

House Bill 1009

By: Representative Byrd of the 20th

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 provide for protections against
3 the infringements on the right to keep and bear arms; to provide for a short title; to provide
4 for legislative findings and intent; to provide for definitions; to prohibit public officers or
5 employees from enforcing or providing assistance for the enforcement of federal laws or
6 actions relative to firearms, firearm accessories, and ammunition; to provide for causes of
7 action; to provide for hearings; to provide for civil penalties; to provide for attorney's fees
8 and costs; to waive sovereign immunity; to provide for applicability; 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 Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to
14 dangerous instrumentalities and practices, is amended by adding a new part to read as
15 follows:

H. B. 1009

16 "Part 6

17 16-11-180.

18 This part shall be known and may be cited as the 'Second Amendment Preservation Act.'

19 16-11-181.

20 The General Assembly finds and declares that:

21 (1) The General Assembly is firmly resolved to support and defend the Constitution of
22 the United States against every aggression, whether foreign or domestic, and is duty
23 bound to oppose every infraction of those foundational principles that constitute the basis
24 of the union of the states because only a faithful observance of those principles can secure
25 the union's existence and public happiness;

26 (2) Acting through the Constitution of the United States, the people of the several states
27 created the federal government to be their agent in the exercise of a few defined powers,
28 while reserving for the state governments the power to legislate on matters concerning
29 the lives, liberties, and properties of citizens in the ordinary course of affairs;

30 (3) The limitation of the federal government's power is affirmed under the
31 Tenth Amendment to the Constitution of the United States, which defines the total scope
32 of federal power as being that which has been delegated by the people of the several
33 states to the federal government, and all power not delegated to the federal government
34 in the Constitution of the United States is reserved to the states respectively or to the
35 people themselves;

36 (4) If the federal government assumes powers that the people did not grant it in the
37 Constitution of the United States, its acts are authoritative and of no force;

38 (5) The several states of the United States respect the proper role of the federal
39 government but reject the proposition that such respect requires unlimited submission.

40 If the government, created by a compact among the states, was the exclusive or final

41 judge of the extent of the powers granted to it by the states through the Constitution of
42 the United States, the federal government's discretion, and not the Constitution of the
43 United States, would necessarily become the measure of those powers. To the contrary,
44 as in all other cases of compacts among powers having no common judge, each party has
45 an equal right to judge for itself as to whether infractions of the compact have occurred,
46 as well as to determine the mode and measure of redress. Although the several states
47 have granted supremacy to laws and treaties made under the powers granted in the
48 Constitution of the United States, such supremacy does not extend to various federal
49 statutes, executive orders, administrative orders, court orders, rules, regulations, or other
50 actions which collect data or restrict or prohibit the manufacture, ownership, and use of
51 firearms, firearm accessories, or ammunition exclusively within the borders of this state;
52 such statutes, executive orders, administrative orders, court orders, rules, regulations, and
53 other actions exceed the powers granted to the federal government, except to the extent
54 that they are necessary and proper for governing and regulating the United States armed
55 forces or for organizing, arming, and disciplining militia forces actively employed in the
56 service of the United States armed forces;

57 (6) The people of the several states have given Congress the power 'to regulate
58 commerce with foreign nations, and among the several states,' but 'regulating commerce'
59 does not include the power to limit citizens' right to keep and bear arms in defense of
60 their families, neighbors, persons, or property, or to dictate what sort of arms and
61 accessories law-abiding citizens may buy, sell, exchange, or otherwise possess within the
62 borders of this state;

63 (7) The people of the several states have also granted Congress the power 'to lay and
64 collect taxes, duties, imports, and excises, to pay the debts, and provide for the common
65 defense and general welfare of the United States' and 'to make all laws which shall be
66 necessary and proper for carrying into execution the powers vested by the Constitution
67 of the United States in the government of the United States, or in any department or

68 office thereof.' These constitutional provisions merely identify the means by which the
69 federal government may execute its limited powers and shall not be construed to grant
70 unlimited power, because to do so would be to destroy the carefully constructed
71 equilibrium between the federal and state governments. Consequently, the General
72 Assembly rejects any claim that the taxing and spending powers of Congress may be used
73 to diminish in any way the right of the people to keep and bear arms;

74 (8) The General Assembly finds that the federal excise tax rate on arms and ammunition
75 in effect prior to January 1, 2024, which funds programs under the federal Wildlife
76 Restoration Act, does not have a chilling effect on the purchase or ownership of such
77 arms and ammunition;

78 (9) The people of this state have vested the General Assembly with the authority to
79 regulate the manufacture, possession, exchange, and use of firearms within the borders
80 of this state, subject only to the limits imposed by the Second Amendment to the
81 Constitution of the United States and Article I, Section I, Paragraph 8 of the Constitution
82 of Georgia; and

83 (10) The General Assembly strongly promotes responsible gun ownership, including
84 parental supervision of minors in the proper use, storage, and ownership of all firearms;
85 the prompt reporting of stolen firearms; and the proper enforcement of all state gun laws.
86 The General Assembly hereby condemns any unlawful transfer of firearms and the use
87 of any firearm in any criminal or unlawful activity.

