Act are intended to implement the constitutional protections
 33 provided for under the law.

34 **SECTION 2.**

35 Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to
 36 deceptive or unfair practices, is amended by adding a new part to read as follows:

37 "Part 7

38 10-1-439.

39 This part shall be known and may be cited as the 'Georgia Firearms Industry
 40 Nondiscrimination Act.'

41 10-1-439.1.

42 As used in this part, the term:

43 (1) 'Financial services' means any service or product offered to the consumer or business
 44 market by a bank, trust company, building and loan association, credit union as defined
 45 by Code Section 7-1-4, any merchant acquirer limited purpose bank as defined in
 46 paragraph (7) of Code Section 7-9-2, or a federally chartered banking institution that
 47 accepts state deposits.

48 (2) 'Person' means one or more individuals, partnerships, associations, limited liability
 49 companies, corporations, unincorporated organizations, mutual companies, joint stock
 50 companies, trusts, agents, legal representatives, trustees, trustees in bankruptcy, receivers,
 51 labor organizations, public bodies, and public corporations and the State of Georgia and
 52 all political subdivisions and agencies thereof. Such term shall include federally
 53 chartered banking institutions that accept state deposits.

54 (3) 'Trade association' means any corporation, unincorporated association, federation,
 55 business league, or professional or business organization not organized or operated for
 56 profit and no part of the net earnings of which inures to the benefit of any private
 57 shareholder or individual; that is an organization described in Section 501(c)(6) of
 58 Title 26 of the United States Code and exempt from tax under Section 501(a) of such

59 title; and two or more members of which are manufacturers or sellers of a qualified
60 product as defined by Section 7903(4) of Title 15 of the United States Code.

61 10-1-439.2.

62 Unless otherwise precluded by law, regulation, or membership eligibility, it shall be an
63 unlawful discriminatory practice for any person to refuse to provide financial services of
64 any kind to, to refrain from continuing to provide existing financial services to, to terminate
65 existing financial services with, or to otherwise discriminate in the provision of financial
66 services against a person or trade association solely because such person or trade
67 association is engaged in the lawful commerce of firearms or ammunition products and is
68 licensed pursuant to Chapter 44 of Title 18 of the United States Code or is a trade
69 association.

70 10-1-439.3.

71 Whenever the Attorney General has reason to believe that any person is engaging, has
72 engaged, or is about to engage in any act or practice declared unlawful by this part, the
73 Attorney General shall, upon written request or by his or her own initiative, investigate and,
74 upon finding a probable violation of this part, bring an action in the name of the state
75 against such person to:

76 (1) Obtain a declaratory judgment that the act or practice violates the provisions of this
77 part;

78 (2) Enjoin any act or practice that violates the provisions of this part by issuance of a
79 temporary restraining order or preliminary or permanent injunction, without bond, upon
80 the giving of appropriate notice; and

81 (3) Recover civil penalties of up to \$10,000.00 per violation of this part or any
82 injunction, judgment, or consent order issued or entered into under the provisions of this
83 chapter and reasonable expenses, investigative costs, and attorney's fees.

84 10-1-439.4.

85 The provisions of this part shall not apply to any bank, trust company, credit union, or
86 merchant acquirer limited purpose bank that is chartered under the laws of this state or any
87 other state to the extent that federal law precludes or preempts or has been determined to
88 preclude or preempt the application of the provisions of this part to any federally chartered
89 bank, trust company, credit union, or merchant acquirer limited purpose bank."

90 **SECTION 3.**

91 Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,
92 relating to carrying and possession of firearms, is amended by revising paragraph (2) of Code
93 Section 16-11-125.1, relating to definitions, as follows:

94 "(2) 'Knife' means a cutting instrument designed for the purpose of offense and defense
95 consisting of a blade that is greater than ~~five~~ 12 inches in length which is fastened to a
96 handle."

