

HOUSE BILL 74¹: RIDE SHARE NETWORK SERVICES AND TRANSPORTATION REFERRAL SERVICES;
DISALLOWING RIDE SHARE DRIVERS WHO ARE WEAPONS CARRY LICENSE HOLDERS FROM CARRYING
OR POSSESSING WEAPONS IN A VEHICLE THAT IS USED FOR THE PURPOSE OF THE RIDE SHARE
NETWORK SERVICE; PROHIBIT

Amending O.C.G.A. § 40-1-190

First signature: Representative Scot Turner (21st)

Co-Sponsors: Representative Heath Clark (147th), Representative Alan Powell (32nd),
Representative Jason Ridley (6th), Representative Joseph Gullett (19th), Representative Marc
Morris (26th)

Summary: The purpose of this Bill is “[t]o amend Part 4 of Article 3 of Chapter 1 of Title 40 of the Official Code of Georgia Annotated, relating to ride share network services and transportation referral services, so as to prohibit ride share network services from disallowing ride share drivers who are weapons carry license holders from carrying or possessing weapons in a vehicle that is used for purposes of the ride share network service; to provide for a definition; to provide for related matters; to repeal conflicting laws; and for other purposes.”²

Status: House Second Readers, January 30, 2019.³

TEXT OF HOUSE BILL 74⁴

SECTION 1.

Part 4 of Article 3 of Chapter 1 of Title 40 of the Official Code of Georgia Annotated, relating to ride share network services and transportation referral services, is amended by adding a new paragraph to Code Section 40-1-190, relating to definitions, to read as follows:

“(9) ‘Weapon’ shall have the same meaning as provided for in Code Section 16-11-125.1.”

SECTION 2.

Said part is further amended by revising subsection (c) of Code Section 40-1-193, relating to ride share network service registration requirement, licensure, required list of all ride share drivers,

¹ H.B. 74, 154th Gen. Assemb., 1st Reg. Sess. (Ga. 2019), available at <http://www.legis.ga.gov/Legislation/20192020/179848.pdf> (last visited Nov. 10, 2019).

² *Id.*

³ 2019-2020 Regular Session-HB 74, *Ride share network services and transportation referral services; disallowing ride share drivers who are weapons carry license holders from carrying or possessing weapons in a vehicle that is used for purposes of the ride share network service; prohibit*, GA. GEN. ASSEMB., <https://www.legis.ga.gov/legislation/54364> (last visited Nov. 10, 2019) [hereinafter H.B. 74 Status Sheet].

⁴ H.B. 202.

additional requirements for ride share network service businesses and drivers, and law enforcement access to digital information in smartphone of driver, as follows:

- “(c) Each ride share network service doing business or operating in this state shall:
- (1) Take all necessary steps to determine that each driver contracted with such ride share network service possesses and maintains any required permits or licenses required by the federal government or this state;
 - (2) Ensure that each driver utilized by such ride share network service, whether such driver is employed directly by the ride share network service or operates as an independent contractor, has a current for-hire license endorsement or current private background check certification pursuant to Code Section 40-5-39;
 - (3) Have a zero tolerance policy with regard to the use of drugs or alcohol while on duty in place for drivers contracted with such ride share network service;
 - (4) Have for each ride share driver contracted with such ride share network service in this state insurance coverage in effect with respect to personal injury liability, property damage liability, and personal injury protection liability benefits available to drivers, passengers, pedestrians, and others in the same coverage amounts as required by law; ~~and~~
 - (5) Comply with the provisions of Code Section 40-8-7. No vehicle inspections shall be required for vehicles used by ride share drivers; ~~and~~
 - (6) Not prohibit any ride share driver who is a weapons carry license holder pursuant to Code Section 16-11-129 from carrying or possessing a weapon in a vehicle that is used by such ride share driver for purposes of the ride share network service.”

SECTION 3.

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

SPONSOR’S RATIONALE

Representative Scot Turner sponsors House Bill 74, which would prohibit any RideShare service, predominantly Uber and Lyft, from disallowing licensed weapons carriers from having firearms in the vehicle they use for RideShare driving. Turner’s primary motivation in authoring this bill was to protect the Georgia RideShare drivers.⁵ In Turner’s opinion, drivers are “soft targets” for potential criminal activity due to the new regulations requiring Uber and Lyft drivers to have a sticker advertising that they drive for Uber or Lyft displayed on the driver’s side of the vehicle’s rear window.⁶ Anytime an area is labeled a “gun-free zone” in this way, Turner believes there is a spike in violence.⁷ Turner is advocating for the RideShare driver and stands by the belief that if a criminal knows or believes that there is a possibility that RideShare drivers may be armed,

⁵ Maya T. Prabhu, *North Georgia Lawmakers Wants to Allow Uber, Lyft Drivers to Carry Guns*, THE ATLANTA JOURNAL-CONSTITUTION (Jan 29, 2019), available at <https://www.ajc.com/news/state--regional-govt--politics/north-georgia-lawmaker-wants-allow-uber-lyft-drivers-carry-guns/uscsU3t64ajKfFu7eome7H/#>.

