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ATTORNEY AT LAW

April 29, 2008

The Hon. Sonny Perdue
Governor of the State of Georgia
State Capitol
Atlanta, GA 30334

RE: Letter to You from Charles Hoff re HB 89

Dear Gov. Perdue:

I am writing you on behalf of my client, GeorgiaCarry.Org, Inc., in response to the letter referenced above. Mr. Hoff wrote you on behalf of the Georgia Restaurant Association with a "legal analysis" of HB 89. GeorgiaCarry.Org, Inc. is the only organization in existence that represents the interests of gun owners specific to issues in Georgia. It currently has over 1,200 members.

What Mr. Hoff refers to as a legal analysis is, for the most part, a list of reasons why his client wishes you would veto the bill. I will address each of his concerns and explain why they do not constitute legitimate reasons for vetoing this very important bill.

1. **Fear Factor.** Mr. Hoff says restaurant employees "expressed a fear that guns in restaurants will affect their personal safety and well being." While people with Georgia firearms licenses no doubt do affect the safety and well being of everyone in restaurants by making them safer, what Mr. Hoff fails to acknowledge is that roughly 80% of the restaurants in Georgia (his client's members) do not sell alcohol for consumption on the premises. That means it is perfectly legal under current Georgia law for people with firearms licenses to carry guns in 80% of the restaurants in Georgia. So, only the employees of 20% of Mr. Hoff's client's members are even affected by HB 89.

   Mr. Hoff worries that restaurant employees will flee to jobs "at all the other office environments and businesses where guns are not permitted in the workplace." Again, Mr. Hoff overlooks the fact that current law does not prohibit guns in the large majority of "office environments and businesses." Only people who work in a place specifically listed as off-limits are prohibited by law from carrying guns to work. This would be, for the most part, government, tavern, and church employees, in addition to employees of the 20% of restaurants that serve alcohol. It is

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somewhat obvious that large numbers of servers, cooks, and dishwashers will not become church secretaries and bureaucrats.

Lastly under this item, Mr. Hoff thinks people will eat out less in the 20% of restaurants that serve alcohol if patrons are armed. Of course, he has not one iota of evidence what the net result will be if HB 89 becomes law. Many people may eat out more often if they are able to do so armed. Mr. Hoff also fails to consider the 37 states that allow people to carry guns in restaurants that serve alcohol, and the fact that their restaurants are not shutting their doors as a result.

2. **Enforcement.** Mr. Hoff refers to this item as "unlimited legal exposure to liability for restaurants." In essence, he worries about a non-issue. He assumes that the 20% of restaurants that serve alcohol will have to enforce the prohibition against alcohol consumption on armed patrons. Nothing in HB 89 turns restaurants into police. The 20% of restaurants that serve alcohol do not seem worried now about enforcing the current prohibition against patrons being armed at all. There is no reason to believe or assume they will have greater enforcement worries after HB 89 becomes law.

   Mr. Hoff conjures up non-existent liability for restaurateurs if patrons carry guns, but ignores the non-existence of liability for restaurateurs today if unarmed patrons are gunned down. The specific provision of law Mr. Hoff worries about enforcing is unchanged from current law. It currently is against the law for a person to carry a gun in a restaurant that serves alcohol and to consume alcohol. It still will be against the law if HB becomes law. Nothing changes. If Mr. Hoff's clients are not worried about enforcing current law, they need not worry about enforcing the provisions of HB 89.

3. **Public Confusion.** Mr. Hoff is worried that gun owners will not know whether particular restaurants are off-limits, because of the 50% rule. He tries to confuse matters by bringing up the issue of restaurants that stop serving food and become sports bars after hours. He assumes that the 50% test is applied in real time, which is of course ridiculous. The 50% rule already exists in the law as it relates to licenses to sell alcohol. A familiar application of that test is that taverns may not be open on Sundays. Restaurants that derive 50% of their revenue from food may. It does not matter how much alcohol compared to food is sold in a given hour, or even on a given Sunday, and Mr. Hoff ought to know that. Mr. Hoff adds to this argument his expectations of "deadly consequences," with no evidence of such consequences. We have the experience of a majority of states on this topic. Mr. Hoff's blood bath is fictitious.

