

The Senate Committee on Judiciary offered the following substitute to SB 224:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 16 of the Official Code of Georgia Annotated, relating to crimes and  
2 offenses, so as to revise the offense of aggravated assault when committed with a firearm;  
3 to revise provisions for the carrying of weapons in judicial courts by weapons carry license  
4 holders; to remove the prohibition on the carrying of weapons in a place of worship; to revise  
5 definitions; to revise exceptions to the issuance of a weapons carry license; to revise the  
6 definition of a firearm relative to a firearm that persons convicted of a felony or first offender  
7 probationers are prohibited from possessing; to provide for an exception to the carrying of  
8 a knife into the terminal of a transportation facility by weapons carry license holders except  
9 where prohibited by federal law; to amend Article 3 of Chapter 5 of Title 17 of the Official  
10 Code of Georgia Annotated, relating to disposition of property seized, so as to revise  
11 requirements for the disposition of unclaimed firearms in the custody the state, political  
12 subdivisions, and municipal corporations; to provide for statutory damages for persons  
13 aggrieved by the failure of the state or a political subdivision or municipal corporation to  
14 comply with such requirements; to amend Article 4 of Chapter 2 of Title 38 of the Official  
15 Code of Georgia Annotated, relating to active duty powers, to revoke powers of the Governor  
16 or the commanding officer of the organized militia to close places where firearms and  
17 ammunition are sold in times of a declaration of state of emergency; to provide for related  
18 matters; to repeal conflicting laws; and for other purposes.

19 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

20 **SECTION 1.**

21 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
22 amended by revising subsection (a) of Code Section 16-5-21, relating to aggravated assault,  
23 as follows:

24 "(a) A person commits the offense of aggravated assault when he or she assaults:

25 (1) With intent to murder, to rape, or to rob;

- 26 (2) With a deadly weapon or with any object, device, or instrument which, when used  
 27 offensively against a person, is likely to or actually does result in serious bodily injury;  
 28 provided, however, that if with a firearm, the firearm is held within the person's hands  
 29 and aimed offensively or otherwise used in a threatening manner toward the other person;  
 30 (3) With any object, device, or instrument which, when used offensively against a  
 31 person, is likely to or actually does result in strangulation; or  
 32 (4) A person or persons without legal justification by discharging a firearm from within  
 33 a motor vehicle toward a person or persons."

34 **SECTION 2.**

35 Said title is further amended by revising paragraph (1) of subsection (a), paragraph (4) of  
 36 subsection (b), and subsection (e) of Code Section 16-11-127, relating to carrying weapons  
 37 in unauthorized locations, as follows:

38 "(1) 'Courthouse' means a building when occupied by judicial courts ~~and containing~~  
 39 ~~rooms~~ in which judicial proceedings are being held or in which officers of the courts are  
 40 conducting official business."

41 "~~(4) In a place of worship, unless the governing body or authority of the place of worship~~  
 42 ~~permits the carrying of weapons or long guns by license holders~~ Reserved;"

43 "~~(e)(1)~~ A license holder shall be authorized to carry a weapon in a government building  
 44 when the government building is open for business and where ingress into such building  
 45 is not restricted or screened by security personnel. A license holder who enters or  
 46 attempts to enter a government building carrying a weapon where ingress is restricted or  
 47 screened by security personnel shall be guilty of a misdemeanor if at least one member  
 48 of such security personnel is certified as a peace officer pursuant to Chapter 8 of Title 35;  
 49 provided, however, that a license holder who immediately exits such building or  
 50 immediately leaves such location upon notification of his or her failure to clear security  
 51 due to the carrying of a weapon shall not be guilty of violating this subsection or  
 52 paragraph (1) of subsection (b) of this Code section. A person who is not a license holder  
 53 and who attempts to enter a government building carrying a weapon shall be guilty of a  
 54 misdemeanor.

