

House Bill 1378

By: Representatives Jasperse of the 11th, Powell of the 32nd, Ballinger of the 23rd, Ridley of the 6th, Tarvin of the 2nd, and others

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 remove places of worship
3 from unauthorized locations a weapon or long gun may be carried; to provide for online
4 application for weapons carry licenses and renewal licenses; to provide for relief; to amend
5 Code Section 17-5-54 of the Official Code of Georgia Annotated, relating to definitions and
6 disposition of personal property in custody of law enforcement agency, so as to revise
7 requirements for the disposition of firearms in custody of law enforcement agencies; to
8 provide for causes of action; to amend Title 38 of the Official Code of Georgia Annotated,
9 relating to military, emergency management, and veterans affairs, so as to provide for
10 prohibited actions by government official or employee during declared state of emergency;
11 to provide limits upon the emergency powers of the Governor; to provide for civil remedy;
12 to provide for related matters; to provide for an effective date; to repeal conflicting laws; and
13 for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 1378

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15 **SECTION 1.**

16 Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,
 17 relating to carrying and possession of firearms, is amended in Code Section 16-11-127,
 18 relating to carrying weapons in unauthorized locations, by revising subsection (a), paragraph
 19 (4) of subsection (b), and subsection (e) as follows:

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

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

23 (2) 'Government building' means:

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

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

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

31 (3) 'Government entity' means an office, agency, authority, department, commission,
 32 board, body, division, instrumentality, or institution of the state or any county, municipal
 33 corporation, consolidated government, or local board of education within this state.

34 (4) 'Parking facility' means real property owned or leased by a government entity,
 35 courthouse, jail, or prison, ~~or place of worship~~ that has been designated by such
 36 government entity, courthouse, jail, or prison, ~~or place of worship~~ for the parking of
 37 motor vehicles at a government building or at such courthouse, jail, or prison, ~~or place~~
 38 ~~of worship."~~

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

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

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

56 **SECTION 2.**

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

60 “(4) The judge of the probate court shall be authorized to implement online application
61 processes for weapons carry licenses and renewal licenses. The probate court shall also
62 be authorized to accept a weapons carry license or renewal license application by
63 first-class mail.”

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

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

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

74 **SECTION 3.**

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

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

84 (2) Otherwise, an unclaimed firearm:

85 (A) Possessed by a municipal corporation shall be disposed of as provided for in Code
86 Section 36-37-6; provided, however, that municipal corporations shall not have the
87 right to reject any bids or to cancel any proposed sale of such firearms, and all sales
88 ~~shall be to persons~~ may be to any person, but the transfer of such firearms shall only be
89 to persons, specified by the winning bidders, who are licensed as firearms collectors,

90 dealers, importers, or manufacturers under the provisions of 18 U.S.C. Section 921, et
91 seq., and who are authorized to receive such firearms under the terms of such license.
92 The municipal corporation shall dispose of all such firearms at least once every 12
93 months whenever the municipal corporation has an inventory of five or more firearms.
94 If a municipal corporation does not dispose of such firearms as required by this Code
95 section, a person interested in acquiring any such firearms may bring an action in
96 mandamus or other legal proceeding to compel the disposition. A prevailing plaintiff
97 in such an action shall be entitled to his or her costs, including reasonable attorney's
98 fees; or

99 (B) Possessed by the state or a political subdivision other than a municipal corporation,
100 shall be disposed of by sale at public auction ~~to persons.~~ While any person may bid at
101 auction, the transfer of such firearms shall only be to persons, specified by the winning
102 bidders, who are licensed as firearms collectors, dealers, importers, or manufacturers
103 under the provisions of 18 U.S.C. Section 921, et seq., and who are authorized to
104 receive such firearms under the terms of such license. Auctions required by this
105 subparagraph may occur online on a rolling basis or at live events, but in no event shall
106 such auctions occur less frequently than once every 12 months during any time in
107 which the political subdivision or state custodial agency has an inventory of five or
108 more saleable firearms. If the state or a political subdivision other than a municipal
109 corporation does not dispose of such firearms as required by this Code section, a person
110 interested in acquiring any such firearms may bring an action in mandamus or other
111 legal proceeding to compel the disposition. A prevailing plaintiff in such an action
112 shall be entitled to his or her costs, including reasonable attorney's fees.

113 (3) If no bids from eligible recipients are received within six months from when bidding
114 opened on a firearm offered for sale pursuant to paragraph (2) of this subsection, the
115 firearm shall be transferred to the Division of Forensic Sciences of the Georgia Bureau

116 of Investigation, a municipal or county law enforcement forensic laboratory for training
117 or experimental purposes, or be destroyed."

118 **SECTION 4.**

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

123 "38-3-37.

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

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

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

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

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

133 (1) ~~Temporarily or permanently seize;~~ Seize or authorize the seizure of; any firearm, ~~or~~
134 ammunition or any component thereof, ammunition reloading equipment and supplies,
135 or weapon, the possession of which was not prohibited by law at the time immediately
136 prior to the declaration of a state of emergency; and other than as provided by the
137 criminal or forfeiture laws of this state;

138 (2) Prohibit possession of any firearm, ~~or~~ ammunition or any component thereof,
139 ammunition reloading equipment and supplies, or weapon, or promulgate any rule,
140 regulation, or order prohibiting possession of ~~any firearm or ammunition or any~~

141 ~~component thereof if such~~ if possession was not otherwise prohibited by law at the time
142 immediately prior to the declaration of a state of emergency;

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

146 or

147 (4) Prohibit the manufacture, sale, or transfer of any firearm, ammunition or any
148 component thereof, ammunition reloading equipment and supplies, or weapon, or
149 promulgate any rule, regulation, or order prohibiting the manufacture, sale, or transfer of
150 such if the manufacture, sale, or transfer was not otherwise prohibited by law at the time
151 immediately prior to the declaration of a state of emergency;

152 (5) Suspend or revoke any weapons carry license issued pursuant to Code
153 Section 16-11-129, except as authorized by such Code section;

154 (6) Refuse to accept an application for a weapons carry license which has been properly
155 submitted in accordance with Code Section 16-11-129 if the building or courthouse is
156 otherwise open to the public; provided, however, that no probate judge shall be
157 responsible for any delay or closure caused by circumstances or actions outside of the
158 control of such probate judge;

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

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

167 ~~(4)~~(9) Require the registration of any firearm.

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

174 **SECTION 5.**

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

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

182 **SECTION 6.**

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

185 **SECTION 7.**

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