

(b) The manufacture of items described in subsection (1) exclusively for sale or delivery to law enforcement agencies.

(c) The sale or delivery of items described in subsection (1) to law enforcement agencies.

790.33 Field of regulation of firearms and ammunition preempted.

(1) **Preemption.** Except as expressly provided by general law, the Legislature hereby declares that it is occupying the whole field of regulation of firearms and ammunition, including the purchase, sale, transfer, taxation, manufacture, ownership, possession, and transportation thereof, to the exclusion of all existing and future county, city, town, or municipal ordinances or regulations relating thereto. Any such existing ordinances are hereby declared null and void. This subsection shall not affect zoning ordinances which encompass firearms businesses along with other businesses. Zoning ordinances which are designed for the purpose of restricting or prohibiting the sale, purchase, transfer, or manufacture of firearms or ammunition as a method of regulating firearms or ammunition are in conflict with this subsection and are prohibited.

(2) Limited Exception; County Waiting-Period Ordinances.

(a) Any county may have the option to adopt a waiting-period ordinance requiring a waiting period of up to, but not to exceed, 3 working days between the purchase and delivery of a handgun. For purposes of this subsection, "purchase" means payment of deposit, payment in full, or notification of intent to purchase. Adoption of a waiting-period ordinance, by any coun-

ty, shall require a majority vote of the county commission on votes on waiting-period ordinances. This exception is limited solely to individual counties and is limited to the provisions and restrictions contained in this subsection.

(b) Ordinances authorized by this subsection shall apply to all sales of handguns to individuals by a retail establishment except those sales to individuals exempted in this subsection. For purposes of this subsection, "retail establishment" means a gun shop, sporting goods store, pawn shop, hardware store, department store, discount store, bait or tackle shop, or any other store or shop that offers handguns for walk-in retail sale but does not include gun collectors shows or exhibits, or gun shows.

(c) Ordinances authorized by this subsection shall not require any reporting or notification to any source outside the retail establishment, but records of handgun sales must be available for inspection, during normal business hours, by any law enforcement agency as defined in s. 934.02.

(d) The following shall be exempt from any waiting period:

1. Individuals who are licensed to carry concealed firearms under the provisions of s. 790.06 or who are licensed to carry concealed firearms under any other provision of state law and who show a valid license;

2. Individuals who already lawfully own another firearm and who show a sales receipt for another firearm; who are known to own another firearm through a prior purchase from the retail establishment; or who have another firearm for trade-in;

3. A law enforcement or correctional officer as defined in s. 943.10;

4. A law enforcement agency as defined in s. 934.02;

5. Sales or transactions between dealers or between distributors or between dealers and distributors who have current federal firearms licenses; or

6. Any individual who has been threatened or whose family has been threatened with death or bodily injury, provided the individual may lawfully possess a firearm and provided such threat has been duly reported to local law enforcement.

(3) Policy and Intent.

(a) It is the intent of this section to provide uniform firearms laws in the state; to declare all ordinances and regulations null and void which have been enacted by any jurisdictions other than state and federal, which regulate firearms, ammunition, or components thereof; to prohibit the enactment of any future ordinances or regulations relating to firearms, ammunition, or components thereof unless specifically authorized by this section or general law; and to require local jurisdictions to enforce state firearms laws.

(b) As created by chapter 87-23, Laws of Florida, this section shall be known and may be cited as the "Joe Carlucci Uniform Firearms Act."

[Current through 2000 Fla. Laws ch. 294 (June 23, 2000), including 161 (HB 1069) & 218 (CS/HB 955)]

GEORGIA GA. CODE

Title 10. Commerce and Trade

Article 6. Interstate Purchase of Rifles and Shotguns

10-1-100. Purchase by Georgia residents in contiguous states. Residents of the State of Georgia may purchase rifles and shotguns in any state contiguous to the State of Georgia, provided such residents conform to applicable provisions of statutes and regulations of the United States, of the State of Georgia, and of the contiguous state in which the purchase is made.

10-1-101. Purchase in Georgia by residents of contiguous states. Residents of any state contiguous to the State of Georgia may purchase rifles and shotguns in the State of Georgia, provided such residents conform to applicable provisions of statutes and regulations of the United States, of the State of Georgia, and of the contiguous state in which such persons reside.

Title 16. Crimes and Offenses

Chapter 11. Offenses Against Public Order and Safety

Article 4. Dangerous Instrumentalities and Practices

Part 1. General Provisions

16-11-101.1. Pistol or revolver to person under the age of 18 years.

(a) For the purposes of this Code section, the term:

(1) "**Minor**" means any person under the age of 18 years.

(2) "**Pistol or revolver**" means a pistol or revolver as defined in subsection (a) of Code Section 16-11-132.

(b) It shall be unlawful for a person intentionally, knowingly, or recklessly to sell or furnish a pistol or revolver to a minor, except that it shall be lawful for a parent or legal guardian to permit possession of a pistol or revolver by a minor for the purposes specified in subsection (c) of Code Section 16-11-132 unless otherwise expressly limited by subsection (c) of this Code section.

(c)(1) It shall be unlawful for a parent or legal guardian to permit possession of a pistol or revolver by a minor if the parent or legal guardian knows of a minor's conduct which violates the provisions of Code Section 16-11-132 and fails to make reasonable efforts to prevent any such violation of Code Section 16-11-132.

(2) Notwithstanding any provisions of subsection (c) of Code Section 16-11-132 or any other law to the contrary, it shall be unlawful for any parent or legal guardian intentionally, knowingly, or recklessly to furnish to or permit a minor to possess a pistol or revolver if such parent or legal guardian is aware of a substantial risk that such minor will use a pistol or revolver to commit a felony offense or if such parent or legal guardian who is aware of such substantial risk fails to make reasonable efforts to prevent commission of the offense by the minor.

(3) In addition to any other act which violates this subsection, a parent or legal guardian shall be deemed to have violated this subsection if

such parent or legal guardian furnishes to or permits possession of a pistol or revolver by any minor who has been convicted of a forcible felony or forcible misdemeanor, as defined in Code Section 16-1-3, or who has been adjudicated delinquent under the provisions of Article 1 of Chapter 11 of Title 15 for an offense which would constitute a forcible felony or forcible misdemeanor, as defined in Code Section 16-1-3, if such minor were an adult.

(d) Upon conviction of a violation of subsection (b) or (c) of this Code section, a person shall be guilty of a felony and punished by a fine not to exceed \$5,000.00 or by imprisonment for not less than three nor more than five years, or both.

Part 2. Possession of Dangerous Weapons

16-11-120. Reference title. This part shall be known and may be cited as the "Georgia Firearms and Weapons Act."

16-11-121. Definitions. As used in this part, the term:

(1) "**Dangerous weapon**" means any weapon commonly known as a "rocket launcher," "bazooka," or "recoilless rifle" which fires explosive or nonexplosive rockets designed to injure or kill personnel or destroy heavy armor, or similar weapon used for such purpose. The term shall also mean a weapon commonly known as a "mortar" which fires high explosive from a metallic cylinder and which is commonly used by the armed forces as an antipersonnel weapon or similar weapon used for such purpose. The term shall also mean a weapon commonly known as a "hand grenade" or other similar weapon which

is designed to explode and injure personnel or similar weapon used for such purpose.

(2) **"Machine gun"** means any weapon which shoots or is designed to shoot, automatically, more than six shots, without manual reloading, by a single function of the trigger.

(3) **"Person"** means any individual, partnership, company, association, or corporation.

(4) **"Sawed-off rifle"** means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder; and designed or redesigned, made or remade, to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifle bore for each single pull of the trigger; and which has a barrel or barrels of less than 16 inches in length or has an overall length of less than 26 inches.