55 "~~(2) Any license holder who violates subsection (b) of this Code section in a place of~~  
 56 ~~worship shall not be arrested but shall be fined not more than \$100.00. Any person who~~  
 57 ~~is not a license holder who violates subsection (b) of this Code section in a place of~~  
 58 ~~worship shall be punished as for a misdemeanor.~~"

59

**SECTION 3.**

60 Said title is further amended by revising subparagraph (b)(2)(I) of Code Section 16-11-129,  
61 relating to weapons carry license, gun safety information, temporary renewal permit,  
62 mandamus, and verification of license, as follows:

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

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

68 ~~(ii) Any conviction under subparagraphs (E) through (G) of this paragraph~~  
69 ~~for at least five years immediately preceding the date of the application Reserved;"~~

70

**SECTION 4.**

71 Said title is further amended by revising subsection (a) of Code Section 16-11-131, relating  
72 to possession of firearms by convicted felons and first offender probationers, as follows:

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

74 (1) 'Antique firearm' shall having the same meaning as set forth in 27 C.F.R. Section  
75 478.11.

76 (2) 'Felony' means any offense punishable by imprisonment for a term of one year or  
77 more and includes conviction by a court-martial under the Uniform Code of Military  
78 Justice for an offense which would constitute a felony under the laws of the United  
79 States.

80 ~~(2)(3)~~ (3) 'Firearm' includes any handgun, rifle, shotgun, or other weapon which will or can  
81 be converted to expel a projectile by the action of an explosive ~~or electrical charge~~. Such  
82 term shall not include an antique firearm."

83

**SECTION 5.**

84 Said title is further amended by revising subsection (a) of Code Section 16-12-127, relating  
85 to prohibition on firearms, hazardous substances, knives, or other devices, penalty, and  
86 affirmative defenses, as follows:

87 "(a) It shall be unlawful for any person, with the intention of avoiding or interfering with  
88 a security measure or of introducing into a terminal any explosive, destructive device, or  
89 hoax device as defined in Code Section 16-7-80; firearm for which such person does not  
90 have on his or her person a valid weapons carry license issued pursuant to Code Section  
91 16-11-129 unless possessing such firearm is prohibited by federal law; hazardous substance  
92 as defined by Code Section 12-8-92; or knife or other device designed or modified for the  
93 purpose of offense and defense for which such person does not have on his or her person

- 94 a valid weapons carry license issued pursuant to Code Section 16-11-129 unless possessing  
 95 such knife or other device is prohibited by federal law, to:
- 96 (1) Have any such item on or about his or her person, or
- 97 (2) Place or cause to be placed or attempt to place or cause to be placed any such item:
- 98 (A) In a container or freight of a transportation company;
- 99 (B) In the baggage or possessions of any person or any transportation company without  
 100 the knowledge of the passenger or transportation company; or
- 101 (C) Aboard such aircraft, bus, or rail vehicle."

102 **SECTION 6.**

103 Article 3 of Chapter 5 of Title 17 of the Official Code of Georgia Annotated, relating to  
 104 disposition of property seized, is amended by revising subsection (g) of Code Section  
 105 17-5-54, relating to definitions and disposition of personal property in custody of law  
 106 enforcement agency, as follows:

107 "(g)(1) With respect to unclaimed firearms, if the sheriff, chief of police, agency director,  
 108 or designee of such official certifies that a firearm is unsafe because of wear, damage,  
 109 age, or modification or because any federal or state law prohibits the sale or distribution  
 110 of such firearm, at the discretion of such official, it shall be transferred to the Division of  
 111 Forensic Sciences of the Georgia Bureau of Investigation, a municipal or county law  
 112 enforcement forensic laboratory for training or experimental purposes, or be destroyed.