97 **SECTION 4.**

98 Said part is further amended by revising subsections (e) and (f) of Code Section 16-11-126,
99 relating to having or carrying handguns, long guns, or other weapons, license requirement,
100 exceptions for homes, motor vehicles, private property, and other locations and conditions,
101 as follows:

102 "(e)(1)(A) Any person licensed to carry a ~~handgun~~ or weapon in any other state whose
103 laws recognize and give effect to a license issued pursuant to this part shall be
104 authorized to carry a weapon in this state, but only while the licensee is not a resident
105 of this state; provided, however, that ~~such licensee~~:

106 (i) Such licensee licensed to carry a weapon in any other state shall carry the weapon
107 in compliance with the laws of this state; and

108 (ii) No other state shall be required to recognize and give effect to a license issued
109 pursuant to this part that is held by a person who is younger than 21 years of age.

110 (B) The Attorney General shall create and maintain on the Department of Law's
111 website a list of states whose laws recognize and give effect to a license issued pursuant
112 to this part.

113 (2) Any person who is not a weapons carry license holder in this state and who is
114 licensed to carry a weapon in any other state whose laws recognize and give effect to a
115 license issued pursuant to this part shall be authorized to carry a weapon in this state for
116 90 days after he or she becomes a resident of this state; provided, however, that such
117 person shall carry the weapon in compliance with the laws of this state, shall as soon as
118 practicable submit a weapons carry license application as provided for under Code
119 Section 16-11-129, and shall remain licensed in such other state for the duration of time
120 that he or she is a resident of this state but not a weapons carry license holder in this state.

121 (f)(1) Any person with a valid hunting or fishing license on his or her person, or any
122 person not required by law to have a hunting or fishing license, who is engaged in legal
123 hunting, fishing, or sport shooting when the person has the permission of the owner of
124 the land on which the activities are being conducted may have or carry on his or her

125 person a ~~handgun~~ weapon or long gun without a valid weapons carry license while
 126 hunting, fishing, or engaging in sport shooting.

127 (2) Any person with a valid hunting or fishing license on his or her person, or any person
 128 not required by law to have a hunting or fishing license, who is otherwise engaged in
 129 legal hunting, fishing, or sport shooting on recreational or wildlife management areas
 130 owned by this state may have or carry on his or her person a knife without a valid
 131 weapons carry license while engaging in such hunting, fishing, or sport shooting."

132 SECTION 5.

133 Said part is further amended by revising paragraph (5) of subsection (c) of Code Section
 134 16-11-127.1, relating to carrying weapons within school safety zones, at school functions,
 135 or on a bus or other transportation furnished by a school, as follows:

136 "(5) The following persons, when acting in the performance of their official duties or
 137 when en route to or from their official duties:

138 (A) A peace officer as defined by Code Section 35-8-2;

139 (B) A law enforcement officer of the United States government;

140 (C) A prosecuting attorney of this state or of the United States;

141 (D) An employee of the Department of Corrections or a correctional facility operated
 142 by a political subdivision of this state or the United States who is authorized by the
 143 head of such department or correctional agency or facility to carry a firearm;

144 (E) An employee of the Department of Community Supervision who is authorized by
 145 the commissioner of community supervision to carry a firearm;

146 (F) A person employed as a campus police officer or school security officer who is
 147 authorized to carry a weapon in accordance with Chapter 8 of Title 20; and

148 (G) Medical examiners, coroners, and their investigators who are employed by the state
 149 or any political subdivision thereof;

150 provided, however, that this Code section shall not apply to any extent to persons who
 151 are provided for under Code Section 16-11-130;"

152 SECTION 6.

153 Said part is further amended by adding a new subsection to, by revising paragraph (4) of
 154 subsection (d) and paragraph (2) of subsection (e), and by adding a new paragraph to
 155 subsection (e) of Code Section 16-11-129, relating to weapons carry license, temporary
 156 renewal permit, mandamus, and verification of license, to read as follows:

157 "(a.1) Gun safety information.

158 (1) Upon receipt of an application for a weapons carry license or renewal license, the
 159 judge of the probate court may provide applicants printed information on gun safety that

160 is produced by any person or organization that, in the discretion of the judge of the
 161 probate court, offers practical advice for gun safety. The source of such printed
 162 information shall be prominently displayed on such printed information.

