



## LEGISLATIVE ALERT #1

BILL #	**	STATUS - ASSIGNED TO	AUTHOR(S)	TITLE AND/OR SUMMARY	GACP COMMENTS
HB1		Judiciary	Willard - 51 <sup>st</sup> ; Abrams - 89 <sup>th</sup> ; Ehrhart - 36 <sup>th</sup> ; Others	A BILL to be entitled an Act to amend Title 9 of the O.C.G.A., relating to civil practice, to amend Title 16 of the O.C.G.A., relating to crimes and offenses, so as to conform provisions to the new Chapter 16 of Title 9, correct cross-references, and remove obsolete or improper references to forfeiture; to amend the O.C.G.A., so as to conform provisions to the new Chapter 16 of Title 9, correct cross-references, and remove obsolete or improper references to forfeiture; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.  <a href="http://www.legis.ga.gov/Legislation/20132014/139236.pdf">http://www.legis.ga.gov/Legislation/20132014/139236.pdf</a>	* See Addendum 1
HB 89	*	Public Safety & Homeland Security	T. Benton - 31 <sup>st</sup> ; Dutton - 157 <sup>th</sup> ; Others	<b>Exempts Certain Firearms From Federal Regulations -</b> Certain firearms, ammunition, etc., manufactured and remaining in Georgia's borders shall not be subject to federal laws or regulations.  <a href="http://www.legis.ga.gov/Legislation/20132014/128559.pdf">http://www.legis.ga.gov/Legislation/20132014/128559.pdf</a>	Probably will not go anywhere; however, if it does, it would have to change a lot to be acceptable.
HB 749	*	Judiciary (Non-Civil)	Duncan - 26 <sup>th</sup> ; Tanner - 9 <sup>th</sup> ; Martin - 49 <sup>th</sup> ; Others	<b>Defines Cargo Theft &amp; Sets Penalties</b>  <a href="http://www.legis.ga.gov/Legislation/20132014/137482.pdf">http://www.legis.ga.gov/Legislation/20132014/137482.pdf</a>	Also allows for GBI to have concurrent jurisdiction. Good overall bill. Endorsed by GACP.



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HB 803	*	Public Safety & Homeland Security	T. Benton 31 <sup>st</sup> ; Kaiser - 59 <sup>th</sup> ; Drenner - 85 <sup>th</sup> ; Wilkinson - 52 <sup>nd</sup>	<p><b>Requires Law Enforcement to have a written policy to deal with encounters involving domesticated animals; requires Law Enforcement training and sanctions officers who do not obtain training by suspending their POST certification</b></p> <p><a href="http://www.legis.ga.gov/Legislation/20132014/137911.pdf">http://www.legis.ga.gov/Legislation/20132014/137911.pdf</a></p>	This bill is earmarked at curtailing the shooting of dogs. The humaneness of the bill is understood; however, the demands for compliance to specific sections of the bill (i.e., mandated training and suspension of POST certification if training is not received) are deemed by many law enforcement professionals to be unreasonable.
HB 869	*	House Rules Committee	Yates - 73 <sup>rd</sup> ; Powell - 32 <sup>nd</sup> ; Roberts - 155 <sup>th</sup> ; Others	<p><b>Traffic control devices and light-weight motorcycles and other light-weight motor vehicles</b></p> <p><a href="http://www.legis.ga.gov/Legislation/20132014/138937.pdf">http://www.legis.ga.gov/Legislation/20132014/138937.pdf</a></p>	Would allow the operator of such vehicles to go through red lights if the weight of the vehicle does not activate the trip plate; however, the vehicle operator must wait 60 seconds.
HB 875	*	Public Safety & Homeland Security	Jaspense - 11 <sup>th</sup> ; Meadows 5 <sup>th</sup> ; Powell - 32 <sup>nd</sup> ; Others	<p style="text-align: center;"><b>** MAJOR FIREARMS BILL **</b></p> <p>This bill has many facets. Please review the bill in its entirety. See other bills, such as HB 773, etc.</p> <p><a href="http://www.legis.ga.gov/Legislation/20132014/139285.pdf">http://www.legis.ga.gov/Legislation/20132014/139285.pdf</a></p>	<p>A lot of Law Enforcement problems associated with this bill. It is now being evaluated by subject-matter experts in law enforcement such as school police officials, city &amp; county law enforcement officials, etc. Please read the complete bill.</p> <p><b>**</b> See Addendum 2, compile by valuable GACP member, Alice Johnson.</p> <p><b>***</b> See Addendum 3, GMA's position on HB 875.</p>



