

House Bill 1090

By: Representatives Momtahan of the 17th, Gullett of the 19th, Kelley of the 16th, Jasperse of the 11th, Powell of the 32nd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
2 taxation, so as to enhance the manufacturing investment tax credit for small arms and
3 ammunition manufacturers; to provide for a new tax credit for expenses incurred by a small
4 arms and ammunition manufacturers in Georgia related to increased production of new lines
5 of firearms; to exempt sales of firearms, ammunition, and firearm safety equipment; to
6 exempt charges for admission to firearm safety training courses and to gun ranges; to exempt
7 charges for initiation and membership to certain clubs or organizations for firearms training
8 or shooting sports; to provide for definitions; to provide for a short title; to provide for related
9 matters; to provide for an effective date and applicability; to repeal conflicting laws; and for
10 other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 This Act shall be known and may be cited as the "Homeowner Defense Act."

SECTION 2.

14
15 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
16 amended in Code Section 48-7-40.2, relating to tax credits for existing manufacturing and
17 telecommunications facilities in tier 1 counties, by adding a new paragraph to subsection (a)
18 and by revising subsection (b) as follows:

19 "(8) 'Small arms and ammunition manufacturer' means a manufacturer which is or may
20 be classified under the North American Industry Classification System with a six-digit
21 North American Industry Classification System code for a product produced at a facility
22 with code numbers 332992 or 332994, as they are defined on January 1, 2022.

23 (b)(1) Except as provided in paragraph (2) of this subsection, in ~~In~~ the case of a taxpayer
24 which has operated for the immediately preceding three years an existing manufacturing
25 or telecommunications facility or a manufacturing or telecommunications support facility
26 in this state in a tier 1 county designated pursuant to Code Section 48-7-40, there shall
27 be allowed a credit against the tax imposed under this article in an amount equal to 5
28 percent of the cost of all qualified investment property purchased or acquired by the
29 taxpayer in such year, subject to the conditions and limitations set forth in this Code
30 section. In the event such qualified investment property purchased or acquired by the
31 taxpayer in such year consists of recycling machinery or equipment, a recycling
32 manufacturing facility, pollution control or prevention machinery or equipment, a
33 pollution control or prevention facility, or the conversion from defense to domestic
34 production, the amount of such credit shall be equal to 8 percent.

35 (2) In the case of a taxpayer which is a small arms and ammunition manufacturer that has
36 operated for the immediately preceding three years an existing manufacturing facility or
37 a manufacturing support facility in this state in a tier 1 county designated pursuant to
38 Code Section 48-7-40, there shall be allowed a credit against the tax imposed under this
39 article in an amount equal to 50 percent of the cost of all qualified investment property

40 purchased or acquired by the taxpayer in such year, subject to the conditions and
41 limitations set forth in this Code section."

42 **SECTION 3.**

43 Said title is further amended in Code Section 48-7-40.3, relating to tax credits for existing
44 manufacturing and telecommunications facilities in tier 2 counties, by adding a new
45 paragraph to subsection (a) and by revising subsection (b) as follows:

46 "(8) 'Small arms and ammunition manufacturer' means a manufacturer which is or may
47 be classified under the North American Industry Classification System with a six-digit
48 North American Industry Classification System code for a product produced at a facility
49 with code numbers 332992 or 332994, as they are defined on January 1, 2022.

50 (b)(1) Except as provided in paragraph (2) of this subsection, in ~~in~~ the case of a taxpayer
51 which has operated for the immediately preceding three years an existing manufacturing
52 or telecommunications facility or manufacturing or telecommunications support facility
53 in this state in a tier 2 county designated pursuant to Code Section 48-7-40, there shall
54 be allowed a credit against the tax imposed under this article in an amount equal to 3
55 percent of the cost of all qualified investment property purchased or acquired by the
56 taxpayer in such year, subject to the conditions and limitations set forth in this Code
57 section. In the event such qualified investment property purchased or acquired by the
58 taxpayer in such year consists of recycling machinery or equipment, a recycling
59 manufacturing facility, pollution control or prevention machinery or equipment, a
60 pollution control or prevention facility, or the conversion from defense to domestic
61 production, the amount of such credit shall be equal to 5 percent.

62 (2) In the case of a taxpayer which is a small arms and ammunition manufacturer that has
63 operated for the immediately preceding three years an existing manufacturing facility or
64 a manufacturing support facility in this state in a tier 2 county designated pursuant to
65 Code Section 48-7-40, there shall be allowed a credit against the tax imposed under this

66 article in an amount equal to 40 percent of the cost of all qualified investment property
67 purchased or acquired by the taxpayer in such year, subject to the conditions and
68 limitations set forth in this Code section."

69 **SECTION 4.**

70 Said title is further amended in Code Section 48-7-40.4, relating to tax credits for existing
71 manufacturing and telecommunications facilities or manufacturing and telecommunications
72 support facilities in tier 3 or 4 counties, by adding a new paragraph to subsection (a) and
73 revising subsection (b) as follows:

74 "(7) 'Small arms and ammunition manufacturing' means a manufacturer which is or may
75 be classified under the North American Industry Classification System with a six-digit
76 North American Industry Classification System code for a product produced at a facility
77 with code numbers 332992 or 332994, as they are defined on January 1, 2022.