⁶ *Id.*

⁷ Telephone Interview with Representative Scot Turner, Georgia House of Representatives (Oct. 3, 2019) [hereinafter Turner Interview].

they are less likely to attack the driver.⁸ He argues that “by allowing a rideshare driver to exercise their Second Amendment right to carry within their property, [it will] reduce the amount of violent conflict that we’re seeing right now.”⁹ Turner is alluding to an incident in Woodstock Georgia, in which a passenger threatened an Uber driver when the driver would not hand over his windshield mounted camera.¹⁰

Turner emphasizes that a RideShare driver is not an employee of Uber or Lyft, and therefore should not be subjected to policies or regulations synonymous of an employer-employee relationship.¹¹ For Turner, whether a company can implement its own policies without legislative interference is not an issue with this bill because Uber and Lyft do not brand themselves as taxi services.¹² On the contrary, they are branded as technology companies, and signing up for a technology service should not result in a forfeiture of one’s Second Amendment rights.¹³

Turner believes that RideShare drivers are exposed to this risk of violence from riders because of Uber and Lyft’s corporate policy.¹⁴ For this reason, he believes this risk then becomes a problem for the Georgia legislators to solve.¹⁵ Because the legislature is concerned with public safety, Turner believes that a corporation’s interest should balance with the public safety interest.¹⁶

⁸ *Id.*

⁹ Thomas Hartwell, *Local Representative Proposing Bill to Arm Ride-Share Drivers*, CHEROKEE TRIBUNE & LEDGER-NEWS (Feb. 1, 2019), available at https://www.tribuneledgernews.com/ledger/local-representative-proposing-bill-to-arm-ride-share-drivers/article_58120e32-2667-11e9-8056-1ffb0320261f.html (last visited Nov. 10, 2019).

¹⁰ Thomas Hartwell, *Woodstock Dentist Charged with Assault in Connection to Rideshare Incident; Driver Says He May Not Continue with Uber*, CHEROKEE TRIBUNE & LEDGER-NEWS (Jan. 7, 2019), available at https://www.tribuneledgernews.com/ledger/woodstock-dentist-charged-with-assault-in-connection-to-rideshare-incident/article_648ea7fa-12b8-11e9-947b-1f58d51a393a.html (last visited Nov. 10, 2019).

¹¹ Hartwell, *supra* note 9.

¹² *Id.*

¹³ *Id.* Georgia has a strong history of underpinning the 2nd Amendment to arguably controversial policy decisions, like the Safe Carry Protection Act which passed July 1, 2017. Ga. Code Ann. § 16-11-127.1 (West) (*See also* Eric Sturgus, *Professors Ask Court to Overturn Georgia’s Campus Carry Law*, THE ATLANTA JOURNAL-CONSTITUTION (Sep. 26, 2017), <https://www.ajc.com/news/local-education/professors-ask-court-overturn-georgia-campus-carry-law/ej36qbMWOWASF6OdIOJiEM/>). And in response to “unconstitutional” gun control laws around the Country, (like “red flag laws” which allow authorities to revoke gun rights of those deemed a danger to themselves, weapons bans, and universal background checks), Spalding County Sheriff Darrell Dix said that no local, state, or federal authority would compel him to take the guns of Georgia citizens. (WGXA Digital News Staff, *Georgia Sheriff ‘Would Rather Resign’ than Take Your Guns Away*, WGXA NEWS (Jan. 22, 2020), available at <https://wgxa.tv/news/local/georgia-sheriff-would-rather-resign-than-take-your-guns-away>). The history of Georgia’s staunch support of the 2nd Amendment can be traced all the way back to the Supreme Court of Georgia in 1846 with Judge Lumpkin’s decision in *Nunn v. State*, 1 GA. 243, 251 (1846), where the Court invalidated a concealed carry statute that had been passed to protect against the prevalent use of deadly weapons and to control the newly freed African American population. (*See* Emily Cureton and Celeste Headlee, *A History of Guns in Georgia*, GEORGIA PUBLIC BROADCASTING (Oct. 25, 2017), available at <https://www.gpbnews.org/post/history-guns-georgia>). This case is still cited in modern courts as precedent. *Id.*

¹⁴ Uber Vehicle Requirements, UBER, available at <https://www.uber.com/drive/atlanta/vehicle-requirements/>.

