




ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

**HB 3477**  
**STATEMENT OF FINDING**

State of Georgia

Pursuant to its duty<sup>1</sup> under House Bill 3477, this office has determined that a background check of each applicant for a license issued<sup>2</sup> by the State of Georgia is conducted by Georgia or its local authorities<sup>3</sup>, or an agent of the State of Georgia or its local authorities, before the license is issued to determine the applicants' eligibility to possess a firearm under federal law.<sup>4</sup>

  
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<sup>1</sup> "(...) (b) The governor shall negotiate an agreement with any other state that provides for the issuance of a license to carry a concealed handgun under which a license issued by the other state is recognized in this state or shall issue a proclamation that a license issued by the other state is recognized in this state *if the attorney general of the State of Texas determines that a background check of each applicant for a license issued by that state is conducted by state or local authorities or an agent of the state or local authorities before the license is issued to determine the applicants' eligibility to possess a firearm under federal law.* (...)") Tex. H.B. 3477, 78<sup>th</sup> Leg., R.S. (2003), sec. 1 (now codified at TEX. GOV'T CODE § 411.173 (b)).

<sup>2</sup> See GA. CODE ANN. § 16-11-129 ("License to Carry Pistol or Revolver; Temporary Renewal Permit")

<sup>3</sup> GA. CODE ANN. § 16-11-129(a) ("*The judge of the probate court of county may (...) issue a license valid for a period of five years to any person whose domicile is in that county (...)* Applicants shall submit the application for a license to the judge of the probate court (...). (Emphasis added.) See also GA. CODE ANN. § 16-11-129(c)(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...") See also GA. CODE ANN. § 16-11-129(d) ("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 (...) of any findings relating to the applicant which may bear on his eligibility for a license under the terms of this Code section. (...).")

<sup>4</sup> Georgia law does not require an applicant to be eligible under federal law in order for the applicant to be eligible for a Georgia license; however, the Bureau of Alcohol, Tobacco and Firearms (BATF) has determined that a Georgia License to Carry a Pistol or Revolver qualifies as a "Brady Alternative" to a background check in a firearms sale, a designation not given by the BATF unless the state, among other prerequisites, performs a full NICS check (i.e., NCIC, III, and NICS Index databases) and denies license applicants based on federal law disqualifiers. Therefore, the existence of "Brady Alternative" status is evidence that eligibility is being determined under federal law, as Texas law on handgun reciprocity requires.

**MEMORANDUM OF AGREEMENT**

between

**The State of Texas**

and

**The State of Georgia**

concerning Handgun License Reciprocity for Concealed Carry

**WHEREAS**, the State of Texas has the authority to issue a Concealed Handgun License pursuant to V.T.C.A. Government Code § 411, Subchapter H; and

**WHEREAS**, the State of Georgia has the authority to issue a License to Carry a Pistol or Revolver pursuant to Georgia Code § 16-11-129, which allows a license holder to carry concealed pursuant to Georgia Code § 16-11-126 (c); and

**WHEREAS**, the State of Texas is authorized to recognize the validity of a nonresident concealed handgun license if the Texas Attorney General determines that a background check of each applicant for a license issued by the other state is conducted by state or local authorities, or agent thereof, before the license is issued to determine the applicants' eligibility to possess a firearm under the Federal Gun Control Act (18 U.S.C. § 922); and

**WHEREAS**, the Texas Attorney General has made such affirmative determination, as detailed below\*, with respect to the State of Georgia; and

**WHEREAS**, the State of Texas is therefore authorized to recognize the validity, except as limited below\*\*, of a Georgia License to Carry a Pistol or Revolver pursuant to V.T.C.A. Government Code § 411.173 (b); and

**WHEREAS**, the State of Georgia is authorized, pursuant to Georgia Code § 16-11-126 (e), to recognize a valid license from a state whose laws recognize and give effect within such state to a license issued under Georgia Code, Title 16, Chapter 11, Article 4, Part 3; and

**WHEREAS**, the laws of the State of Texas allow the State of Texas to recognize and give effect to valid Georgia licenses for the purpose of concealed carry; and

**WHEREAS**, Handgun License reciprocity between Texas and Georgia is thus supported by the laws of both states;

**NOW, THEREFORE**, the parties do hereby agree as follows:

1. The State of Texas shall give full faith and credit to a valid License to Carry a Pistol or Revolver issued by the State of Georgia, except as limited below\*\*; and
2. The State of Georgia affirms that Georgia Code § 16-11-126 (e) will operate to give full faith and credit to a valid Concealed Handgun License issued by the State of Texas as long as the Texas license holder is not a resident of Georgia; and


3. Persons carrying a concealed firearm pursuant to this Agreement shall comply with the applicable concealed carry laws, rules and regulations of the respective states.

4. The state of Texas and the State of Georgia will inform each other of any changes to their respective weapons statutes that may affect the eligibility of the recognition granted by each state pursuant to this Memorandum.

**\* The affirmative determination made by the Texas Attorney General is based solely on the status of Georgia's concealed carry license as a "Brady Alternative" to a gun sale background check as determined by the Bureau of Alcohol, Tobacco and Firearms (BATF) (a status that requires that license eligibility determinations be made based on federal law), given that Georgia's statute does not otherwise evidence that applicants must be eligible to possess a firearm under federal law. Therefore, this Memorandum of Agreement is contingent upon the continued status of Georgia's concealed carry license as a "Brady Alternative" as determined by the BATF.**

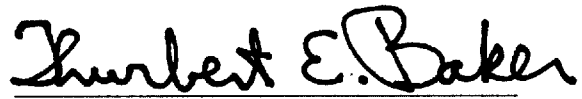
**\*\* The recognition in Texas of a valid Georgia License to Carry a Pistol or Revolver is for the purpose of concealed (not open) carry, in accordance with Texas law.**

This Memorandum of Agreement becomes effective on the date of the final signature and shall continue in effect unless modified by mutual written consent, or terminated by either state upon thirty (30) days' written notice. This document is not intended to limit or restrict the statutory authority or jurisdiction of either state.

  
RICK PERRY

Governor of Texas

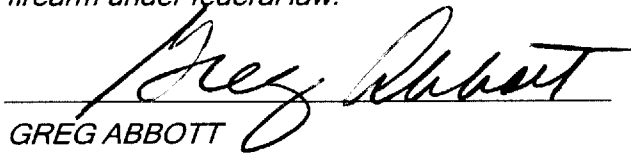
DATE 11/22/04

  
THURBERT E. BAKER

Georgia Attorney General

DATE 11/15/04

*I hereby certify\* that a background check of each applicant for a license issued by the State of Georgia is conducted by Georgia or its local authorities, or an agent of the State of Georgia or its local authorities, before the license is issued to determine the applicants' eligibility to possess a firearm under federal law.*

  
GREG ABBOTT

Attorney General of Texas