

Senate Bill 224

By: Senators Harper of the 7th, Heath of the 31st, Dolezal of the 27th, Kirk of the 13th and Jones of the 25th

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 provisions for the carrying of weapons in judicial courts by weapons
3 carry license holders; to remove the prohibition on the carrying of weapons in a place of
4 worship; to revise definitions; to revise exceptions to the issuance of a weapons carry license;
5 to revise the definition of a firearm relative to a firearm that persons convicted of a felony
6 or first offender probationers are prohibited from possessing; to provide for an exception to
7 the carrying of a knife into the terminal of a transportation facility by weapons carry license
8 holders except where prohibited by federal law; to amend Article 3 of Chapter 5 of Title 17
9 of the Official Code of Georgia Annotated, relating to disposition of property seized, so as
10 to revise requirements for the disposition of unclaimed firearms in the custody the state,
11 political subdivisions, and municipal corporations; to provide for statutory damages for
12 persons aggrieved by the failure of the state or a political subdivision or municipal
13 corporation to comply with such requirements; to amend Article 4 of Chapter 2 of Title 38
14 of the Official Code of Georgia Annotated, relating to active duty powers, to revoke powers
15 of the Governor or the commanding officer of the organized militia to close places where
16 firearms and ammunition are sold in times of a declaration of state of emergency; to amend
17 Chapter 21 of Title 50 of the Official Code of Georgia Annotated, relating to waiver of
18 sovereign immunity as to actions ex contractu and state tort claims, so as to provide for the
19 waiver of sovereign immunity to provide for statutory damages related to the failure of the
20 state or a political subdivision or municipal corporation to comply with requirements for the
21 disposition of firearms; to amend Article 1 of Chapter 3 of Title 51 of the Official Code of
22 Georgia Annotated, relating to general provisions regarding liability of owners and occupiers
23 of land, so as to provide the an owner or occupier of private property shall not be liable for
24 any civil claims or damages for not restricting the lawful possession of firearms on such
25 private property; to provide for related matters; to repeal conflicting laws; and for other
26 purposes.

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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28

SECTION 1.

29 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
 30 amended by revising paragraph (1) of subsection (a) and paragraph (4) of subsection (b) of
 31 Code Section 16-11-127, relating to carrying weapons in unauthorized locations, as follows:

32 "(1) 'Courthouse' means that portion of a building occupied by judicial courts the superior
 33 court and containing rooms in which judicial superior court proceedings are held."

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

36

SECTION 2.

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

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

43 (i) ~~A second conviction of any misdemeanor involving the use or possession of a~~
 44 ~~controlled substance, or~~

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

47

SECTION 3.

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

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

51 (1) 'Antique firearm' shall having the same meaning as set forth in 44 C.F.R. Section
 52 478.11.

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

57 ~~(2)(3)~~ (3) 'Firearm' includes any handgun, rifle, shotgun, or other weapon which will or can
 58 be converted to expel a projectile by the action of an explosive ~~or electrical charge~~. Such
 59 term shall not include an antique firearm."

60

SECTION 4.

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

64 "(a) It shall be unlawful for any person, with the intention of avoiding or interfering with
 65 a security measure or of introducing into a terminal any explosive, destructive device, or
 66 hoax device as defined in Code Section 16-7-80; firearm for which such person does not
 67 have on his or her person a valid weapons carry license issued pursuant to Code Section
 68 16-11-129 unless possessing such firearm is prohibited by federal law; hazardous substance
 69 as defined by Code Section 12-8-92; or knife or other device designed or modified for the
 70 purpose of offense and defense for which such person does not have on his or her person
 71 a valid weapons carry license issued pursuant to Code Section 16-11-129 unless possessing
 72 such knife or other device is prohibited by federal law, to:

- 73 (1) Have any such item on or about his or her person, or
 74 (2) Place or cause to be placed or attempt to place or cause to be placed any such item:
 75 (A) In a container or freight of a transportation company;
 76 (B) In the baggage or possessions of any person or any transportation company without
 77 the knowledge of the passenger or transportation company; or
 78 (C) Aboard such aircraft, bus, or rail vehicle."

79

SECTION 5.