88 16-11-182.

89 As used in this part, the term:

90 (1) 'Law-abiding citizen' means an individual who is not otherwise precluded under state
91 law from possessing a firearm and shall not be construed to include anyone who is not
92 legally present in the United States or the State of Georgia.

93 (2) 'Material aid' means and includes voluntarily giving or allowing others to make use
94 of lodging; communications equipment or services, including social media accounts;
95 facilities; weapons; personnel; transportation; clothing; or other physical assets. Material
96 aid shall not include giving or allowing the use of medicine or other materials necessary
97 to treat physical injuries or assistance provided to help persons escape a serious, present
98 risk of life-threatening injury.

99 16-11-183.

100 (a) No public officer or employee of this state or any political subdivision thereof shall
101 have the authority to enforce, attempt to enforce, or participate in any way in the
102 enforcement of any federal acts, executive orders, administrative orders, rules, regulations,
103 statutes, or ordinances regarding firearms, firearm accessories, or ammunition.

104 (b) No public office, public officer, or employee of this state or any political subdivision
105 thereof shall accede to a request to give material aid or support to the efforts of the other
106 in the enforcement of or implementation of any federal acts, executive orders,
107 administrative orders, rules, regulations, statutes, or ordinances regarding firearms, firearm
108 accessories, or ammunition.

109 16-11-184.

110 (a) Any political subdivision or law enforcement agency that employs a law enforcement
111 officer who knowingly violates Code Section 16-11-183 while acting under the color of
112 any state or federal law, shall be liable to the injured party in an action at law, suit in
113 equity, or other proper proceeding for redress and subject to a civil penalty of \$50,000.00
114 per occurrence.

115 (b) Any person injured under this Code section shall have standing to bring an action for
116 injunctive relief in the superior court of the county where the political subdivision or law
117 enforcement agency is located. The superior court shall hold a hearing upon the motion

118 for a temporary restraining order and preliminary injunction within 30 days of service of
119 the petition.

120 (c) In any action brought pursuant to this Code section, the court may award the prevailing
121 party, other than the State of Georgia or any political subdivision thereof, reasonable
122 attorney's fees and costs.

123 (d) Sovereign, official, or qualified immunity shall not be an affirmative defense in any
124 action brought pursuant to this Code section and is hereby waived.

125 16-11-185.

126 (a) Any political subdivision or law enforcement agency that knowingly employs an
127 individual acting or who previously acted as an official, agent, employee, or deputy of the
128 government of the United States, or otherwise acted under the color of federal law within
129 this state, who knowingly commits any of the following acts on or after July 1, 2024, shall
130 be subject to a civil penalty of \$50,000.00 per employee hired by the political subdivision
131 or law enforcement agency:

132 (1) Enforces, attempts to enforce, or participates in any manner in the enforcement or
133 implementation of any federal acts, executive orders, administrative orders, rules,
134 regulations, statutes, or ordinances regarding firearms, firearm accessories, or
135 ammunition; or

136 (2) Gives material aid or support to the efforts of another in the enforcement or
137 implementation of any federal acts, executive orders, administrative orders, rules,
138 regulations, statutes, or ordinances regarding firearms, firearm accessories, or
139 ammunition.

140 (b) Any person residing in a political subdivision of this state who believes that an
141 individual has taken action that would violate the provisions of this Code section shall have
142 standing to bring an action for such civil damages.

143 (c) Any person residing or conducting business in a jurisdiction in this state who believes
144 that an individual has taken action that would violate the provisions of this Code section
145 shall have standing to bring an action for injunctive relief in the superior court of the
146 county where the political subdivision or law enforcement agency is located.

147 (d) The court shall hold a hearing upon the motion for a temporary restraining order and
148 preliminary injunction within 30 days of service of the petition.

149 (e) In any action brought pursuant to this Code section, the court may award the prevailing
150 party, other than the State of Georgia or any political subdivision thereof, reasonable
151 attorney's fees and costs.

152 (f) Sovereign, official, or qualified immunity shall not be an affirmative defense in such
153 actions and is hereby waived.

154 16-11-186.

155 (a) Nothing in this part shall prohibit officials of this state from accepting aid from federal
156 officials for the enforcement of the laws of this state.

157 (b) Nothing in this part shall prohibit the aid to federal officials who are in pursuit of a
158 suspect when there is a demonstrable criminal nexus with another state or country and such
159 suspect is neither a citizen of this state nor is present in this state.

160 (c) Nothing in this part shall apply to the provision of material aid for a federal prosecution
161 for any violations comparable to felony violations of Chapter 5 of this title or felony
162 violations of Chapter 13 of this title relating to Schedule I and Schedule II controlled
163 substances, provided that a weapon was used in the commission of such crime."

164 **SECTION 2.**

165 This Act shall become effective on July 1, 2024, and shall be applicable to offenses
166 committed on and after such date.

167

SECTION 3.

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