78 (b)(1) Except as provided in paragraph (2) of this subsection, in ~~In~~ the case of a taxpayer
79 which has operated for the immediately preceding three years an existing manufacturing
80 or telecommunications facility or manufacturing or telecommunications support facility
81 in this state in a tier 3 or a tier 4 county designated pursuant to Code Section 48-7-40,
82 there shall be allowed a credit against the tax imposed under this article in an amount
83 equal to 1 percent of the cost of all qualified investment property purchased or acquired
84 by the taxpayer in such year, subject to the conditions and limitations set forth in this
85 Code section. In the event such qualified investment property purchased or acquired by
86 the taxpayer in such year consists of recycling machinery or equipment, a recycling
87 manufacturing facility, pollution control or prevention machinery or equipment, a
88 pollution control or prevention facility, or the conversion from defense to domestic
89 production, the amount of such credit shall be equal to 3 percent.

90 (2) In the case of a taxpayer which is a small arms and ammunition manufacturer that has
91 operated for the immediately preceding three years an existing manufacturing facility or

92 a manufacturing support facility in this state in a tier 3 or a tier 4 county designated
93 pursuant to Code Section 48-7-40, there shall be allowed a credit against the tax imposed
94 under this article in an amount equal to 30 percent of the cost of all qualified investment
95 property purchased or acquired by the taxpayer in such year, subject to the conditions and
96 limitations set forth in this Code section."

97 **SECTION 5.**

98 Said title is further amended by adding a new Code section to read as follows:

99 "48-7-40.31A.

100 (a) On and after January 1, 2023, each small arms and ammunition manufacturer as such
101 term is defined in Code Section 48-7-40.2, shall be allowed an income tax credit against
102 the tax imposed by this article in the amount of 11 percent of its total production
103 expenditures made in Georgia as a result of the manufacture of one or more new lines of
104 firearms in Georgia.

105 (b) The total amount of the tax credits allowed to a taxpayer pursuant to this Code section
106 for a taxable year shall not exceed such taxpayer's income tax liability or be applied against
107 the taxpayer's tax liabilities for prior years; however, such tax credits claimed pursuant to
108 this Code section, but not used in any taxable year, may be carried forward for five years
109 from the close of the taxable year in which the credits are claimed or may be sold or
110 transferred as provided in subsection (d) of this Code section.

111 (c) Tax credits claimed pursuant to this Code section but not used by the taxpayer against
112 its income tax may be transferred or sold one time to a single other Georgia taxpayer,
113 subject to the following conditions:

114 (1) Only the taxpayer that claimed tax credits allowed pursuant to this Code section shall
115 make the transfer or sale of such tax credits;

- 116 (2) The taxpayer that claimed the tax credits allowed pursuant to this Code section shall
117 submit to the commissioner written notification of any transfer or sale of tax credits
118 within 30 days after such transfer or sale. The notification shall include:
- 119 (A) Such taxpayer's credit balance prior to transfer;
 - 120 (B) The credit certificate number;
 - 121 (C) The remaining balance of credits after transfer;
 - 122 (D) The tax identification numbers for the transferee;
 - 123 (E) The date of transfer;
 - 124 (F) The amount of credits transferred; and
 - 125 (G) Other information as may be required by the department;
- 126 (3) Failure to comply with this subsection shall result in the disallowance of the tax
127 credits allowed pursuant to this Code section until the taxpayer that claimed the credits
128 is in full compliance;
- 129 (4) The transfer or sale of the tax credits does not extend the time during which such tax
130 credits can be used. The carry-forward period for tax credits that are transferred or sold
131 shall begin on the date on which such tax credits were originally claimed;
- 132 (5) A transferee shall have only such rights to claim and use the tax credits that were
133 available to the transferor at the time of the transfer, provided that a transferee shall not
134 be eligible to transfer or receive a refund of such tax credits. To the extent that the
135 transferor did not have rights to claim or use the tax credits at the time of the transfer, the
136 commissioner shall disallow the tax credits claimed by the transferee or recapture the tax
137 credits from the transferee or transferor. The transferee's recourse shall not be against the
138 commissioner; and
- 139 (6) The transferee must acquire the tax credits allowed pursuant to this Code section for
140 a minimum of 60 percent of the amount of the tax credits so transferred.
- 141 (d)(1) A taxpayer claiming, transferring, or selling tax credits allowed pursuant to this
142 Code section shall be required to reimburse the department for any department initiated

143 audits relating to the tax credits, provided that such amount shall not exceed the value of
144 the credits claimed by the taxpayer. This paragraph shall not apply to routine tax audits
145 of such taxpayer that may include the review of the tax credits provided in this Code
146 section.

147 (2) The commissioner may pursue all remedies available by law as necessary to
148 recapture tax credits wrongfully preapproved, allowed, or claimed by a taxpayer or a
149 taxpayer's transferee.

150 (e) The commissioner shall promulgate rules and regulations and forms necessary to
151 implement and administer the provisions of this Code section."

152 **SECTION 6.**

153 Said title is further amended in Code Section 48-8-3, relating to exemptions from sales and
154 use taxes, by revising paragraph (85) as follows:

155 "(85)(A) Sales of firearms and ammunition;

156 (B) Sales of firearm safety equipment, including gun safes, trigger locks, chamber
157 locks, and cable locks;

158 (C) Charges for admission to firearm safety training courses and gun ranges;

159 (D) Charges for initiation into and membership to a club or organization if such
160 membership provides the purchaser with the right to utilize a facility that is designed
161 primarily for firearms training or shooting sports and that is operated by such club or
162 organization Reserved;"

163 **SECTION 7.**

164 This Act shall become effective on January 1, 2023, and shall be applicable to purchases,
165 sales, expenditures, and acquisitions occurring on and after January 1, 2023.

166

SECTION 8.

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