80 Article 3 of Chapter 5 of Title 17 of the Official Code of Georgia Annotated, relating to
 81 disposition of property seized, is amended by revising subsection (g) of Code Section
 82 17-5-54, relating to definitions and disposition of personal property in custody of law
 83 enforcement agency, as follows:

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

90 (2) Otherwise, an unclaimed firearm:

- 91 (A) Possessed by a municipal corporation shall be disposed of as provided for in Code
 92 Section 36-37-6; provided, however, that municipal corporations shall not have the
 93 right to reject any bids or to cancel any proposed sale of such firearms, and all sales
 94 shall be to persons may be to any person, provided that the transfer of such firearms
 95 shall only be through persons, specified by the winning bidders, who are licensed as

96 firearms collectors, dealers, importers, or manufacturers under the provisions of 18
 97 U.S.C. Section 921, et seq., and who are authorized to receive such firearms under the
 98 terms of such license. The municipal corporation shall dispose of all such firearms at
 99 least once every 12 months during any time in which the municipal corporation has an
 100 inventory of five or more saleable firearms. If the municipal corporation does not
 101 dispose of such firearms as required by this subsection, any person interested in
 102 acquiring any such firearms may bring an action in mandamus or other legal proceeding
 103 to compel the disposition of such firearms. A person who has been unable to acquire
 104 a firearm because of the municipal corporation's failure to dispose of firearms as
 105 required by this subsection shall, in addition to any other relief to which he or she is
 106 entitled, be entitled to an amount equal to actual damages or \$100.00, whichever is
 107 greater, from the municipal corporation. A prevailing plaintiff in such an action shall
 108 be entitled to his or her costs, including, but not limited to, reasonable attorney's fees;
 109 or

110 (B) Possessed by the state or a political subdivision other than a municipal corporation,
 111 shall be disposed of by sale at public auction ~~to persons~~. While any person may bid at
 112 auction, the transfer of such firearms shall only be through persons, specified by the
 113 winning bidders, who are licensed as firearms collectors, dealers, importers, or
 114 manufacturers under the provisions of 18 U.S.C. Section 921, et seq., and who are
 115 authorized to receive such firearms under the terms of such license. Auctions required
 116 by this subparagraph may occur online on a rolling basis or at live events, but in no
 117 event shall such auctions occur less frequently than once every 12 months during any
 118 time in which the political subdivision or state custodial agency has an inventory of five
 119 or more saleable firearms. If the state or a political subdivision other than a municipal
 120 corporation does not dispose of such firearms as required by this subsection, any person
 121 interested in acquiring any such firearms may bring an action in mandamus or other
 122 legal proceeding to compel the disposition of such firearms. A person who has been
 123 unable to acquire a firearm because of the municipal corporation's failure to dispose of
 124 firearms as required by this subsection shall, in addition to any other relief to which he
 125 or she is entitled, be entitled to an amount equal to actual damages or \$100.00,
 126 whichever is greater, from the state or political subdivision other than a municipal
 127 corporation. A prevailing plaintiff in such an action shall be entitled to his or her costs,
 128 including, but not limited to, reasonable attorney's fees.

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

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

134 **SECTION 6.**

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

139 "38-2-301.

140 ~~(a) Whenever any force of the organized militia is or has been called out for the~~
 141 ~~performance of any duty under Code Section 38-2-6, it shall be lawful for the commanding~~
 142 ~~officer of the force, if in his judgment the maintenance of law and order in the area into~~
 143 ~~which the force has been ordered will be promoted thereby, to close places where arms and~~
 144 ~~ammunition are sold and all places where disorder is likely to occur.~~

145 ~~(b) Any person who sells or dispenses arms or ammunition in violation of an order of a~~
 146 ~~commanding officer under the authority of subsection (a) of this Code section or who~~
 147 ~~maintains a place ordered to be closed under such authority shall be guilty of a felony and,~~
 148 ~~upon conviction thereof, shall be punished by imprisonment for not less than two nor more~~
 149 ~~than five years Reserved."~~

150 **SECTION 7.**

151 Chapter 21 of Title 50 of the Official Code of Georgia Annotated, relating to waiver of
 152 sovereign immunity as to actions ex contractu and state tort claims, is amended by adding
 153 a new article to read as follows:

154 "ARTICLE 3

155 50-21-50.

156 The defense of sovereign immunity is waived as to any claim, counterclaim, cross-claim,
 157 or third-party claim brought in the courts of this state by an aggrieved person unable to
 158 acquire a firearm under subsection (g) of Code Section 17-5-54. This Code section shall
 159 not be construed to alter or amend any other waiver of sovereign immunity provided by
 160 law."

161 **SECTION 8.**

162 Article 1 of Chapter 3 of Title 51 of the Official Code of Georgia Annotated, relating to
163 general provisions regarding liability of owners and occupiers of land, is amended by adding
164 a new Code section to read as follows:

165 "51-3-4.

166 An owner or occupier of private property who does not restrict the lawful possession of
167 firearms on such private property shall not be liable for any civil claims or damages arising
168 out of a theory that such owner or occupier should have or could have restricted the lawful
169 possession of firearms on such private property."

170 **SECTION 9.**

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