

Senate Bill 259

By: Senators Mullis of the 53rd, Gooch of the 51st, Miller of the 49th and Harper of the 7th

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,
2 relating to dangerous instrumentalities and practices, so as to revise various laws pertaining
3 to firearms and the carrying and possession of firearms and other weapons; to revise data
4 base prohibition; to provide for a definition; to provide for causes of action; to provide for
5 a preemption for the discharge of firearms under certain circumstances; to amend Article 3
6 of Chapter 5 of Title 17 of the Official Code of Georgia Annotated, relating to disposition
7 of property seized, so as to revise requirements for the disposition of firearms in custody of
8 law enforcement agencies; to provide for causes of action; to provide for related matters; to
9 repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to
13 dangerous instrumentalities and practices, is amended by revising subsection (k) of Code
14 Section 16-11-129, relating to weapons carry license, gun safety information, temporary
15 renewal permit, mandamus, and verification of license, as follows:

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16 **"(k) Data base prohibition.**

17 (1) As used in this subsection, the term 'multijurisdictional' means between or among
 18 more than one department, agency, or office.

19 (2) A person or entity shall not create or maintain a multijurisdictional data base of
 20 information regarding persons issued or who have applied for weapons carry licenses.

21 (3) Any person aggrieved by a violation of this subsection may bring an action for relief.
 22 Such person who proves by a preponderance of the evidence that he or she is or was
 23 contained in such a multijurisdictional data base shall be entitled to obtain, in addition to
 24 appropriate declaratory or injunctive relief:

25 (A) \$100.00 or actual damages, whichever is greater; and

26 (B) Expenses of litigation, including costs and reasonable attorney's fees."

27

SECTION 2.

28 Said article is further amended by revising subsection (e) of Code Section 16-11-173, relating
 29 to legislative findings, preemption of local regulation and lawsuits, and exceptions, as
 30 follows:

31 "(e)(1) Except as provided for in paragraph (2) of this subsection, nothing ~~Nothing~~
 32 contained in this Code section shall prohibit municipalities, ~~or counties,~~ or consolidated
 33 governments, by ordinance or resolution, from reasonably limiting or prohibiting the
 34 discharge of firearms within the boundaries of the municipal corporation, ~~or county,~~ or
 35 consolidated government.

36 (2) No municipality, county, or consolidated government shall prohibit the discharge of
 37 firearms on a parcel of land that is ten acres or more in size provided that the owner or
 38 lawful occupants of such land consent to such discharging of firearms. Any such
 39 prohibition, by zoning, ordinance, resolution, or any other manner, is preempted."

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SECTION 3.

41 Article 3 of Chapter 5 of Title 17 of the Official Code of Georgia Annotated, relating to
42 disposition of property seized, is amended by revising subsection (g) of Code Section
43 17-5-54, relating to definitions and disposition of personal property in custody of law
44 enforcement agency, as follows:

45 "(g)(1) With respect to unclaimed firearms, if the sheriff, chief of police, agency director,
46 or designee of such official certifies that a firearm is unsafe because of wear, damage,
47 age, or modification or because any federal or state law prohibits the sale or distribution
48 of such firearm, at the discretion of such official, it shall be transferred to the Division of
49 Forensic Sciences of the Georgia Bureau of Investigation, a municipal or county law
50 enforcement forensic laboratory for training or experimental purposes, or be destroyed.

51 (2) Otherwise, an unclaimed firearm:

52 (A) Possessed by a municipal corporation shall be disposed of as provided for in Code
53 Section 36-37-6; provided, however, that municipal corporations shall not have the
54 right to reject any bids or to cancel any proposed sale of such firearms, and all sales
55 ~~shall may~~ be to ~~persons~~ any person, but the transfer of such firearms shall only be to
56 persons, specified by the winning bidders, who are licensed as firearms collectors,
57 dealers, importers, or manufacturers under the provisions of 18 U.S.C. Section 921, et
58 seq., and who are authorized to receive such firearms under the terms of such license.
59 The municipal corporation shall dispose of all such firearms at least once every 12
60 months during any time in which the municipal corporation has an inventory of five or
61 more firearms. If a municipal corporation does not dispose of such firearms as required
62 by this Code section, a person interested in acquiring any such firearms may bring an
63 action in mandamus or other legal proceeding to compel the disposition. A person who
64 has been unable to acquire a firearm because of the municipal corporation's failure to
65 dispose of the firearm pursuant to this Code section shall, in addition to any other relief
66 to which he or she is entitled, be entitled to actual damages or \$100.00, whichever is

67 greater. A prevailing plaintiff in such an action shall be entitled to his or her costs,
68 including reasonable attorney's fees; or
69 (B) Possessed by the state or a political subdivision other than a municipal corporation,
70 shall be disposed of by sale at public auction. While any person may bid at auction, the
71 transfer of such firearms shall only be to persons, specified by the winning bidders, who
72 are licensed as firearms collectors, dealers, importers, or manufacturers under the
73 provisions of 18 U.S.C. Section 921, et seq., and who are authorized to receive such
74 firearms under the terms of such license. Auctions required by this subparagraph may
75 occur online on a rolling basis or at live events, but in no event shall such auctions
76 occur less frequently than once every 12 months during any time in which the political
77 subdivision or state custodial agency has an inventory of five or more saleable firearms.
78 If the state or a political subdivision other than a municipal corporation does not
79 dispose of such firearms as required by this Code section, a person interested in
80 acquiring any such firearms may bring an action in mandamus or other legal proceeding
81 to compel the disposition. A person who has been unable to acquire a firearm because
82 of the state or such political subdivision's failure to dispose of the firearm pursuant to
83 this Code section shall, in addition to any other relief to which he or she is entitled, be
84 entitled to actual damages or \$100.00, whichever is greater. A prevailing plaintiff in
85 such an action shall be entitled to his or her costs, including reasonable attorney's fees.
86 (3) If no bids from eligible recipients are received within six months from when bidding
87 opened on a firearm offered for sale pursuant to paragraph (2) of this subsection, the
88 firearm shall be transferred to the Division of Forensic Sciences of the Georgia Bureau
89 of Investigation, a municipal or county law enforcement forensic laboratory for training
90 or experimental purposes, or be destroyed."

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SECTION 4.

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