

House Bill 492 (COMMITTEE SUBSTITUTE)

By: Representatives Jasperse of the 11<sup>th</sup>, Powell of the 32<sup>nd</sup>, Meadows of the 5<sup>th</sup>, Hightower of the 68<sup>th</sup>, Ballinger of the 23<sup>rd</sup>, and others

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 provide for a  
4 renewal period; to revise definitions; to revise persons to whom no weapons carry license  
5 shall be issued; to revise procedures in the renewal of a license; to revise procedures  
6 regarding the revocation, loss, or damage to a license; to clarify criteria for the verification  
7 of a weapons carry license; to revise provisions regarding preemption of local regulation and  
8 lawsuits; to amend Article 4 of Chapter 18 of Title 50, relating to the inspection of public  
9 records, so as to provide for the disclosure of records relating to licensing and possession of  
10 firearms between the judges of the probate court; to provide for related matters; to repeal  
11 conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

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

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

21 style="text-align:center">**SECTION 2.**

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

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

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

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

31 **SECTION 3.**

32 Said chapter is further amended in Code Section 16-11-127.1, relating to carrying weapons  
 33 within school safety zones, at school functions, or on a bus or other transportation furnished  
 34 by a school, by adding a new subsection to read as follows:

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

37 **SECTION 4.**

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

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

42 **SECTION 5.**

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

46 **"(a) Application for weapons carry license or renewal license; term.** The judge of the  
 47 probate court of each county ~~may shall~~, on application under oath, ~~and~~ on payment of a fee  
 48 of \$30.00, ~~and on investigation of applicant pursuant to subsections (b) and (d) of this Code~~  
 49 ~~section~~, issue a weapons carry license or renewal license valid for a period of five years to  
 50 any person whose domicile is in that county or who is on active duty with the United States  
 51 armed forces and who is not a domiciliary of this state but who either resides in that county  
 52 or on a military reservation located in whole or in part in that county at the time of such  
 53 application. Such license or renewal license shall authorize that person to carry any  
 54 weapon in any county of this state notwithstanding any change in that person's county of  
 55 residence or state of domicile. Applicants shall submit the application for a weapons carry  
 56 license or renewal license to the judge of the probate court on forms prescribed and  
 57 furnished free of charge to persons wishing to apply for the license or renewal license. An  
 58 application shall be considered to be for a renewal license if the applicant has a weapons

59 carry license or renewal license with 90 or fewer days remaining before the expiration of  
 60 such weapons carry license or renewal license or 30 or fewer days since the expiration of  
 61 such weapons carry license or renewal license regardless of the county of issuance of the  
 62 applicant's expired or expiring weapons carry license or renewal license. An applicant who  
 63 is not a United States citizen shall provide sufficient personal identifying data, including  
 64 without limitation his or her place of birth and United States issued alien or admission  
 65 number, as the Georgia Bureau of Investigation may prescribe by rule or regulation. An  
 66 applicant who is in nonimmigrant status shall provide proof of his or her qualifications for  
 67 an exception to the federal firearm prohibition pursuant to 18 U.S.C. Section 922(y).  
 68 Forms shall be designed to elicit information from the applicant pertinent to his or her  
 69 eligibility under this Code section, including citizenship, but shall not require data which  
 70 is nonpertinent or irrelevant, such as serial numbers or other identification capable of being  
 71 used as a de facto registration of firearms owned by the applicant. The Department of  
 72 Public Safety shall furnish application forms and license forms required by this Code  
 73 section. The forms shall be furnished to each judge of each probate court within this state  
 74 at no cost."

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

76 (A) 'Armed forces' means active duty or a reserve component of the United States  
 77 Army, United States Navy, United States Marine Corps, United States Coast Guard,  
 78 United States Air Force, United States National Guard, Georgia Army National Guard,  
 79 or Georgia Air National Guard.

80 ~~(A)~~(B) 'Controlled substance' means any drug, substance, or immediate precursor  
 81 included in the definition of controlled substances in paragraph (4) of Code Section  
 82 16-13-21.

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

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

86 (2) No weapons carry license shall be issued to or maintained by:

87 (A) Any person younger than 21 years of age unless he or she:

88 (i) Is at least 18 years of age;

89 (ii) Provides proof that he or she has completed basic training in the armed forces ~~of~~  
 90 ~~the United States~~; and

91 (iii) Provides proof, which may be in the form of a written letter from his or her  
 92 commander or a copy of his or her military orders, that he or she is ~~actively serving~~  
 93 ~~in currently a member of~~ the armed forces ~~of the United States~~ or has been honorably  
 94 discharged from such service;"