(5) **"Sawed-off shotgun"** means a shotgun or any weapon made from a shotgun whether by alteration, modification, or otherwise having one or more barrels less than 18 inches in length or if such weapon as modified has an overall length of less than 26 inches.

(6) **"Shotgun"** means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder; and designed or redesigned, and made or remade, to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(7) **"Silencer"** means any device for silencing or diminishing the report of any portable weapon such as a rifle, carbine, pistol, revolver, machine gun, shotgun, fowling piece, or other device from which a shot, bullet, or projectile may be discharged by an explosive.

16-11-122. Possession of sawed-off shotgun or rifle, machine gun, silencer, or dangerous weapon prohibited. No person shall have in his possession any sawed-off shotgun, sawed-off rifle, machine gun, dangerous weapon, or silencer except as provided in Code Section 16-11-124.

16-11-123. Unlawful possession of firearms or weapons. A person commits the offense of unlawful possession of firearms or weapons when he or she knowingly has in his or her possession any sawed-off shotgun, sawed-off rifle, machine gun, dangerous weapon, or silencer, and, upon conviction thereof, he or she shall be punished by imprisonment for a period of five years.

16-11-124. Exemptions from application of part. This part shall not apply to:

(1) A peace officer of any duly authorized police agency of this state or of any political subdivision thereof, or a law enforcement officer of any department or agency of the United States who is regularly employed and paid by the United States, this state, or any such political subdivision, or an employee of the Department of Corrections of this state who is authorized in writing by the commissioner of corrections to transfer or possess such firearms while in the official performance of his duties;

(2) A member of the National Guard or of the armed forces of the United States to wit: the army, navy, marine corps, air force, or coast guard who while serving therein, possesses such firearm in the line of duty;

(3) Any sawed-off shotgun, sawed-off rifle, machine gun, dangerous weapon, or silencer which has been modified or changed to the extent that it is inoperative. Examples of the requisite modification include weapons with their barrel or barrels filled with lead, hand grenades

filled with sand, or other nonexplosive materials; and

(4) Possession of a sawed-off shotgun, sawed-off rifle, machine gun, dangerous weapon, or silencer by a person who is authorized to possess the same because he has registered the sawed-off shotgun, sawed-off rifle, machine gun, dangerous weapon, or silencer in accordance with the dictates of the National Firearms Act, 68A Stat. 725 (26 U.S.C. Sections 5841-5862).

16-11-125. Burden of proof as to exemptions. In any complaint, accusation, or indictment and in any action or proceeding brought for the enforcement of this part it shall not be necessary to negative any exception, excuse, proviso, or exemption contained in this part, and the burden of proof of any such exception, excuse, proviso, or exemption shall be upon the defendant.

Part 3. Carrying and Possession of Firearms

16-11-126. Carrying a concealed weapon.

(a) A person commits the offense of carrying a concealed weapon when such person knowingly has or carries about his or her person, unless in an open manner and fully exposed to view, any bludgeon, metal knuckles, firearm, knife designed for the purpose of offense and defense, or any other dangerous or deadly weapon or instrument of like character outside of his or her home or place of business, except as permitted under this Code section.

(b) Upon conviction of the offense of carrying a concealed weapon, a person shall be punished as follows:

(1) For the first offense, he or she shall be guilty of a misdemeanor; and

(2) For the second offense, and for any subsequent offense, he or she shall be guilty of a felony and, upon conviction thereof shall be imprisoned for not less than two years and not more than five years.

(c) This Code section shall not permit, outside of his or her home, motor vehicle, or place of business, the concealed carrying of a pistol, revolver, or concealable firearm by any person unless that person has on his or her person a valid license issued under Code Section 16-11-129 and the pistol, revolver, or firearm may only be carried in a shoulder holster, waist belt holster, any other holster, hipgrip, or any other similar device, in which event the weapon may be concealed by the person's clothing, or a handbag, purse, attache case, briefcase, or other closed container. Carrying on the person in a concealed manner other than as provided in this subsection shall not be permitted and shall be a violation of this Code section.

(d) This Code section shall not forbid the transportation of any firearm by a person who is not among those enumerated as ineligible for a license under Code Section 16-11-129, provided the firearm is enclosed in a case, unloaded, and separated from its ammunition. This Code section shall not forbid any person who is not among those enumerated as ineligible for a license under Code Section 16-11-129 from transporting a loaded firearm in any private passenger motor vehicle in an open manner and fully exposed to view or in the glove compartment, console, or similar compartment of the vehicle; provided, however, that any person in possession of a valid permit issued pursuant to Code Section 16-11-129 may carry a handgun in any location in a motor vehicle.

(e) On and after October 1, 1996, a person licensed to carry a handgun in any state whose

laws recognize and give effect within such state to a license issued pursuant to this part shall be authorized to carry a handgun in this state, but only while the licensee is not a resident of this state; provided, however, that such license-holder shall carry the handgun in compliance with the laws of this state.

16-11-127.1. Carrying or possessing weapons on school property or at school functions.

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

(1) **"School safety zone"** means in, on, or within 1,000 feet of any real property owned by or leased to any public or private elementary school, secondary school, or school board and used for elementary or secondary education and in, on, or within 1,000 feet of the campus of any public or private technical school, vocational school, college, university, or institution of post-secondary education.

(2) **"Weapon"** means and includes any pistol, revolver, or any weapon designed or intended to propel a missile of any kind, or any dirk, bowie knife, switchblade knife, ballistic knife, any other knife having a blade of two or more inches, straight-edge razor, razor blade, spring stick, metal knucks, blackjack, any bat, club, or other bludgeon-type weapon, or any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain, or any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart, or any weapon of like kind, and any stun gun or taser as defined in subsection (a) of Code Section 16-11-106. This paragraph excludes any of these instruments used for classroom work authorized by the teacher.

(b) Except as otherwise provided in subsection (c) of this Code section, it shall be unlawful for any person to carry to or to possess or have under such person's control while within a school safety zone or at a school building, school function, or school property or on a bus or other transportation furnished by the school any weapon or explosive compound, other than fireworks the possession of which is regulated by Chapter 10 of Title 25. Any person who violates this subsection shall be guilty of a felony and, upon conviction thereof, be punished by a fine of not more than \$10,000.00, by imprisonment for not less than two nor more than ten years, or both; provided, however, that upon conviction of a violation of this subsection involving a firearm as defined in paragraph (2) of subsection (a) of Code Section 16-11-131, or a dangerous weapon or machine gun as defined in Code Section 16-11-121, such person shall be punished by a fine of not more than \$10,000.00 or by imprisonment for a period of not less than five nor more than ten years, or both. A juvenile who violates this subsection shall be subject to the provisions of Code Section 15-11-37.