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HB 885	*	House Health & Human Services	Peake - 141 <sup>st</sup> ; Watson - 166 <sup>th</sup> ; Channell - 120 <sup>th</sup> ; Others	Medical marijuana relating to illnesses such as cancer, glaucoma, etc.  <a href="http://www.legis.ga.gov/Legislation/20132014/138497.pdf">http://www.legis.ga.gov/Legislation/20132014/138497.pdf</a>	Most believe this is the precursor to legalizing marijuana. GACP, at their February 9, 2014, board meeting, voted to oppose the bill but embraced further study on the topic. The IACP has called for the repeal of state legislation allowing for the distribution of medical marijuana.
SB 355	*	Senate Judiciary (Non-Civil)	Cowsert - 46 <sup>th</sup> ; McKoon - 29 <sup>th</sup> ; Stone - 23 <sup>rd</sup>	Eyewitness identification mandating policy and videos  <a href="http://www.legis.ga.gov/Legislation/20132014/138917.pdf">http://www.legis.ga.gov/Legislation/20132014/138917.pdf</a>	** This is a Defense Attorney bill in that if the mandated policy is NOT strictly followed regarding line-ups, show-ups and photo arrays, then there is a rebuttable presumption of prejudice and bad faith by law enforcement prohibiting the evidence from being introduced. Currently, GACP and the Prosecuting Attorneys Council (PAC) have grave concerns with the bill.
SR 756	*	Senate Health & Human Services	McKoon - 29 <sup>th</sup>	Request for a medical marijuana study committee  <a href="http://www.legis.ga.gov/Legislation/20132014/137680.pdf">http://www.legis.ga.gov/Legislation/20132014/137680.pdf</a>	GACP supports this resolution and opposes HB 885, which would legalize medical marijuana in the State of Georgia.

## Addendum 1

Email broadcasted to GACP Membership, February 3, 2014...

The below is my evaluation of the 99 page document known as the HB 1 Substitute, LC5757S.

I am convinced that the position taken by our GACP President David Lyons and the GACP Executive Board on this Substitute will only enhance the public's perspective that law enforcement is a true and honorable profession. Please see President's Lyon's attached letter.

Please understand that this substitute bill (LC 5757S) will undergo some additional changes as it goes through the legislative vetting process. However, I believe those changes will only impact the court procedural areas, [mainly] dealing with evidence and I do not expect any changes in the "Burden of Proof Area" or the "Threshold Area." As you know, those are the two major areas that concerned us as professional law enforcement officials. If any major changes occur that would cause the GACP to withdraw our support for HB 1, I will immediately alert you via email. Attached you will find HB 1 Substitute.

I submit the below information for your review and respectfully request that you speak with your State Representative, encouraging them to embrace the New HB 1.

Frank V. Rotondo

Executive Director

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- The burden of proof will remain the same as it now is in the law: "*Preponderance of the Evidence.*" The original bill would have changed this burden to a higher evidence standard.
  - Return the Non-Judicial Ceiling to that as noted in OCGA 16-13-49 (n). The original House Bill 1 lowered it to \$5000; however, it will remain as it is at \$25,000, if the HB 1 Substitute passes. This is a major change because law enforcement will not have to utilize the courts if the seized property is under \$25,000. However, when the amount exceeds \$25,000, judicial review will be required [as opposed to] administrative action or review.
  - Restore the burden of "*Innocent Owners*" to that as sited in 16-13-49 (e). In short, the person who had their property taken must show that they did not know about the criminal conduct.
  - Mandated reporting to the Carl Vinson Institute of Government (CVI); however, this time the CVI must ask questions that clarify the amount of money/property seized and where it was spent. Forms are be developed by the CVI in conjunction with others and the field of major questions to be placed on the CVI forms are noted in the HB1 Substitute. This is all being done to [demonstrate] government transparency. Additionally, copies of the reports must be given to county and city government authorities. If reporting is not completed or there are allegations of the misuse of the money/property, the Attorney General may intervene with investigative authority. Further, the Attorney General will have the right to proceed criminally or civilly against the violators. Law enforcement must submit the reports, not the cities or the counties [...admittedly,, this area's language could be clearer and I expect it will be clarified in the next version of the bill.] This section was modified to mandate that copies of the reports must be forwarded to other parts of your governments.

- DAs are to receive [a] fixed 10% of the forfeiture pool. On this point, Prosecuting Attorneys Council (PAC), which is a semi-government state authority, will have funds allotted to them to develop guidelines for DAs as to the proper acquisition of the property and/or money and when and [how] the money might be spent. Additionally, the PAC allotment of the funds may be used for services [such as] court appeals, interpreters, etc. PAC must justify their budget to the State.
- Answering of claims would require the claimant to attach documentation to support claims [that], among other things, explains their relationship to the person in possession of the property at the time of the seizure. This should help in the case where someone intends to deceive the system.
- Eliminates clerks from the process of placing all of the money seized into a registry of the court. Under this modification, seized currency must be placed into a financial institution, if not needed for evidence. Any money gained as a result of interest earned in a financial institution must go to the claimant, if the case was disposed of in favor of the claimant who had their property seized.
- Language was added to allow for greater fees in Rico Cases.