95 ~~“(1)(A) For both weapons carry license applications and requests for license renewals,~~  
 96 ~~the judge of the probate court shall within five business days following the receipt of~~  
 97 ~~the application or request direct the law enforcement agency to request a fingerprint~~  
 98 ~~based criminal history records check from the Georgia Crime Information Center and~~  
 99 ~~Federal Bureau of Investigation for purposes of determining the suitability of the~~  
 100 ~~applicant and return an appropriate report to the judge of the probate court.~~  
 101 ~~Fingerprints shall be in such form and of such quality as prescribed by the Georgia~~  
 102 ~~Crime Information Center and under standards adopted by the Federal Bureau of~~  
 103 ~~Investigation. The Georgia Bureau of Investigation may charge such fee as is necessary~~  
 104 ~~to cover the cost of the records search.~~

105 (B) For requests for license renewals, the presentation of a weapons carry license  
 106 issued by any probate judge in this state shall be evidence to the judge of the probate  
 107 court to whom a request for license renewal is made that the fingerprints of the weapons  
 108 carry license holder are on file with the judge of the probate court who issued the  
 109 weapons carry license, and the judge of the probate court to whom a request for license  
 110 renewal is made shall, within five business days following the receipt of the request,  
 111 direct the law enforcement agency to request a nonfingerprint based criminal history  
 112 records check from the Georgia Crime Information Center and Federal Bureau of  
 113 Investigation for purposes of determining the suitability of the applicant and return an  
 114 appropriate report to the judge of the probate court to whom a request for license  
 115 renewal is made.

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

122 **“(e) Revocation, loss, or damage to license.**

123 (1) If, at any time during the period for which the weapons carry license was issued, the  
 124 judge of the probate court of the county in which the license was issued shall learn or  
 125 have brought to his or her attention in any manner any reasonable ground to believe the  
 126 licensee is not eligible to retain the license, the judge may, after notice and hearing,  
 127 revoke the license of the person upon a finding that such person is not eligible for a  
 128 weapons carry license pursuant to subsection (b) of this Code section or an adjudication  
 129 of falsification of application, mental incompetency, or chronic alcohol or narcotic usage.  
 130 The judge of the probate court shall report such revocation to the Georgia Crime  
 131 Information Center immediately but in no case later than ten days after such revocation.

132 It shall be unlawful for any person to possess a license which has been revoked pursuant  
 133 to this paragraph, and any person found in possession of any such revoked license, except  
 134 in the performance of his or her official duties, shall be guilty of a misdemeanor.

135 (2) If a person is convicted of any crime or involved in any matter which would make  
 136 the maintenance of a weapons carry license by such person unlawful pursuant to  
 137 subsection (b) of this Code section, the judge of the superior court or state court hearing  
 138 such case or presiding over such matter shall inquire whether such person is the holder  
 139 of a weapons carry license. If such person is the holder of a weapons carry license, then  
 140 the judge of the superior court or state court shall inquire of such person the county of the  
 141 probate court which issued such weapons carry license, or if such person has ever had his  
 142 or her weapons carry license renewed, then of the county of the probate court which most  
 143 recently issued such person a renewal license. The judge of the superior court or state  
 144 court shall notify the judge of the probate court of such county of the matter which makes  
 145 the maintenance of a weapons carry license by such person to be unlawful pursuant to  
 146 subsection (b) of this Code section. The Council of Superior Court Judges of Georgia  
 147 and The Council of State Court Judges of Georgia shall provide by rule for the  
 148 procedures which judges of the superior court and the judges of the state courts,  
 149 respectively, are to follow for the purposes of this paragraph.

150 (3) Loss of any license issued in accordance with this Code section or damage to the  
 151 license in any manner which shall render it illegible shall be reported to the judge of the  
 152 probate court of the county in which it was issued within 48 hours of the time the loss or  
 153 damage becomes known to the license holder. The judge of the probate court shall  
 154 thereupon issue a replacement for and shall take custody of and destroy a damaged  
 155 license; and in any case in which a license has been lost, he or she shall issue a  
 156 cancellation order and notify by telephone and in writing each of the law enforcement  
 157 agencies whose records were checked before issuance of the original license. The judge  
 158 shall charge the fee specified in subsection (k) of Code Section 15-9-60 for such  
 159 services."

160 "(1) **Verification of license.** The judge of a probate court or his or her designee shall be  
 161 authorized to verify the legitimacy and validity of a weapons carry license to of a license  
 162 holder; pursuant to a subpoena or court order, or for public safety purposes; but to law  
 163 enforcement agencies pursuant to paragraph (40) of subsection (a) of Code Section  
 164 50-18-72, and for licensing to a judge of a probate court or his or her designee pursuant to  
 165 paragraph (40) of subsection (a) of Code Section 50-18-72; provided, however, that the  
 166 judge of a probate court or his or her designee shall not be authorized to provide any further  
 167 information regarding license holders."

168 **SECTION 6.**

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

172 "(b)(1) Except as provided in subsection (c) of this Code section, no county or municipal  
173 corporation, by zoning, ~~or by ordinance or resolution, or by any other means~~, nor any  
174 agency, board, department, commission, political subdivision, school district, or authority  
175 of this state, other than the General Assembly, by rule or regulation or by any other  
176 means shall regulate in any manner:"

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

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

189 **SECTION 7.**

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

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

198 **SECTION 8.**

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