(c) The provisions of this Code section shall not apply to:

(1) Baseball bats, hockey sticks, or other sports equipment possessed by competitors for legitimate athletic purposes;

(2) Participants in organized sport shooting events or firearm training courses;

(3) Persons participating in military training programs conducted by or on behalf of the armed forces of the United States or the Georgia Department of Defense;

(4) Persons participating in law enforcement training conducted by a police academy certified by the Peace Officer Standards and Training Council or by a law enforcement agency of the state or the United States or any political subdivision thereof;

(5) The following persons, when acting in the performance of their official duties or when en route to or from their official duties:

(A) A peace officer as defined by Code Section 35-8-2;

(B) A law enforcement officer of the United States government;

(C) A prosecuting attorney of this state or of the United States;

(D) An employee of the Georgia Department of Corrections or a correctional facility operated by a political subdivision of this state or the United States who is authorized by the head of such correctional agency or facility to carry a firearm;

(E) A person employed as a campus police officer or school security officer who is authorized to carry a weapon in accordance with Chapter 8 of Title 20; and

(F) Medical examiners, coroners, and their investigators who are employed by the state or any political subdivision thereof;

(6) A person who has been authorized in writing by a duly authorized official of the school to have in such person's possession or use as part of any activity being conducted at a school building, school property, or school function a weapon which would otherwise be prohibited by this Code section. Such authorization shall specify the weapon or weapons which have been authorized and the time period during which the authorization is valid;

(7) A person who is licensed in accordance with Code Section 16-11-129 or issued a permit pursuant to Code Section 43-38-10, when such person carries or picks up a student at a school building, school function, or school property or on a bus or other transportation furnished by the school or any weapon legally kept within a vehicle in transit through a designated school zone by any person other than a student;

(8) A weapon which is in a locked compartment of a motor vehicle or one which is in a locked container in or a locked firearms rack which is on a motor vehicle which is being used by an adult over 21 years of age to bring to or pick up a student at a school building, school function, or school property or on a bus or other transportation furnished by the school, or when such vehicle is used to transport someone to an activity being conducted on school property which has been authorized by a duly authorized official of the school; provided, however, that this exception shall not apply to a student attending such school;

(9) Persons employed in fulfilling defense contracts with the government of the United States or agencies thereof when possession of the weapon is necessary for manufacture, transport, installation, and testing under the requirements of such contract;

(10) Those employees of the State Board of Pardons and Paroles when specifically designated and authorized in writing by the members of the State Board of Pardons and Paroles to carry a weapon;

(11) The Attorney General and those members of his or her staff whom he or she specifically authorizes in writing to carry a weapon;

(12) Probation supervisors employed by and under the authority of the Department of Corrections pursuant to Article 2 of Chapter 8 of Title 42, known as the "State-wide Probation Act,"

when specifically designated and authorized in writing by the director of the Division of Probation;

(13) Public safety directors of municipal corporations;

(14) State and federal trial and appellate judges;

(15) United States attorneys and assistant United States attorneys;

(16) Clerks of the superior courts; or

(17) Teachers and other school personnel who are otherwise authorized to possess or carry weapons, provided that any such weapon is in a locked compartment of a motor vehicle or one which is in a locked container in or a locked firearms rack which is on a motor vehicle.

(d)(1) This Code section shall not prohibit any person who resides or works in a business or is in the ordinary course transacting lawful business or any person who is a visitor of such resident located within a school safety zone from carrying, possessing, or having under such person's control a weapon within a school safety zone; provided, however, it shall be unlawful for any such person to carry, possess, or have under such person's control while at a school building or school function or on school property, a school bus, or other transportation furnished by the school any weapon or explosive compound, other than fireworks the possession of which is regulated by Chapter 10 of Title 25.

(2) Any person who violates this subsection shall be subject to the penalties specified in subsection (b) of this Code section.

(3) This subsection shall not be construed to waive or alter any legal requirement for possession of weapons or firearms otherwise required by law.

(e) It shall be no defense to a prosecution for a violation of this Code section that:

(1) School was or was not in session at the time of the offense;

(2) The real property was being used for other purposes besides school purposes at the time of the offense; or

(3) The offense took place on a school vehicle. ...

(g) A county school board may adopt regulations requiring the posting of signs designating the areas within 1,000 feet of school boards and private or public elementary and secondary schools as "Weapon-free and Violence-free School Safety Zones."

16-11-128. Carrying pistol without license.

(a) A person commits the offense of carrying a pistol without a license when he has or carries on or about his person, outside of his home, motor vehicle, or place of business, any pistol or revolver without having on his person a valid license issued by the judge of the probate court of the county in which he resides, provided that no permit shall be required for persons with a valid hunting or fishing license on their person or for persons not required by law to have hunting licenses who are engaged in legal hunting, fishing, or sport shooting when the persons have the permission of the owner of the land on which the activities are being conducted; provided, further, that the pistol or revolver, whenever loaded, shall be carried only in an open and fully exposed manner.

(b) Upon conviction of the offense of carrying a pistol without a license, a person shall be punished as follows:

(1) For the first offense, he shall be guilty of a misdemeanor; and

(2) For the second offense, and for any subsequent offense, he is guilty of a felony, and,

upon conviction thereof, shall be imprisoned for not less than one year nor more than five years.

(c) On and after October 1, 1996, a person licensed to carry a handgun in any state whose laws recognize and give effect within such state to a license issued pursuant to this part shall be authorized to carry a handgun in this state, but only while the licensee is not a resident of this state; provided, however, that such license-holder shall carry the handgun in compliance with the laws of this state.

16-11-129. License to carry pistol or revolver, temporary renewal permit.

(a) **Application for license; term.** The judge of the probate court of each county may, on application under oath and on payment of a fee of \$15.00, issue a license valid for a period of five years to any person whose domicile is in that county or who is on active duty with the United States armed forces and who is not a domiciliary of this state but who either resides in that county or on a military reservation located in whole or in part in that county at the time of such application, which license shall authorize that person to carry any pistol or revolver in any county of this state notwithstanding any change in that person's county of residence or state of domicile. Applicants shall submit the application for a license to the judge of the probate court on forms prescribed and furnished free of charge to persons wishing to apply for the license. Forms shall be designed to elicit information from the applicant pertinent to his or her eligibility under this Code section but shall not require data which is nonpertinent or irrelevant such as serial numbers or other identification capable of being used as a de facto registration of firearms owned by the applicant. The Department of Public Safety shall furnish application forms and license forms required by this Code section. The forms shall be furnished to each judge of each probate court within the state at no cost.

(b) **Licensing exceptions.** No license shall be granted to:

(1) Any person under 21 years of age;

(2) Any person who is a fugitive from justice or against whom proceedings are pending for any felony, forcible misdemeanor, or violation of Code Section 16-11-126, 16-11-127, or 16-11-128 until such time as the proceedings are adjudicated;

(3) Any person who has been convicted of a felony by a court of this state or any other state; by a court of the United States including its territories, possessions, and dominions; or by a court of any foreign nation and has not been pardoned for such felony by the President of the United States, the State Board of Pardons and Paroles, or the person or agency empowered to grant pardons under the constitution or laws of such state or nation or any person who has been convicted of a forcible misdemeanor and has not been free of all restraint or supervision in connection therewith for at least five years or any person who has been convicted of a violation of Code Section 16-11-126, 16-11-127, or 16-11-128 and has not been free of all restraint or supervision in connection therewith for at least three years, immediately preceding the date of the application;

(4) Any individual who has been hospitalized as an inpatient in any mental hospital or alcohol or drug treatment center within five years of the date of his application. The probate judge may require any applicant to sign a waiver authorizing any mental hospital or treatment center to inform the judge whether or not the applicant has been an inpatient in any such facility in the last five years and authorizing the superinten-

dent of such facility to make to the judge a recommendation regarding whether a license to carry a pistol or revolver should be issued. The judge shall keep any such hospitalization or treatment information confidential. It shall be at the discretion of the probate judge, considering the circumstances surrounding the hospitalization and the recommendation of the superintendent of the hospital or treatment center where the individual was a patient, to issue the license; or

(5)(A) Any person, the provisions of paragraph (3) of this subsection notwithstanding, who has been convicted of an offense arising out of the unlawful manufacture, distribution, possession, or use of a controlled substance or other dangerous drug.

(B) As used in this paragraph, the term:

(i) "Controlled substance" means any drug, substance, or immediate precursor included in the definition of controlled substances in paragraph (4) of Code Section 16-13-21.