163 (2) The Department of Natural Resources shall maintain on its principal, public website
 164 information, or a hyperlink to information, which provides resources for information on
 165 hunter education and classes and courses in this state that render instruction in gun safety.
 166 No person shall be required to take such classes or courses for purposes of this Code
 167 section where such information shall be provided solely for the convenience of the
 168 citizens of this state.

169 (3) Neither the judge of the probate court nor the Department of Natural Resources shall
 170 be liable to any person for personal injuries or damage to property arising from
 171 conformance to this subsection."

172 "(4) The law enforcement agency shall report to the judge of the probate court within
 173 ~~30~~ 20 days, by telephone and in writing, of any findings relating to the applicant which
 174 may bear on his or her eligibility for a weapons carry license or renewal license under the
 175 terms of this Code section. When no derogatory information is found on the applicant
 176 bearing on his or her eligibility to obtain a license or renewal license, a report shall not
 177 be required. The law enforcement agency shall return the application directly to the
 178 judge of the probate court within such time period. Not later than ten days after the judge
 179 of the probate court receives the report from the law enforcement agency concerning the
 180 suitability of the applicant for a license, the judge of the probate court shall issue such
 181 applicant a license or renewal license to carry any weapon unless facts establishing
 182 ineligibility have been reported or unless the judge determines such applicant has not met
 183 all the qualifications, is not of good moral character, or has failed to comply with any of
 184 the requirements contained in this Code section. The judge of the probate court shall date
 185 stamp the report from the law enforcement agency to show the date on which the report
 186 was received by the judge of the probate court. The judge of the probate court shall not
 187 suspend the processing of the application or extend, delay, or avoid any time
 188 requirements provided for under this paragraph."

189 ~~"(2) If a person is convicted of any crime or involved in any matter otherwise adjudicated~~
 190 in a matter which would make the maintenance of a weapons carry license by such person
 191 unlawful pursuant to subsection (b) of this Code section, the judge of the superior court
 192 or state court hearing such case or presiding over such matter shall inquire whether such
 193 person is the holder of a weapons carry license. If such person is the holder of a weapons
 194 carry license, then the judge of the superior court or state court shall inquire of such
 195 person the county of the probate court which issued such weapons carry license, or if
 196 such person has ever had his or her weapons carry license renewed, then of the county

197 of the probate court which most recently issued such person a renewal license. The judge
 198 of the superior court or state court shall notify the judge of the probate court of such
 199 county of the matter which makes the maintenance of a weapons carry license by such
 200 person to be unlawful pursuant to subsection (b) of this Code section. The Council of
 201 Superior Court Judges of Georgia and The Council of State Court Judges of Georgia shall
 202 provide by rule for the procedures which judges of the superior court and the judges of
 203 the state courts, respectively, are to follow for the purposes of this paragraph."

204 "(4) Any person, upon petition to the judge of the probate court, who has a weapons carry
 205 license or renewal license with more than 90 days remaining before the expiration of such
 206 weapons carry license or renewal license and who has had a legal name change,
 207 including, but not limited to, on account of marriage or divorce, or an address change
 208 shall be issued a replacement weapons carry license for the same time period of the
 209 weapons carry license or renewal license being replaced. Upon issuance and receipt of
 210 such replacement weapons carry license, the license holder shall surrender the weapons
 211 carry license being replaced to the judge of the probate court and such judge shall take
 212 custody of and destroy the weapons carry license being replaced. The judge of the
 213 probate court shall provide for the updating of any records as necessary to account for the
 214 license holder's change of name or address. The judge of the probate court shall charge
 215 the fee specified in paragraph (13) of subsection (k) of Code Section 15-9-60 for services
 216 provided under this paragraph."

217 SECTION 7.

218 Said part is further amended in Code Section 16-11-130, relating to exemptions from Code
 219 Sections 16-11-126 through 16-11-127.2, by revising the introductory language of subsection
 220 (a), by revising subsections (b) and (c), and by adding a new subsection to read as follows:

221 "(a) Except to the extent provided for in subsection (c.1) of this Code section, Code
 222 Sections 16-11-126 through 16-11-127.2 shall not apply to or affect any of the following
 223 persons if such persons are employed in the offices listed below or when authorized by
 224 federal or state law, regulations, or order:"

225 "(b) Except to the extent provided for in subsection (c.1) of this Code section, Code
 226 Sections 16-11-126 through 16-11-127.2 shall not apply to or affect persons who at the
 227 time of their retirement from service with the Department of Community Supervision were
 228 community supervision officers, when specifically designated and authorized in writing by
 229 the commissioner of community supervision.