113 (2) Otherwise, an unclaimed firearm:

114 (A) Possessed by a municipal corporation shall be disposed of as provided for in Code  
 115 Section 36-37-6; provided, however, that municipal corporations shall not have the  
 116 right to reject any bids or to cancel any proposed sale of such firearms, and all sales  
 117 ~~shall be to persons~~ may be to any person, provided that the transfer of such firearms  
 118 shall only be through persons, specified by the winning bidders, who are licensed as  
 119 firearms collectors, dealers, importers, or manufacturers under the provisions of 18  
 120 U.S.C. Section 921, et seq., and who are authorized to receive such firearms under the  
 121 terms of such license. The municipal corporation shall dispose of all such firearms at  
 122 least once every 12 months during any time in which the municipal corporation has an  
 123 inventory of five or more saleable firearms. If the municipal corporation does not  
 124 dispose of such firearms as required by this subsection, any person interested in  
 125 acquiring any such firearms may bring an action in mandamus or other legal proceeding  
 126 to compel the disposition of such firearms. A person who has been unable to acquire  
 127 a firearm because of the municipal corporation's failure to dispose of firearms as  
 128 required by this subsection shall, in addition to any other relief to which he or she is  
 129 entitled, be entitled to an amount equal to actual damages or \$100.00, whichever is

130 greater, from the municipal corporation. A prevailing plaintiff in such an action shall  
 131 be entitled to his or her costs, including, but not limited to, reasonable attorney's fees;  
 132 or

133 (B) Possessed by the state or a political subdivision other than a municipal corporation,  
 134 shall be disposed of by sale at public auction ~~to persons.~~ While any person may bid at  
 135 auction, the transfer of such firearms shall only be through persons, specified by the  
 136 winning bidders, who are licensed as firearms collectors, dealers, importers, or  
 137 manufacturers under the provisions of 18 U.S.C. Section 921, et seq., and who are  
 138 authorized to receive such firearms under the terms of such license. Auctions required  
 139 by this subparagraph may occur online on a rolling basis or at live events, but in no  
 140 event shall such auctions occur less frequently than once every 12 months during any  
 141 time in which the political subdivision or state custodial agency has an inventory of five  
 142 or more saleable firearms. If the state or a political subdivision other than a municipal  
 143 corporation does not dispose of such firearms as required by this subsection, any person  
 144 interested in acquiring any such firearms may bring an action in mandamus or other  
 145 legal proceeding to compel the disposition of such firearms. A person who has been  
 146 unable to acquire a firearm because of the municipal corporation's failure to dispose of  
 147 firearms as required by this subsection shall, in addition to any other relief to which he  
 148 or she is entitled, be entitled to an amount equal to actual damages or \$100.00,  
 149 whichever is greater, from the state or political subdivision other than a municipal  
 150 corporation. A prevailing plaintiff in such an action shall be entitled to his or her costs,  
 151 including, but not limited to, reasonable attorney's fees.

152 (3) If no bids from eligible recipients are received within six months from when bidding  
 153 opened on a firearm offered for sale pursuant to paragraph (2) of this subsection, the  
 154 firearm shall be transferred to the Division of Forensic Sciences of the Georgia Bureau  
 155 of Investigation, a municipal or county law enforcement forensic laboratory for training  
 156 or experimental purposes, or be destroyed."

## 157 **SECTION 7.**

158 Article 4 of Chapter 2 of Title 38 of the Official Code of Georgia Annotated, relating to  
 159 active duty powers, is amended by revising Code Section 38-2-301, relating to closing places  
 160 where firearms and ammunition sold, where disorder likely to occur, and penalty for not  
 161 obeying closing order, as follows:

162 "38-2-301.

163 ~~(a) Whenever any force of the organized militia is or has been called out for the~~  
 164 ~~performance of any duty under Code Section 38-2-6, it shall be lawful for the commanding~~  
 165 ~~officer of the force, if in his judgment the maintenance of law and order in the area into~~

166 ~~which the force has been ordered will be promoted thereby, to close places where arms and~~  
167 ~~ammunition are sold and all places where disorder is likely to occur.~~  
168 ~~(b) Any person who sells or dispenses arms or ammunition in violation of an order of a~~  
169 ~~commanding officer under the authority of subsection (a) of this Code section or who~~  
170 ~~maintains a place ordered to be closed under such authority shall be guilty of a felony and,~~  
171 ~~upon conviction thereof, shall be punished by imprisonment for not less than two nor more~~  
172 ~~than five years Reserved."~~

173

**SECTION 8.**

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