(ii) "Convicted" means a plea of guilty, a finding of guilt by a court of competent jurisdiction, the acceptance of a plea of nolo contendere, or the affording of first offender treatment by a court of competent jurisdiction irrespective of the pendency or availability of an appeal or an application for collateral relief.

(iii) "Dangerous drug" means any drug defined as such in Code Section 16-13-71.

(c) **Fingerprinting.**

(1) Following completion of the application, the judge of the probate court shall require the applicant to proceed to an appropriate law enforcement agency in the county with the completed application. The appropriate local law enforcement agency in each county shall then make two sets of classifiable fingerprints of the applicant for a license to carry a pistol or revolver, place the fingerprint required by subsection (f) of this Code section on a blank license form which has been furnished to the law enforcement agency by the judge of the probate court, and place the name of the applicant on the blank license form. The law enforcement agency shall be entitled to a fee of \$5.00 from the applicant for its services in connection with the application.

(2) In the case of each applicant who is applying for a license under this Code section for the first time, the judge of the probate court shall direct the law enforcement agency to transmit one set of the applicant's fingerprints to the Georgia Crime Information Center for a search of the Federal Bureau of Investigation records and an appropriate report. In such cases, the applicant shall submit an additional fee in an amount established by the Georgia Bureau of Investigation but not to exceed \$30.00 for a search of records of the Federal Bureau of Investigation and an appropriate report, payable in such form as the judge may direct, to cover the cost of the records search.

(3) Applications for renewal of licenses issued under this Code section shall be made to the judge of the probate court of the county in which the applicant is domiciled or, if the applicant is a member of the United States armed forces, the county in which he or she resides or in which the military reservation on which the applicant resides is located in whole or in part at the time of making the renewal application. In the case of an applicant for a renewal of a license, the judge of the probate court may, in his or her discretion, direct that the local county law enforcement agency request a search of the criminal history file and wanted persons file of the Georgia Crime Information Center by computer access

from that county in lieu of transmitting the application and forms.

(d) **Investigation of applicant; issuance of license.** Each law enforcement agency, upon receiving such applications and obtaining such fingerprints, shall promptly conduct a thorough search of its records and records to which it has access and shall notify the judge of the probate court within 50 days, by telephone and in writing, of any findings relating to the applicant which may bear on his eligibility for a license under the terms of this Code section. When no derogatory information is found on the applicant bearing on his eligibility to obtain a license, a report shall not be required. The law enforcement agency shall return the application and the blank license form with the fingerprint thereon directly to the judge of the probate court within such time period. Not later than 60 days after the date of the application the judge of the probate court shall issue the applicant a license to carry any pistol or revolver if no facts establishing ineligibility have been reported and if the judge determines the applicant has met all the qualifications, is of good moral character, and has complied with all the requirements contained in this Code section.

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

If, at any time during the period for which the license was issued, the judge of the probate court of the county in which the license was issued shall learn or have brought to his attention in any manner any reasonable ground to believe the licensee is not eligible to retain the license, the judge may, after notice and hearing, revoke the license of the person upon adjudication of falsification of application, mental incompetency, chronic alcohol or narcotic usage, conviction of any felony or forcible misdemeanor, or for violation of Code Section 16-11-126, 16-11-127, or 16-11-128. It shall be unlawful for any person to possess a license which has been revoked, and any person found in possession of any such revoked license, except in the performance of his official duties, shall be guilty of a misdemeanor. It shall be required that any license holder under this Code section have in his possession his valid license whenever he is carrying a pistol or revolver under the authority granted by this Code section, and his failure to do so shall be prima facie evidence of a violation of Code Section 16-11-128. Loss of any license issued in accordance with this Code section or damage to the license in any manner which shall render it illegible shall be reported to the judge of the probate court of the county in which it was issued within 48 hours of the time the loss or damage becomes known to the license holder. The judge of the probate court shall thereupon issue a replacement for and shall take custody of and destroy a damaged license; and in any case in which a license has been lost, he shall issue a cancellation order and notify by telephone and in writing each of the law enforcement agencies whose records were checked before issuance of the original license. A fee of \$3.00 shall be charged by the judge for such services.

(f) **License specifications.** Licenses issued as prescribed in this Code section shall be printed on durable but lightweight card stock, and the completed card shall be laminated in plastic to improve its wearing qualities and to inhibit alterations. Measurements shall be 3 1/4 inches long, and 2 1/4 inches wide. Each shall be serially numbered within the county of issuance and shall bear the full name, residential address, birth date, weight, height, color of eyes, sex, and a clear print of the right index finger of the licensee. If the right index fingerprint cannot be secured for any reason, the print of another finger

may be used but such print shall be marked to identify the finger from which the print is taken. The license shall show the date of issuance, the expiration date, and the probate court in which issued and shall be signed by the licensee and bear the signature or facsimile thereof of the judge. The seal of the court shall be placed on the face before the license is laminated. The reverse side of the license shall have imprinted thereon in its entirety Code Section 16-11-127.

(g) **Alteration or counterfeiting of license; penalty.** A person who deliberately alters or counterfeits such a license card commits a felony and, upon conviction thereof, shall be punished by imprisonment for a period of not less than one nor more than five years.

(h) **Licenses for former law enforcement officers.** Except as otherwise provided in Code Section 16-11-130, any person who has served as a law enforcement officer for at least ten of the 12 years immediately preceding the retirement of such person as a law enforcement officer shall be entitled to be issued a license as provided for in this Code section without the payment of any of the fees provided for in this Code section. Such person must comply with all the other provisions of this Code section relative to the issuance of such licenses. As used in this subsection, the term "law enforcement officer" means any peace officer who is employed by the United States government or by the State of Georgia or any political subdivision thereof and who is required by the terms of his or her employment, whether by election or appointment, to give his or her full time to the preservation of public order or the protection of life and property or the prevention of crime. Such term shall include conservation rangers.

(i) **Temporary renewal licenses.**

(1) Any person who holds a license under this Code section to carry a pistol or revolver may, at the time he applies for a renewal of the license, also apply for a temporary renewal license if less than 90 days remain before expiration of the license he then holds or if his previous license has expired within the last 30 days.

(2) Unless the judge of the probate court knows or is made aware of any fact which would make the applicant ineligible for a five-year renewal license, the judge shall at the time of application issue a temporary renewal license to the applicant.

(3) Such a temporary renewal license shall be in the form of a paper receipt indicating the date on which the court received the renewal application and shall show the name, address, sex, age, and race of the applicant and that the temporary renewal license expires 90 days from the date of issue.

(4) During its period of validity the temporary renewal permit, if carried on or about the holder's person together with the holder's previous license, shall be valid in the same manner and for the same purposes as a five-year license.

(5) A \$1.00 fee shall be charged by the probate court for issuance of a temporary renewal license.

(6) A temporary renewal license may be revoked in the same manner as a five-year license.

16-11-130. Exemptions from code sections 16-11-126 through 16-11-128.