¹⁵ Hartwell, *supra* note 9.

¹⁶ *Id.* Turner is not the only Georgia Legislator who has argued gun rights are superior to internal policies promulgated by a company; in 2018, Republican Senators from Georgia proposed to end the tax break to Delta Airlines in response to Delta’s policy to end its discount program for National Rifle Association (NRA) members in wake of the Parkland, Florida school-shooting. (Bart Jansen, *Georgia Conservatives Threaten Delta Tax Break after Airline Cut Ties with the NRA*, USA TODAY (Feb. 26, 2018), available at <https://www.usatoday.com/story/news/2018/02/26/georgia-senate-stalls-delta-tax-break-dispute-over-discounted-fare-agreement-nra/374215002/>). Ultimately the tax break on Delta was not suspended, but the issue of whether Legislators could parade the 2nd Amendment to curtail a company’s

Finally, the preservation of the Second Amendment for Georgians is also a purpose for sponsoring this bill. Turner believes that most Georgia RideShare drivers already exert their Second Amendment rights to bear arms while driving, and therefore this bill would allow those drivers to do so without fear of Uber or Lyft cancelling their RideShare accounts.¹⁷

OPPOSITION'S RATIONALE

Dorothy Leone Glasser, with the Georgia Coalition for Safe Communities (GCSC), is concerned about this bill and questions *who* the bill is really protecting.¹⁸ Glasser wonders if in lieu of protection for RideShare drivers, this bill will promote vigilante taxi drivers instead.¹⁹ Whether the bill poses a greater risk to the driver or rider may be the threshold inquiry, but ultimately Glasser believes the more pressing problem is that the bill serves as a potential for an increase in gun violence in an already gun-crazed state.²⁰

Glasser sees the gun violence in this State as a public health crisis, which is endangering the health of Georgian communities.²¹ For this reason, having more guns available is not the answer to empowering or protecting Georgia citizens.²² Glasser therefore argues that Georgia legislators should be focused on adopting gun restrictions rather than pushing for guns in the hands of RideShare drivers.²³ Accordingly, Glasser's work with the GCSC is focused on promoting awareness to "Georgia's gun problem" by providing research and data to lawmakers on gun violence through the same channel as if it were a public health crisis.²⁴ Believing that if the same public health research is applied to study causes and effects of diseases such as cancer or HIV, or other forms of violence as child abuse and sexual violence, Glasser believes that legislators could develop and apply strategies to help reduce gun violence in Georgia.²⁵

policies was raised, and Lt. Gov. Cagle, (a Republican Senator) stated: "Businesses have every legal right to make their own decisions, but the Republican majority in our state legislature also has every right to govern guided by our principles." (Scott Neuman, *Georgia Lawmakers Punish Delta Air Lines over NRA Feud*, NATIONAL PUBLIC RADIO (March 2, 2018), available at <https://www.npr.org/sections/thetwo-way/2018/03/02/590149921/georgia-lawmakers-punish-delta-air-lines-over-nra-feud>). Though Delta remains in Atlanta despite the threats made by the Republican Senators, the issue of whether Georgia was really a "pro-business" state was certainly raised. (See Richard Fausset, *Georgia Passes Bill that Stings Delta over N.R.A. Position*, THE NEW YORK TIMES (Mar. 1, 2018), available at <https://www.nytimes.com/2018/03/01/business/delta-nra-georgia.html>). (See also Barrett Holmes Pitner, *In Punishing Delta, Georgia GOP Chooses Guns and White Privilege Over Progress*, DAILY BEAST (Mar. 2, 2018), available at <https://www.thedailybeast.com/in-punishing-delta-georgia-gop-chooses-guns-and-white-privilege-over-progress>).

¹⁷ Turner Interview, *supra* note 7.

¹⁸ Telephone Interview with Dorothy L. Glasser, Coalition Partner, Georgia Coalition for Safe Communities (Oct. 5, 2019)(emphasis added) [hereinafter Glasser Interview].

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ Judith Kim, *2nd Amendment Part D: Perspectives from Dorothy Leone-Glasser*, THE AVANT-YOUTH (Sep. 26, 2019 at 5:42 A.M.), available at <https://avantyouth.com/2nd-amendment-part-e-perspectives-from-a-healthcare-advocate/?fbclid=IwAR11J3uGpVJPI6IEFYerGp27q6pht3rYVFGIvHyESmQwyuSTSaSKOpfy0nU> (last visited Nov. 10, 2019).