4. **Lack of Deterrence.** Mr. Hoff is worried that drinking in a restaurant while armed is only a misdemeanor, and he believes that to be an inadequate deterrent. He ignores the fact that the criminal provision is unchanged. A person who carries a firearm into a restaurant that serves alcohol is guilty of carrying a firearm to a public gathering. Under HB 89, a person who carries a firearm into a restaurant that serves alcohol and drinks is guilty of carrying a firearm to a public gathering. Mr. Hoff does not explain why the current law, making it a misdemeanor to carry a firearm

into a restaurant that serves alcohol is sufficient, but will become inadequate when HB becomes law. He also does not explain why a greater deterrent is needed in restaurants that serve alcohol than in taverns (where it will remain a misdemeanor to carry a gun under HB 89).

5. **Constitutionality.** It is not clear if Mr. Hoff is making a veiled threat to challenge HB 89 in court when he describes his equal protection concern. He mistakenly refers to his clients as "targets" of HB 89 and somehow believes they will have a valid equal protection claim. It is astonishing that he is not the least bit concerned that his clients are targeted by current law, which prevents even restaurant owners from having a gun in their back offices while they count their cash, when convenience store owners are free to do so. Instead of targeting restaurants, HB 89 relieves restaurants from an unfair burden and allows them to decide for themselves whether to allow guns on their premises, just like other private property owners can do.

   Mr. Hoff just plain misstates the situation when he describes what he imagines is a "protected class" in his fictitious equal protection challenge. He claims that "no other merchants or retailers are subject to" HB 89. Surely he is aware that carrying guns ***already is allowed*** in the establishments of all other merchants and retailers besides taverns and the 20% of restaurants that serve alcohol. If any group of merchants is in a position to complain about HB 89, it is tavern owners. They alone, after HB 89 becomes law, will be the only group of merchants who cannot decide for themselves if firearms are allowed on their own property. Mr. Hoff will have a very difficult time indeed explaining to a court why it is a denial of equal protection to put the Applebee's owner in the same position as the Waffle House owner.

6. **Inaccurate Information.** Mr. Hoff claims he is "dispelling inaccurate information" that the majority of states allow license holders to carry guns in restaurants by pointing to one other state that does not allow it (Alaska). It is a fact that a large majority of states allow what Georgia does not. There is nothing inaccurate about it, and Mr. Hoff makes no attempt to refute it. Georgia is in the small minority of states that deprive certain restaurant owners and their patrons an opportunity to protect themselves.

7. **Private Property Rights.** Instead of recognizing that HB 89 restores restaurant owners' (the 20% that sell alcohol) property rights, Mr. Hoff invents an "unfunded government mandate." He fails to describe what that mandate is, but he astonishingly states that HB 89 ***limits*** property rights by forcing restaurateurs to choose who can carry a gun in their establishments. I am sure you agree with me that giving a property owner the right to make a choice that she currently does not have is an ***enlargement*** of property rights, not a ***limitation*** of them.

In his summary, Mr. Hoff makes several incorrect statements. First, he says the responsibility for protecting the lives and well being of citizens rests with law enforcement and not with citizens. That simply is not the case. The Supreme Court has ruled that police have no obligation to protect people.

Mr. Hoff also claims, again with no evidence, that "it is well established that mixing guns and alcohol almost always leads to negative unintended consequences." "Well established" apparently is the phrase Mr. Hoff uses as a euphemism for what Mr. Hoff wishes to be true. It should be noted that HB 89 does not mix guns and alcohol, because it continues to proscribe drinking in a restaurant while armed. Many states do not have even this prohibition, constituting a stark counterexample to Mr. Hoff's imagined "well established" fact.

GeorgiaCarry.Org urges you not to veto HB 89. HB 89 is the most important bill to restore gun rights to citizens in Georgia's history. As you know, the public gathering law was a Jim Crow law passed in response to a Republican protest against blacks' being ejected from the General Assembly after Reconstruction. This is an opportunity for you to help heal Georgia's racist past.

Sincerely,

John R. Monroe

CC: Charles Hoff, Esq.