(a) Code Sections 16-11-126 through 16-11-128 shall not apply to or affect any of the following persons if such persons are employed in the offices listed below or when authorized by federal or state law, regulations, or order:

(1) Peace officers, as such term is defined in paragraph (11) of Code Section 16-1-3, and re-

tired peace officers so long as they remain certified whether employed by the state or a political subdivision of the state or another state or a political subdivision of another state but only if such other state provides a similar privilege for the peace officers of this state;

(2) Wardens, superintendents, and keepers of correctional institutions, jails, or other institutions for the detention of persons accused or convicted of an offense;

(3) Persons in the military service of the state or of the United States;

(4) Persons employed in fulfilling defense contracts with the government of the United States or agencies thereof when possession of the weapon is necessary for manufacture, transport, installation, and testing under the requirements of such contract;

(5) District attorneys, investigators employed by and assigned to a district attorney's office, assistant district attorneys, attorneys employed by the Prosecuting Attorneys' Council of Georgia, and any retired district attorney, assistant district attorney, or district attorneys investigator if such retired employee is receiving benefits under Title 47 or is retired in good standing and receiving benefits from a county or municipal retirement system;

(6) State court solicitors-general; investigators employed by and assigned to a state court solicitor-general's office; assistant state court solicitors-general; the corresponding personnel of any city court expressly continued in existence as a city court pursuant to Article VI, Section X, Paragraph I, subparagraph (5) of the Constitution; and the corresponding personnel of any civil court expressly continued as a civil court pursuant to said provision of the Constitution;

(7) Those employees of the State Board of Pardons and Paroles when specifically designated and authorized in writing by the members of the State Board of Pardons and Paroles to carry a weapon;

(8) The Attorney General and those members of his or her staff whom he or she specifically authorizes in writing to carry a weapon;

(9) Chief probation officers, probation officers, intensive probation officers, and surveillance officers employed by and under the authority of the Department of Corrections pursuant to Article 2 of Chapter 8 of Title 42, known as the "State-wide Probation Act," when specifically designated and authorized in writing by the director of Division of Probation;

(10) Public safety directors of municipal corporations;

(11) Explosive ordnance disposal technicians, as such term is defined by Code Section 16-7-80, and persons certified as provided in Code Section 35-8-13 to handle animals trained to detect explosives, while in the performance of their duties;

(12) State and federal trial, appellate judges, full-time judges of municipal and city courts, and former state trial and appellate judges retired from their respective offices under state retirement;

(13) United States Attorneys and Assistant United States Attorneys;

(14) County medical examiners and coroners and their sworn officers employed by county government; and

(15) Clerks of the superior courts.

(b) Code Sections 16-11-126 through 16-11-128 shall not apply to or affect persons who at the time of their retirement from service with the Department of Corrections were chief probation officers, probation officers, intensive probation officers, or surveillance officers, when specifically

designated and authorized in writing by the director of Division of Probation.

(c) Code Sections 16-11-126 through 16-11-128 shall not apply to or affect any:

(1) Sheriff, retired sheriff, deputy sheriff, or retired deputy sheriff if such retired deputy sheriff is receiving benefits under the Peace Officers' Annuity and Benefit Fund provided under Chapter 17 of Title 47;

(2) Member of the Georgia State Patrol or agent of the Georgia Bureau of Investigation or retired member of the Georgia State Patrol or agent of the Georgia Bureau of Investigation if such retired member or agent is receiving benefits under the Employees' Retirement System;

(3) Full-time law enforcement chief executive engaging in the management of a county, municipal, state, state authority, or federal law enforcement agency in the State of Georgia, including any college or university law enforcement chief executive that is registered or certified by the Peace Officer Standards and Training Council; or retired law enforcement chief executive that formerly managed a county, municipal, state, state authority, or federal law enforcement agency in the State of Georgia, including any college or university law enforcement chief executive that was registered or certified at the time of his or her retirement by the Peace Officer Standards and Training Council, if such retired law enforcement chief executive is receiving benefits under the Peace Officers' Annuity and Benefit Fund provided under Chapter 17 of Title 47 or is retired in good standing and receiving benefits from a county, municipal, State of Georgia, state authority, or federal retirement system; or

(4) Police officer of any county, municipal, state, state authority, or federal law enforcement agency in the State of Georgia, including any college or university police officer that is registered or certified by the Peace Officer Standards and Training Council, or retired police officer of any county, municipal, state, state authority, or federal law enforcement agency in the State of Georgia, including any college or university police officer that was registered or certified at the time of his or her retirement by the Peace Officer Standards and Training Council, if such retired employee is receiving benefits under the Peace Officers' Annuity and Benefit Fund provided under Chapter 17 of Title 47 or is retired in good standing and receiving benefits from a county, municipal, State of Georgia, state authority, or federal retirement system.

In addition, any such sheriff, retired sheriff, deputy sheriff, retired deputy sheriff, active or retired law enforcement chief executive, or other law enforcement officer referred to in this subsection shall be authorized to carry a pistol or revolver on or off duty anywhere within the state and the provisions of Code Sections 16-11-126 through 16-11-128 shall not apply to the carrying of such firearms.

(d) A prosecution based upon a violation of Code Section 16-11-126, 16-11-127, or 16-11-128 need not negative any exemptions.

16-11-131. Possession of firearms by convicted felons and first offender probationers.

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

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

(2) "**Firearm**" includes any handgun, rifle, shotgun, or other weapon which will or can be

converted to expel a projectile by the action of an explosive or electrical charge.

(b) Any person who is on probation as a first offender pursuant to Article 3 of Chapter 8 of Title 42 or who has been convicted of a felony by a court of this state or any other state; by a court of the United States including its territories, possessions, and dominions; or by a court of any foreign nation and who receives, possesses, or transports any firearm commits a felony and, upon conviction thereof, shall be imprisoned for not less than one nor more than five years; provided, however, that if the felony as to which the person is on probation or has been previously convicted is a forcible felony, then upon conviction of receiving, possessing, or transporting a firearm, such person shall be imprisoned for a period of five years.

(b.1) Any person who is prohibited by this Code section from possessing a firearm because of conviction of a forcible felony or because of being on probation as a first offender for a forcible felony pursuant to this Code section and who attempts to purchase or obtain transfer of a firearm shall be guilty of a felony and shall be punished by imprisonment for not less than one nor more than five years.

(c) This Code section shall not apply to any person who has been pardoned for the felony by the President of the United States, the State Board of Pardons and Paroles, or the person or agency empowered to grant pardons under the constitutions or laws of the several states or of a foreign nation and, by the terms of the pardon, has expressly been authorized to receive, possess, or transport a firearm.

(d) A person who has been convicted of a felony, but who has been granted relief from the disabilities imposed by the laws of the United States with respect to the acquisition, receipt, transfer shipment, or possession of firearms by the secretary of the United States Department of the Treasury pursuant to 18 U.S.C. Section 925, shall, upon presenting to the Board of Public Safety proof that the relief has been granted and it being established from proof submitted by the applicant to the satisfaction of the Board of Public Safety that the circumstances regarding the conviction and the applicant's record and reputation are such that the acquisition, receipt, transfer, shipment, or possession of firearms by the person would not present a threat to the safety of the citizens of Georgia and that the granting of the relief sought would not be contrary to the public interest, be granted relief from the disabilities imposed by this Code section. A person who has been convicted under federal or state law of a felony pertaining to antitrust violations, unfair trade practices, or restraint of trade shall, upon presenting to the Board of Public Safety proof, and it being established from said proof, submitted by the applicant to the satisfaction of the Board of Public Safety that the circumstances regarding the conviction and the applicant's record and reputation are such that the acquisition, receipt, transfer, shipment, or possession of firearms by the person would not present a threat to the safety of the citizens of Georgia and that the granting of the relief sought would not be contrary to the public interest, be granted relief from the disabilities imposed by this Code section. A record that the relief has been granted by the board shall be entered upon the criminal history of the person maintained by the Georgia Crime Information Center and the board shall maintain a list of the names of such persons which shall be open for public inspection.

