

Senate Bill 259

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

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."

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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, by ordinance or
33 resolution, from reasonably limiting or prohibiting the discharge of firearms within the
34 boundaries of the municipal corporation or county.

35 (2) The General Assembly declares it to be unreasonable for a municipality or county to
36 prohibit the discharge of firearms on a parcel of land that is ten acres or more in size with
37 the consent of the owner or lawful occupant of such land. Any such prohibition, by
38 zoning, ordinance, resolution, or any other manner, is preempted."

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SECTION 3.

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

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

50 (2) Otherwise, an unclaimed firearm:

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

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

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SECTION 4.

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