

The Senate Committee on Rules offered the following substitute to HB 218:

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia
2 Annotated, relating to carrying and possession of firearms, so as to expand weapons carry
3 license reciprocity in this state; to provide that persons who are not residents of this state
4 shall be authorized to carry a weapon in this state if licensed to carry in any other state; to
5 provide that the Attorney General shall enter into an agreement with any state that requires
6 an agreement to recognize and give effect to weapons carry licenses for reciprocity; to
7 provide for online application for weapons carry licenses and renewal licenses; to provide
8 for relief; to amend Code Section 17-5-54 of the Official Code of Georgia Annotated,
9 relating to definitions and disposition of personal property in custody of law enforcement
10 agency, so as to revise requirements for the disposition of firearms in custody of law
11 enforcement agencies; to provide for causes of action; to amend Title 38 of the Official Code
12 of Georgia Annotated, relating to military, emergency management, and veterans affairs, so
13 as to provide for prohibited actions by government official or employee during declared state
14 of emergency; to provide limits upon the emergency powers of the Governor; to provide for
15 civil remedy; to provide for related matters; to provide for an effective date; to repeal
16 conflicting laws; and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

18

SECTION 1.

19 Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,
20 relating to carrying and possession of firearms, is amended in Code Section 16-11-126,
21 relating to having or carrying handguns, long guns, or other weapons, license requirement,
22 and exceptions for homes, motor vehicles, private property, and other locations and
23 conditions, by revising subsection (e) as follows:

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

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

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

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

35 (ii) The Attorney General shall enter into an agreement with any state that requires
36 an agreement to recognize and give effect to a license issued pursuant to this part.

37 (2) Any person who is not a weapons carry license holder in this state and who is
38 licensed to carry a weapon in any other state ~~whose laws recognize and give effect to a~~
39 ~~license issued pursuant to this part~~ shall be authorized to carry a weapon in this state for
40 90 days after he or she becomes a resident of this state; provided, however, that such
41 person shall carry the weapon in compliance with the laws of this state, shall as soon as
42 practicable submit a weapons carry license application as provided for under Code
43 Section 16-11-129, and shall remain licensed in such other state for the duration of time

44 that he or she is a resident of this state but not a weapons carry license holder in this
45 state."

46 **SECTION 2.**

47 Said part is further amended in Code Section 16-11-129, relating to weapons carry, gun
48 safety information, temporary renewal permit, mandamus, and verification of license, by
49 adding a new paragraph to subsection (a) and revising subsection (k) as follows:

50 "(4) The judge of the probate court shall be authorized to implement online application
51 processes for weapons carry licenses and renewal licenses. The probate court shall also
52 be authorized to accept a weapons carry license or renewal license application by
53 first-class mail."

54 **"(k) Data base prohibition.**

55 (1) A person or entity shall not create or maintain a multijurisdictional data base of
56 information regarding persons who have applied for or been issued weapons carry
57 licenses.

58 (2) Any person aggrieved by a violation of this subsection may bring an action for relief
59 against a public officer in his or her official capacity. Such person who proves by a
60 preponderance of the evidence that he or she is or was included in such a
61 multijurisdictional data base shall be entitled to obtain, in addition to appropriate
62 declaratory or injunctive relief, expenses of litigation, including costs and reasonable
63 attorney's fees."

64 **SECTION 3.**

65 Code Section 17-5-54 of the Official Code of Georgia Annotated, definitions and disposition
66 of personal property in custody of law enforcement agency, is amended by revising
67 subsection (g) as follows:

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

74 (2) Otherwise, an unclaimed firearm:

75 (A) Possessed by a municipal corporation shall be disposed of as provided for in Code
76 Section 36-37-6; provided, however, that municipal corporations shall not have the
77 right to reject any bids or to cancel any proposed sale of such firearms, and all sales
78 ~~shall be to persons~~ may be to any person, but the transfer of such firearms shall only be
79 to persons, specified by the winning bidders, who are licensed as firearms collectors,
80 dealers, importers, or manufacturers under the provisions of 18 U.S.C. Section 921, et
81 seq., and who are authorized to receive such firearms under the terms of such license.
82 The municipal corporation shall dispose of all such firearms at least once every 12
83 months whenever the municipal corporation has an inventory of five or more firearms.
84 If a municipal corporation does not dispose of such firearms as required by this Code
85 section, a person interested in acquiring any such firearms may bring an action in
86 mandamus or other legal proceeding to compel the disposition. A prevailing plaintiff
87 in such an action shall be entitled to his or her costs, including reasonable attorney's
88 fees; or

89 (B) Possessed by the state or a political subdivision other than a municipal corporation,
90 shall be disposed of by sale at public auction ~~to persons.~~ While any person may bid at
91 auction, the transfer of such firearms shall only be to persons, specified by the winning
92 bidders, who are licensed as firearms collectors, dealers, importers, or manufacturers
93 under the provisions of 18 U.S.C. Section 921, et seq., and who are authorized to
94 receive such firearms under the terms of such license. Auctions required by this