(e) As used in this Code section, the term "forcible felony" means any felony which in-

volves the use or threat of physical force or violence against any person and further includes, without limitation, murder; felony murder; burglary; robbery; armed robbery; kidnapping; hijacking of an aircraft or motor vehicle; aggravated stalking; rape; aggravated child molestation; aggravated sexual battery; arson in the first degree; the manufacturing, transporting, distribution, or possession of explosives with intent to kill, injure, or intimidate individuals or destroy a public building; terrorist threats; or acts of treason or insurrection.

(f) Any person placed on probation as a first offender pursuant to Article 3 of Chapter 8 of Title 42 and subsequently discharged without court adjudication of guilt pursuant to Code Section 42-8-62 shall, upon such discharge, be relieved from the disabilities imposed by this Code section.

16-11-132. Possession of pistol or revolver by person under the age of 18.

(a)(1) For the purposes of this Code section, the term "**pistol**" or "**revolver**" means a firearm of any description, loaded or unloaded, from which any shot, bullet, or other missile can be discharged where the length of the barrel, not including any revolving, detachable, or magazine breech, does not exceed 12 inches; provided, however, that the term pistol or revolver shall not include a gun which discharges shot of .46 centimeters or less in diameter.

(2) For the purposes of this Code section, a pistol or revolver is considered loaded if:

(A) There is a cartridge in the chamber or cylinder of the pistol or revolver;

(B) The person is carrying on his or her body or attached to his or her clothing the pistol or revolver and the ammunition for such pistol or revolver; or

(C) The pistol or revolver and the ammunition for such pistol or revolver are in such close proximity to such person that such person could readily gain access to the pistol or revolver and the ammunition and load the pistol or revolver.

(b) Notwithstanding any other provisions of this part and except as otherwise provided in this Code section, it shall be unlawful for any person under the age of 18 years to possess or have under such person's control a pistol or revolver. A person convicted of a first violation of this subsection shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \$1,000.00 or by imprisonment for not more than 12 months, or both. A person convicted of a second or subsequent violation of this sub-section shall be guilty of a felony and shall be punished by a fine of \$5,000.00 or by imprisonment for a period of three years, or both.

(c) Except as otherwise provided in subsection (d) of this Code section, the provisions of subsection (b) of this Code section shall not apply to:

(1) Any person under the age of 18 years who is:

(A) Attending a hunter education course or a firearms safety course;

(B) Engaging in practice in the use of a firearm or target shooting at an established range authorized by the governing body of the jurisdiction where such range is located;

(C) Engaging in an organized competition involving the use of a firearm or participating in or practicing for a performance by an organized group under 26 U.S.C. Section 501(c)(3) which uses firearms as a part of such performance;

(D) Hunting or fishing pursuant to a valid license if such person has in his or her possession such a valid hunting or fishing license if required; is engaged in legal hunting or fishing;

has permission of the owner of the land on which the activities are being conducted; and the pistol or revolver, whenever loaded, is carried only in an open and fully exposed manner; or

(E) Traveling to or from any activity described in subparagraphs (A) through (D) of this paragraph if the pistol or revolver in such person's possession is not loaded;

(2) Any person under the age of 18 years who is on real property under the control of such person's parent, legal guardian, or grandparent and who has the permission of such person's parent or legal guardian to possess a pistol or revolver; or

(3) Any person under the age of 18 years who is at such person's residence and who, with the permission of such person's parent or legal guardian, possesses a pistol or revolver for the purpose of exercising the rights authorized in Code Section 16-3-21 or 16-3-23.

(d) Subsection (c) of this Code section shall not apply to any person under the age of 18 years who has been convicted of a forcible felony or forcible misdemeanor, as defined in Code Section 16-1-3, or who has been adjudicated delinquent under the provisions of Article 1 of Chapter 11 of Title 15 for an offense which would constitute a forcible felony or forcible misdemeanor, as defined in Code Section 16-1-3, if such person were an adult.

16-11-133. Possession of a firearm by a felon.

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

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

(2) "**Firearm**" includes any handgun, rifle, shotgun, stun gun, taser, or other weapon which will or can be converted to expel a projectile by the action of an explosive or electrical charge.

(b) Any person who has previously been convicted of or who has previously entered a guilty plea to the offense of murder, armed robbery, kidnapping, rape, aggravated child molestation, aggravated sodomy, aggravated sexual battery, or any felony involving the use or possession of a firearm and who shall have on or within arm's reach of his or her person a fire-arm during the commission of, or the attempt to commit:

(1) Any crime against or involving the person of another;

(2) The unlawful entry into a building or vehicle;

(3) A theft from a building or theft of a vehicle;

(4) Any crime involving the possession, manufacture, delivery, distribution, dispensing, administering, selling, or possession with intent to distribute any controlled substance as provided in Code Section 16-13-30; or

(5) Any crime involving the trafficking of cocaine, marijuana, or illegal drugs as provided in Code Section 16-13-31, and which crime is a felony, commits a felony and, upon conviction thereof, shall be punished by confinement for a period of 15 years, such sentence to run consecutively to any other sentence which the person has received.

(c) Upon the second or subsequent conviction of a convicted felon under this Code section, such convicted felon shall be punished by confinement for life. Notwithstanding any other law to the contrary, the sentence of any convicted felon which is imposed for violating this Code section a second or subsequent time shall not be suspended by the court and probationary sentence imposed in lieu thereof.

(d) Any crime committed in violation of subsections (b) and (c) of this Code section shall be considered a separate offense.

Part 5. Brady Law Regulations

16-11-170. Compliance with federal Brady law.

(a) It is the intention of this part to establish state regulations which are consistent with the policy and terms of the federal Brady Handgun Violence Protection Act by providing a state background check law.

(b) This part shall in all respects be construed and administered in conformity with the provisions of the federal Brady Handgun Violence Prevention Act. Without limiting the generality of the foregoing, it is specifically intended that this part shall constitute a state law requiring verification by a state official that information available does not indicate that possession of a handgun by a proposed transferee would be in violation of law, as authorized under 18 U.S.C. Section 922(s)(1)(D).

16-11-171. Definitions. As used in this part, the term:

(1) "**Bureau**" means the Georgia Bureau of Investigation.

(2) "**Center**" means the Georgia Crime Information Center within the Georgia Bureau of Investigation.

(3) "**Dealer**" means any person licensed as a dealer pursuant to 18 U.S.C. Section 921, et seq., or Chapter 16 of Title 43.

(4) "**Handgun**" means a pistol or revolver or other handgun defined in Code Section 16-11-131 which has a short stock and is designed to be held and fired by the use of a single hand.

(5) "**Involuntarily hospitalized**" means hospitalized as an inpatient in any mental health facility pursuant to Code Section 37-3-81 or hospitalized as an inpatient in any mental health facility as a result of being adjudicated mentally incompetent to stand trial or being adjudicated not guilty by reason of insanity at the time of the crime pursuant to Part 2 of Article 6 of Title 17.

16-11-172. Licensed dealers' responsibilities. On and after January 1, 1996, no dealer licensed pursuant to 18 U.S.C. Section 923 or Chapter 16 of Title 43 shall sell or deliver from his or her business inventory at his or her licensed premises any handgun to another person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, until:

(1) The dealer has obtained a completed consent form from the potential buyer or transferee, which form shall have been promulgated by the bureau and provided by the licensed dealer, which shall include only the name, birth date, gender, race, and social security number or other identification number of such potential buyer or transferee;

(2) The dealer has inspected identification containing a photograph of the potential buyer or transferee;

(3) The dealer has requested, by means of a toll-free telephone call during hours in which such toll-free telephone number established by the bureau is operational as provided in Code Section 16-11-177, that the bureau conduct a criminal history and involuntary hospitalization records check;

(4) The dealer has received a unique transaction number for that inquiry from the bureau verifying that the information available to the bureau does not indicate that possession of a handgun by the transferee would be in violation of federal or state law; and

(5) The dealer has recorded the date of receipt of the identifying number and the number on the consent form.