230 (c)(1) As used in this subsection, the term 'courthouse' means a building or annex
 231 occupied by judicial courts and containing rooms in which judicial proceedings are held.

232 (2) Except to the extent provided for in subsection (c.1) of this Code section, Code
 233 Sections 16-11-126 through 16-11-127.2 shall not apply to or affect any:

234 ~~(1)~~(A) Sheriff, retired sheriff, deputy sheriff, or retired deputy sheriff if such retired
 235 sheriff or deputy sheriff is eligible to receive or is receiving benefits under the Peace
 236 Officers' Annuity and Benefit Fund provided under Chapter 17 of Title 47, the Sheriffs'
 237 Retirement Fund of Georgia provided under Chapter 16 of Title 47, or any other public
 238 retirement system established under the laws of this state for service as a law
 239 enforcement officer;

240 ~~(2)~~(B) Member of the Georgia State Patrol, ~~or~~ agent of the Georgia Bureau of
 241 Investigation, ~~or~~ retired member of the Georgia State Patrol, ~~or~~ retired agent of the
 242 Georgia Bureau of Investigation if such retired member or agent is receiving benefits
 243 under the Employees' Retirement System;

244 ~~(3)~~(C) Full-time law enforcement chief executive engaging in the management of a
 245 county, municipal, state, state authority, or federal law enforcement agency in the State
 246 of Georgia, including any college or university law enforcement chief executive ~~that~~
 247 who is registered or certified by the Georgia Peace Officer Standards and Training
 248 Council; or retired law enforcement chief executive ~~that~~ who formerly managed a
 249 county, municipal, state, state authority, or federal law enforcement agency in the State
 250 of Georgia, including any college or university law enforcement chief executive ~~that~~
 251 who was registered or certified at the time of his or her retirement by the Georgia Peace
 252 Officer Standards and Training Council, if such retired law enforcement chief executive
 253 is receiving benefits under the Peace Officers' Annuity and Benefit Fund provided
 254 under Chapter 17 of Title 47 or is retired in good standing and receiving benefits from
 255 a county, municipal, State of Georgia, state authority, or federal retirement system; ~~or~~

256 ~~(4)~~(D) Police officer of any county, municipal, state, state authority, or federal law
 257 enforcement agency in the State of Georgia, including any college or university police
 258 officer ~~that~~ who is registered or certified by the Georgia Peace Officer Standards and
 259 Training Council, or retired police officer of any county, municipal, state, state
 260 authority, or federal law enforcement agency in the State of Georgia, including any
 261 college or university police officer ~~that~~ who was registered or certified at the time of
 262 his or her retirement by the Georgia Peace Officer Standards and Training Council, if
 263 such retired ~~employee~~ police officer is receiving benefits under the Peace Officers'
 264 Annuity and Benefit Fund provided under Chapter 17 of Title 47 or is retired in good
 265 standing and receiving benefits from a county, municipal, State of Georgia, state
 266 authority, or federal retirement system; or

267 (E) Person who is a citizen of this state and:

268 (i) Has retired with at least ten years of aggregate service as a law enforcement
 269 officer with powers of arrest under the laws of any state of the United States or of the
 270 United States;

271 (ii) Separated from service in good standing, as determined by criteria established by
 272 the Georgia Peace Officer Standards and Training Council, from employment with
 273 his or her most recent law enforcement agency; and

274 (iii) Possesses on his or her person an identification card for retired law enforcement
 275 officers as issued by the Georgia Peace Officer Standards and Training Council;
 276 provided, however, that such person meets the standards for the issuance of such card
 277 as provided for by the council, including, but not limited to, maintenance of
 278 qualification in firearms training.