#### **Additional Benefits...**

There are numerous benefits to embracing this major modification of the original HB1 which should be blindly obvious to you when you look at the above noted changes. Additionally, though not noted above;

- It standardizes the procedure to be used in all forfeiture cases. Georgia now has 34 different statutes, procedures, etc. governing forfeitures.
- Will help to eliminate jury trials in forfeiture cases.

## Addendum 2

### HB 875 “Safe Carry Protection Act” Omnibus Gun Bill (LC 41 0185S)

HB 875:

- Removes restrictions on concealed carry in houses of worship, bars and for tenants in public housing complexes;
- Prevents restrictions on firearms in ANY government-owned facility under private lease;
- Allows concealed carry by a license holder in any government building where there is no screening by security personnel;
- Authorizes local school boards to allow non-sworn school personnel to carry firearms on school property and to respond to threats to school safety; the school board will be responsible for any costs associated with the decision including firearms training which will be determined by the local school boards, but which should include judgment pistol shooting, marksmanship and review of state law relating to use of force;
- Prohibits arrest of any license holder who carries a concealed weapon on a campus, and provides for a fine of \$100;
- Removes the offense of pointing a gun or pistol at another;
- Prevents the creation of a multi-jurisdictional database of concealed carry license holders;
- Provides for fine of \$10 for any license holder who does not have his/her license on his/her person when he/she is carrying concealed (but state code does not require the holder to produce the license at the request of law enforcement);
- Strengthens stand your ground as an “absolute defense;”
- Transfers the regulation of firearms carried, transported or possessed by government employees **from local elected officials to the Sheriff or Chief of Police** so that any aggrieved person may bring an action against that LE official;
- Seeks to restrict data provided to the NICS related to mental illness;
- Prevents the seizure of any firearm by local or state law enforcement or the National Guard during declared state of emergency;
- Removes the Governor’s Emergency Powers over the sale, dispensing, transport of firearms or ammunition.

### House Rules Committee

#### Issues which may impact officers’ ability to enforce these regulations:

1. Because person carrying concealed cannot be asked to show his/her permit to the officer at the time they are discovered to be on a campus (or any other prohibited area), officers’ only action in every case is to issue a ticket;
2. License holders are exempt from being detained in every case in the bill if they immediately leave the premises when asked by security personnel – see #1 above for obstacles to officers;
3. Liability issues are transferred to the Sheriff or Chief of Police for legal action by local government employees whose access to firearms is restricted;
4. Throughout the bill, private right of action transfers all litigation costs to the taxpayers of a local government entity, thereby encouraging frivolous or harassing lawsuits.

## Addendum 3

# HB 875, Firearms & Weapons: Allow in Government Buildings; Allow Civil Actions against Cities

Municipal  
Impact



GMA Position:	Oppose
Last Updated:	2/7/2014
GMA Contact:	<a href="#">Justin Kirnon</a> , (678) 686-6255
Related Bills:	
Subject Area:	Public Safety Municipal Powers
Resources:	<a href="#">bill text</a>   <a href="#">add to My Bills</a>   <a href="#">printer friendly format</a>

HB 875 is a comprehensive firearms bill which has four areas directly related to the operations of a municipality:

1. The legislation would allow persons with valid firearms licenses to enter government buildings if those structures are not restricted or screened by security during the hours the building is open for business.
2. The preemptions currently in place restricting city ordinances regulating firearms would be extended to preempt city's from regulating weapons, including knives, bats, nun chucks, throwing stars, stun guns, and tasers.
3. The power of city governing authorities to regulate the transport, carrying, or possession of firearms by employees of the city in the course of their employment would be limited by providing that the chief of police would have such authority over employees under his or her supervision.
4. Any person will be entitled to bring an action against a city if such person feels that the city has regulated firearms or weapons beyond the scope allowed under state law. The person would be entitled to attorneys' fees and expenses of litigation.

HB 875 would also lift the prohibitions on carrying weapons, including firearms, into public housing by permitted individuals and eliminate the prohibition of persons convicted of pointing a firearm at another person from obtaining a weapons carry license. Additionally, the legislation would allow boards of education to authorize school personnel to carry firearms at schools, define the training required, and set rules on how such firearms must be stored while on school grounds.

### **GMA Policy on Firearms on Public Property**

GMA is opposed to legislation that interferes with the ability of municipal officials to craft policies

### **Addendum 3**

governing whether firearms may be brought into municipal buildings or into municipal governmental proceedings, judicial proceedings and public meetings. GMA supports municipal law enforcement and believes that criminal laws are best enforced by properly trained law enforcement personnel.