95 subparagraph may occur online on a rolling basis or at live events, but in no event shall
96 such auctions occur less frequently than once every 12 months during any time in
97 which the political subdivision or state custodial agency has an inventory of five or
98 more ~~saleable~~ firearms. If the state or a political subdivision other than a municipal
99 corporation does not dispose of such firearms as required by this Code section, a person
100 interested in acquiring any such firearms may bring an action in mandamus or other
101 legal proceeding to compel the disposition. A prevailing plaintiff in such an action
102 shall be entitled to his or her costs, including reasonable attorney's fees.

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

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SECTION 4.

109 Title 38 of the Official Code of Georgia Annotated, relating to military, emergency
110 management, and veterans affairs, is amended by revising Code Section 38-3-37, relating to
111 prohibited actions by government official or employee during declared state of emergency,
112 as follows:

113 "38-3-37.

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

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

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

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

- 120 (b) No official or employee of the state or any political subdivision thereof, member of the
121 National Guard in the service of the state, or any person operating pursuant to or under
122 color of state law, while acting during or pursuant to a declared state of emergency, shall:
- 123 (1) ~~Temporarily or permanently seize, Seize~~ or authorize the seizure of; any firearm, ~~or~~
124 ~~ammunition or any component thereof, ammunition reloading equipment and supplies,~~
125 ~~or weapon,~~ the possession of which was not prohibited by law at the time immediately
126 prior to the declaration of a state of emergency; and other than as provided by the
127 criminal or forfeiture laws of this state;
- 128 (2) Prohibit possession of any firearm, ~~or~~ ammunition or any component thereof,
129 ~~ammunition reloading equipment and supplies, or weapon,~~ or promulgate any rule,
130 regulation, or order prohibiting possession of ~~any firearm or ammunition or any~~
131 ~~component thereof~~ if such if possession was not otherwise prohibited by law at the time
132 immediately prior to the declaration of a state of emergency;
- 133 (3) Prohibit any license holder from carrying any weapon or promulgate any rule,
134 regulation, or order prohibiting such carrying if such carrying was not otherwise
135 prohibited by law at the time immediately prior to the declaration of a state of emergency;
136 ~~or~~
- 137 (4) Prohibit the manufacture, sale, or transfer of any firearm, ammunition or any
138 component thereof, ammunition reloading equipment and supplies, or weapon, or
139 promulgate any rule, regulation, or order prohibiting the manufacture, sale, or transfer of
140 such if the manufacture, sale, or transfer was not otherwise prohibited by law at the time
141 immediately prior to the declaration of a state of emergency;
- 142 (5) Suspend or revoke any weapons carry license issued pursuant to Code
143 Section 16-11-129, except as authorized by such Code section;
- 144 (6) Refuse to accept an application for a weapons carry license which has been properly
145 submitted in accordance with Code Section 16-11-129 if the building or courthouse is
146 otherwise open to the public; provided, however, that no probate judge shall be

147 responsible for any delay or closure caused by circumstances or actions outside of the
 148 control of such probate judge;

149 (7) Close or limit the operational hours of or place any other restrictions upon any
 150 business engaged in the lawful manufacture, sale, or repair of firearms, ammunition or
 151 any component thereof, ammunition reloading equipment and supplies, or weapons
 152 unless closure, limitation upon hours, or other restrictions have been required of all
 153 businesses within the jurisdiction;

154 (8) Close or limit the operational hours of any lawful indoor or outdoor shooting range
 155 unless closure or limitation upon hours has been required of all businesses within the
 156 jurisdiction; or

157 ~~(4)~~(9) Require the registration of any firearm.

158 (c) Any individual who is a lawful resident of the United States, is authorized to possess
 159 a firearm under the laws of this state, and is or has been subject to an act, rule, regulation,
 160 or order in violation of this Code section may bring an action in mandamus or other legal
 161 proceeding against a public entity or public officer in his or her official capacity to obtain
 162 declaratory or injunctive relief. A prevailing plaintiff in such action shall be entitled to
 163 recover his or her costs in such action, including reasonable attorney's fees."

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SECTION 5.

165 Said title is further amended in Code Section 38-3-51, relating to emergency powers of
 166 Governor, termination of emergency, limitations in energy emergency, and immunity, by
 167 revising paragraph (1) of subsection (d) as follows:

168 "(1) Suspend any regulatory statute, other than Code Section 38-3-37, prescribing the
 169 procedures for conduct of state business, or the orders, rules, or regulations of any state
 170 agency, if strict compliance with any statute, order, rule, or regulation would in any way
 171 prevent, hinder, or delay necessary action in coping with the emergency or disaster;"

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SECTION 6.

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

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SECTION 7.

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