279 In addition, any such sheriff, retired sheriff, deputy sheriff, retired deputy sheriff, member
 280 or retired member of the Georgia State Patrol, agent or retired agent of the Georgia
 281 Bureau of Investigation, officer or retired officer of the Department of Natural Resources,
 282 active or retired law enforcement chief executive, person who is a retired law
 283 enforcement officer as provided for in paragraph (2) of this subsection, or other law
 284 enforcement officer referred to in this subsection shall be authorized to carry a handgun
 285 on or off duty anywhere within ~~the state~~ this state, including, but not limited to, in a
 286 courthouse except to the extent provided for in subsection (c.1) of this Code section, and
 287 ~~the provisions of~~ Code Sections 16-11-126 through 16-11-127.2 shall not apply to the
 288 carrying of such firearms.

289 (c.1)(1) As used in the subsection, the term:

290 (A) 'Active' means nonretired.

291 (B) 'Courthouse' means a building or annex occupied by judicial courts and containing
 292 rooms in which judicial proceedings are held.

293 (C) 'Law enforcement agency' means sheriffs or any unit, organ, or department of this
 294 state, or a subdivision or municipality thereof, whose functions by law include the
 295 enforcement of criminal or traffic laws; the preservation of public order; the protection
 296 of life and property; the prevention, detection, or investigation of crime; or court
 297 security that is providing security for a courthouse.

298 (D) 'Law enforcement personnel' means sheriffs or deputy sheriffs or peace officers
 299 employed by a law enforcement agency.

300 (2)(A) Pursuant to a security plan implemented by law enforcement personnel,
 301 including as provided for under a comprehensive plan as provided for in subsection (a)
 302 of Code Section 15-16-10, the law enforcement agency with jurisdiction over a
 303 courthouse may provide for facilities or the means for the holding of weapons carried
 304 by persons enumerated under this Code section, except as provided for in paragraph (3)

305 of this subsection, provided that ingress to such courthouse is actively restricted or
 306 screened by law enforcement personnel and such facilities or means are located in the
 307 immediate proximity of the area which is restricted or screened by such law
 308 enforcement personnel.

309 (B) If the requirements of this paragraph are met, the persons enumerated under this
 310 Code section shall, except as provided for in paragraph (3) of this subsection, upon
 311 request of law enforcement personnel place his or her weapons in such holding with
 312 law enforcement personnel while such persons are within the restricted or screened
 313 area. Upon request of any person enumerated under this Code section, in preparation
 314 for his or her exit from the restricted or screened area, law enforcement personnel shall
 315 immediately provide for the return of the person's weapons which are in holding.

316 (3) Notwithstanding a security plan implemented by law enforcement personnel,
 317 including as provided for under a comprehensive plan as provided for in subsection (a)
 318 of Code Section 15-16-10, active law enforcement officers referred to in subsection (c)
 319 of this Code section shall be authorized to carry their service handguns and weapons in
 320 any courthouse if they are wearing the assigned uniform of their law enforcement office
 321 or have the official badge and identification credentials issued to them by their law
 322 enforcement office displayed and plainly visible on their person while in the performance
 323 of their official duties."

324 **SECTION 8.**

325 Said part is further amended by adding a new subsection to Code Section 16-11-130.2,
 326 relating to carrying a weapon or long gun at a commercial service airport, to read as follows:

327 "(a.1) As used in this Code section, the term:

328 (1) 'Commercial service airport' means an airport that receives scheduled passenger
 329 aircraft service from any major airline carrier.

330 (2) 'Major airline carrier' means an airline that has more than \$1 billion in annual
 331 operating revenue during a fiscal year."

332 **SECTION 9.**

333 Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general
 334 provisions regarding torts, is amended by adding a new Code section to read as follows:

335 "51-1-55.

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

337 (1) 'Dangerous weapon' shall have the same meaning as provided for under Code Section
 338 16-11-121.

339 (2) 'Firearm' means any handgun, rifle, shotgun, or other weapon which will or can be
340 converted to expel a projectile by the action of an explosive or electrical charge and
341 which is not a dangerous weapon.

342 (b) Any instructor who lawfully instructs, educates, or trains a person in the safe, proper,
343 or technical use of a firearm shall be immune from civil liability for any injuries caused by
344 the failure of such person to use such firearm properly or lawfully."

345 **SECTION 10.**

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

348 **SECTION 11.**

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