16-11-173. Georgia Bureau of Investigation's background check.

(a) Upon receipt of a request for a criminal history and involuntary hospitalization records check, the bureau shall immediately, during the licensee's call or by return call:

(1) Review all criminal history and involuntary hospitalization records electronically available to the bureau to determine if the potential buyer or transferee is prohibited from receipt or possession of a handgun pursuant to state or federal law; and

(2) Inform the licensee making the inquiry that its records demonstrate that the potential buyer or transferee is so prohibited or provide the licensee with a unique transaction number.

(b) In the event that the electronic check of records available to the bureau as provided in subsection (a) of this Code section reveals the existence of a criminal history record not immediately available to the bureau so as to determine the eligibility of the potential buyer to purchase a handgun, the bureau shall in the same call or return call advise the licensee of such existing, but not immediately available, record. In that event, the licensee shall not complete the sale of the handgun until the bureau advises the licensee that information subsequently received as a result of that request shows that the potential buyer is not prohibited from receiving or possessing a handgun under state or federal law.

16-11-174. Delays or disruptions of communications.

(a) In the event of electronic failure, scheduled computer downtime, or similar emergency beyond the control of the bureau or center which prevents or delays the checks from being made as provided in Code Section 16-11-173, the bureau shall immediately notify the requesting licensee of the reason for, and estimated length of, such delay. After such notification, the center shall, as soon as possible but in no event later than noon of the next business day after the day the request is made, inform the licensee if its records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law or if a requested purchase or transfer is authorized. Unless notified by the morning of the next day after the request is made that the potential buyer or transferee is so prohibited, the licensee may complete the transaction and shall not be deemed in violation of this part.

(b) A licensed dealer is not required to comply with the requirements of this part in the event of unavailability of telephone service at the licensed premises due to the failure of the entity which provides telephone service in the state, region, or other geographical area in which the licensee is located to provide telephone service to the premises of the licensee due to the location of such premises or the interruption of telephone service by reason of hurricane, tornado, flood, natural disaster, or other act of God, war, invasion, insurrection, riot, or other bona fide emergency, or other reason beyond the control of the licensee.

16-11-175. Fees. The bureau shall be authorized to charge and collect a fee not in excess of \$5.00 for each criminal history and involuntary hospitalization records check conducted pursuant to Code Section 16-11-173.

16-11-177. Toll-free telephone number. The bureau shall establish a toll-free telephone number which shall be operational Monday through Saturday between the hours of 8:00 A.M. and

10:00 P.M. and operational on Sundays between the hours of 8:00 A.M. and 6:00 P.M. for purposes of responding to inquiries as described in this part from licensed dealers; provided, however, that such telephone service established by the bureau shall not be operational on Christmas Day. The bureau shall employ and train such personnel as are necessary to administer expeditiously the provisions of this Code section.

16-11-178. Redress for erroneous prohibitions.

(a) Any person who is denied the right to receive or purchase a handgun as a result of the procedures established by this part may request amendment of the record pertaining to him or her by petitioning the bureau. If the bureau fails to amend the record within seven days and except as otherwise provided in subsection (b) of this Code section, the person requesting the amendment may petition the superior court of the county of residence for an order directing the bureau to amend the record. If the record as corrected demonstrates that such person is not prohibited from receipt or possession of a handgun by state or federal law, the bureau shall destroy any records it maintains which contain any information derived from the criminal history record check set forth in paragraph (1) of Code Section 16-11-172.

(b) In addition to other provisions of law relating to prohibitions against possessing or transporting a handgun, any individual who has been involuntarily hospitalized within five years immediately preceding the date of an application for a handgun shall be prohibited from purchasing or possessing a handgun; provided, however, that, if after a hearing before the committing court, the probate judge or judge of the superior court determines that based on the evidence submitted by such applicant and any other evidence required by the judge that such applicant is not a danger to himself or herself or others, such applicant shall not be deemed ineligible to purchase a handgun as a result of being involuntarily hospitalized. If such applicant is not deemed ineligible to purchase a handgun, the bureau shall destroy any records it maintains which contain any information derived from the involuntary hospitalization records checks set forth in paragraph (1) of Code Section 16-11-172.

(c) Any person erroneously identified as a prohibited person, whose records have not been corrected pursuant to subsection (a) or (b) of this Code section, may bring an action in any court of original jurisdiction against the State of Georgia or any political subdivision thereof which is the source of the erroneous information for damages, including consequential damages, injunctive relief, and such other relief as the court deems appropriate. If the person prevails in the action, the court shall allow the person reasonable attorney's fees as part of the costs.

16-11-180. Dealer's compliance a defense against liability claims. Compliance with the provisions of this part shall be a complete defense to any claim or cause of action under the laws of this state for liability for damages arising from the sale or transfer of any handgun which has been shipped or transported in interstate or foreign commerce to any person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year or who has been involuntarily hospitalized.

16-11-181. Restrictions: relics, replicas, redemption of legally pawned handguns.

(a) The provisions of this part shall not apply to:

(1) Any firearm, including any handgun with a matchlock, flintlock, percussion cap, or similar

type of ignition system, manufactured in or before 1898;

(2) Any replica of any firearm described in paragraph (1) of this subsection if such replica is not designed or redesigned to use rimfire or conventional center-fire fixed ammunition or uses rimfire or conventional center-fire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade;

(3) Any firearm which is a curio or relic as defined by 27 C.F.R. 178.11; and

(4) Potential buyers or transferees who hold a valid permit or license to carry a pistol or revolver pursuant to Code Section 16-11-129 and who exhibit such permit or license to a licensed dealer.

(b) Notwithstanding any other provisions of this part, in any case where a person has transferred a handgun as collateral for a loan or as pledged goods in a pawn transaction and such transaction has been carried out pursuant to the provisions of this part, upon such person reclaiming or redeeming the handgun from the dealer or upon such person transferring any other handgun as collateral or pledged goods to the same dealer or reclaiming the same at any time during the 12 month period immediately following the original transaction with such dealer, the provisions of this part shall not apply to such transfers subsequent to the original transfer during such 12 month period.

16-11-182. Violations.

(a) Any licensed dealer or any government official who willfully and intentionally requests a criminal history and involuntary hospitalization records check from the bureau for any purpose other than compliance with this part or willfully and intentionally disseminates any criminal history or involuntary hospitalization records information to any person other than the subject of such information shall be guilty of a felony.

(b) Any person who, in connection with the purchase, transfer, or attempted purchase or transfer of a handgun pursuant to Code Section 16-11-172, willfully and intentionally makes any materially false oral or written statement or willfully and intentionally furnishes or exhibits any false identification intended or likely to deceive the licensee shall be guilty of a misdemeanor.

(c) Any licensed dealer who willfully and intentionally sells or delivers a handgun in violation of this part shall be guilty of a misdemeanor.

(d) Any purchaser or owner of a firearm who willfully and intentionally transfers the firearm at any time to a person who he or she knows to be prohibited from possession of a handgun by state or federal law shall be guilty of a felony and shall be punished by imprisonment for not less than one nor more than three years.

16-11-184. State and local jurisdictions in regard to firearms.

(a)(1) It is declared by the General Assembly that the regulation of firearms is properly an issue of general, state-wide concern.

(2) The General Assembly further declares that the lawful design, marketing, manufacture, or sale of firearms or ammunition to the public is not unreasonably dangerous activity and does not constitute a nuisance per se.