²⁴ Glasser Interview, *supra* note 18.

²⁵ *Id.* Glasser equates gun violence in the same vein as a public health crisis; in doing so she is basing her opinions on 2018 polls by the University of Georgia that 90% of likely Democratic primary voters and 45% of likely Republican primary voters favored sticker laws governing the sale of firearms in Georgia. (See ADVOCATES FOR RESPONSIBLE CARE, GEORGIA COALITION FOR SAFE COMMUNITIES, available at

Policies considering the effects on law enforcement should also be considered, Glasser believes, as RideShare drivers with guns may likely cause more problems for police officers when pulling over drivers.²⁶ Arguing again from a safety perspective, Glasser believes that if every RideShare driver may be armed, police officers are posed with enhanced risks to their safety.²⁷

Other Georgia organizations believe that passing this bill will change very little of the established conduct of Georgia RideShare drivers. Austin Gates, Director of RideShare Drivers United Georgia, is opposed to the bill not only for the safety concerns it raises, but also because he believes its effects will be minimal in increasing the number of drivers carrying firearms.²⁸ In Gates's opinion, the bill will not have any substantial impact because a large amount of Georgia RideShare drivers already carry guns while driving in their RideShare vehicles.²⁹

Glasser and Gates also agree that this bill may pose a specific threat to minority RideShare drivers.³⁰ In their opinion, giving RideShare drivers the ability to bring firearms into their vehicle, coupled with the potential of encountering a law enforcement officer at a traffic stop, could lead to a violent encounter, as the police can now presume that the RideShare driver would be armed.³¹

IMPLICATIONS IN GEORGIA

If passed, this bill would not only allow RideShare drivers who are licensed carry holders to bring their firearms into their vehicles used for the RideShare, but also would prevent any contrary prohibitions in the rules for drivers established by the RideShare platform.

There will remain concern over questions about whether the RideShare drivers need *more* protection than the RideShare passengers, as some Georgia constituencies have asserted, and what kind of protection is actually needed.³² Uber's expansive 2017 and 2018 national safety report, for example, states that of 235 sexual assaults reported by Uber passengers in 2018, 55% involved drivers, rather than passengers, as the reported assailants.³³

The passing of this bill would also raise the issue of how far lawmakers are willing to go in intervening in workplace policy-making by private-employers, particularly those who operate nationwide, and therefore can face many different state legislative impacts on their fundamental policies and procedures for employees.³⁴

we-are-about/georgia-coalition-safe-communities). Glasser and the GCSC believe that the majority of Georgians favor a safer community, which infers a gun *free* community. *Id.*

²⁶ Glasser Interview, *supra* note 18.

²⁷ *Id.*

²⁸ Telephone Interview with Austin Gates, Director, RideShare Drivers United Georgia (Oct. 8, 2019).

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.* Both Glasser and Gates are concerned about the many violent incidents around the Country involving Police Officers shooting unarmed African American males. (See Josh Hafner, *Police Killings of Black Men in the U.S. and What Happened to the Officers*, USA TODAY (Mar. 30, 2018), available at <https://www.usatoday.com/story/news/nation-now/2018/03/29/police-killings-black-men-us-and-what-happened-officers/469467002/>).

³² Glasser Interview, *supra* note 18 (emphasis added).

³³ Stephanie Gosk, *Uber Reveals Extent of Sexual Assault Problem: Thousands of Reports a Year*, NBC NEWS (Dec. 5, 2019), available at <https://www.nbcnews.com/news/us-news/uber-reveals-widespread-sexual-assault-problem-including-hundreds-reports-rape-n1096411> (last visited Nov. 10, 2019).

³⁴ Amber Phillips, *Georgia Republicans are Crossing an Ethically Murky Line by Threatening Delta over its NRA Boycott*, THE WASHINGTON POST (Feb. 27, 2018), available at <https://www.washingtonpost.com/news/the->

LEGISLATIVE GENEALOGY

This bill was introduced in the House hopper on January 28, 2019.³⁵ It had its first reading in the House on January 29, 2019.³⁶ The House second readers took place on January 30, 2019.³⁷ It was assigned to the Public Safety Homeland Security Committee.³⁸

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[fix/wp/2018/02/27/georgia-republicans-are-crossing-an-ethically-murky-line-by-threatening-delta-over-its-nra-boycott/](https://www.legis.ga.gov/legis/2018/02/27/georgia-republicans-are-crossing-an-ethically-murky-line-by-threatening-delta-over-its-nra-boycott/) (last visited Nov. 10, 2019).

³⁵ H.B. 74 Status Sheet.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*