(b)(1) No county or municipal corporation, by zoning or by ordinance, resolution, or other enactment, shall regulate in any manner gun shows, the possession, ownership, transport, carrying, transfer, sale, purchase, licensing, or registration of firearms, components of firearms, firearms dealers, or dealers in firearms components. ...

(c) A county or municipal corporation may regulate the transport, carrying, or possession of firearms by employees of the local unit of government in the course of their employment with that local unit of government.

(d) Nothing contained in this Code section shall prohibit municipalities or counties, by ordinance, resolution, or other enactment, from requiring the ownership of guns by heads of households within the political subdivision.

(e) Nothing contained in this Code section shall prohibit municipalities or counties, by ordinance, resolution, or other enactment, from reasonably limiting or prohibiting the discharge of firearms within the boundaries of the municipal corporation.

Title 43, Chapter 16. Firearms Dealers

43-16-1. "Department" defined. As used in this chapter, the term "department" means the Department of Public Safety.

43-16-2. License requirement; applicability of chapter to casual sales. Any person, firm, retail dealer, wholesale dealer, pawnbroker, or corporation who shall sell, dispose of, or offer for sale or cause or permit to be sold, disposed of, or offered for sale any pistol, revolver, or short-barreled firearm of less than 15 inches in length, whether the same shall be his own property or whether he shall sell the same as an agent or

employee of another, shall obtain from the department a license permitting the sale of such pistols, revolvers, and firearms. Nothing in this chapter shall apply to or prohibit the casual sales of the articles referred to in this Code section between individuals or bona fide gun collectors.

43-16-3. Affidavit of applicant for license.

Any person, firm, retail dealer, wholesale dealer, pawnbroker, or corporation who makes application for a license under this chapter must accompany such application with an affidavit of the applicant sworn to before an officer authorized by law to administer oaths, stating that the applicant is a citizen of the United States, has reached the age of 21 years, and has not been convicted of a felony.

43-16-4. Surety bond. There shall be filed with the application for a license under this chapter a bond for the sum of \$1,000.00, payable to the State of Georgia and conditioned upon the faithful performance of all provisions of this chapter, signed by the applicant as principal, and with a surety company or two individuals as securities. Such bond must be approved by the department.

43-16-7. Display of license. Every recipient of a license to sell any firearms listed in Code Section 43-16-2 shall keep such license conspicuously displayed on his business premises.

43-16-10.1. Records required.

(a) As a condition of any license issued pursuant to this chapter, each licensee shall be required to keep a record of the acquisition and disposition of firearms as provided in this Code section.

(b) The record required by subsection (a) of this Code section shall be identical in form and context to the firearms acquisition and disposition record required by Part 178 of Chapter 1 of Title 27 of the Code of Federal Regulations as it exists on July 1, 1988.

(c) The record required by subsection (a) of this Code section shall be maintained on the licensed premises and shall be open to the inspection of any duly authorized law enforcement officer during the ordinary hours of business or at any reasonable time. The record of each acquisition or disposition of a firearm shall be maintained for a period of not less than five years.

(d) The failure of a licensee to keep and maintain the records required by this Code section shall be grounds for revocation of the license.

[Current through 2000 Regular Session, including 2000 Ga. Laws 711 (HB 110), 861 (HB 1392), 919 (SB 450), & 924 (SB 466)]

GUAM GUAM CODE

Title 10. Health and Safety

Chapter 60. Firearms

[Note: References to "Director of Public Safety" changed to "Chief of Police", and references to "Department of Public Safety" changed to "Guam Police Department" pursuant to P.L. 17-78:1, which repealed §5102 GC providing for the Department of Public Safety and reenacted §5102 establishing the Guam Police Department.]

60100. Definitions. As used in this Chapter:

(a) **Firearm** means any weapon, the operating force of which is an explosive. This definition includes pistols, revolvers, rifles, shotguns, machine guns, automatic rifles, noxious gas projectors, mortars, bombs, cannon and submachine guns. The specific mention of certain weapons does not exclude from the definition other weapons operated by explosives.

(b) **Pistol or revolver** means any firearm of any shape whatever and designed to be fired with one hand with a barrel less than twelve inches (12") in length and capable of discharging loaded ammunition or any noxious gas.

(c) **Rifle** means a firearm designed, made, redesigned or remade and intended to be fired from the shoulder and to fire only a single projectile through a rifled bore for each single pull of the trigger, and shall include any such firearm which may be readily re-stored to fire loaded ammunition, and any antique rifle or long gun, regardless of the type of charge or projectile used, which is capable of being used as a weapon.

(d) **Shotgun** means any firearm designed, made, redesigned or remade and intended to be fired from the shoulder and to fire through a smooth barrel either a number of projectiles (ball shot) or a single projectile, and shall include any

such firearm which may be readily restored to fire any of the above, and shall also include any firearm of any age designed and capable of firing the above-mentioned projectiles.

(e) The terms Chief of Police and department mean the Chief of Police and the Guam Police Department, respectively.

(f) **Body armor** means a commercially available, soft, lightweight material with penetration resistance equal to or greater than that of eighteen (18) layers of KEVLAR.

(g) **Restricted bullet** means a bullet that, as determined by the Chief of Police, when fired from a pistol or revolver with a barrel five inches (5") or less in length, is capable of penetrating body armor.

(h) **Putative Owner** means a person who were it not for the requirements of this Chapter, would be the owner of a firearm, or one who acquires possession of a firearm, or one who acquires possession of a firearm by theft.

(i) **Lawful Owner** means a person whose right to a firearm have been perfected in accordance with §60103 of this title.

60101. Chapter Not Applicable. This Chapter shall not apply to:

(a) Law enforcement officers when using firearms authorized by the Chief of Police in their official duty.

(b) Persons in the Armed Forces of the United States engaged in official duty.

(c) Devices which are not designed or redesigned for use as a weapon. Any device, although originally designed as a firearm, which has been redesigned, or was designed initially for use as a signaling, pyrotechnic, line-throwing, safety, industrial or similar device, surplus ordnance sold, loaned or given by the Secretary of the Army pursuant to the provisions of §§4684(2), 4685 or 4686 of Title 10 of the United States Code is not covered by this Chapter.

(d) Those firearms that can not fire fixed ammunition but are loaded through the muzzle or cylinder with a combination of ball and black powder.

60102. Ownership, Etc., of Certain Firearms Prohibited. The manufacture, possession, sale, barter, trade, gift, transfer or acquisition of any machine guns, sub-machine guns, automatic rifles or any other firearm not a rifle having a barrel length of sixteen (16) inches or greater or not a shotgun having a barrel length of eighteen (18) inches or greater or a revolver or pistol having a barrel length of more than twelve (12) inches is prohibited. Mufflers, silencers or devices for deadening the sound of discharged firearms are also prohibited. Any person violating this Section shall be guilty of a felony which shall be punishable for a term of imprisonment of not less than three (3) years and a fine of not less than One Thousand Dollars (\$1,000). Imposition of sentence shall not be suspended and the offender shall not be eligible for parole nor work release until the term of imprisonment prescribed herein has been completed nor may probation be imposed in lieu of this portion of the offender's sentence. Provided, however, that in the case of an offender not previously convicted of a felony, the court may sentence the offender to not more than two (2) years imprisonment and the provisions of this Section prohibiting probation, suspension, parole or work release shall not be applicable to such offender.

60103. Ownership, Etc., Permitted. Any person who qualifies under this Chapter may lawfully own, possess, use or carry any rifle, shotgun, pistol or revolver not prohibited by §60102 subject to the conditions and penalties provided in this Chapter.

60104. Dealer: Register: Dealer, etc., must register. Any person who is in the business of selling, buying, renting or trading any firearm