

House Bill 1511

By: Representatives Jasperse of the 11th, Ballinger of the 23rd, Powell of the 33rd, Lott of the 131st, and Newton of the 127th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 41 of the Official Code of Georgia Annotated, relating to
2 general provisions relative to nuisances, so as to provide for the regulation of firearms,
3 ammunition, firearm supplies, and sport shooting ranges; to provide for definitions; to
4 provide for civil remedies; to provide for limitations; to provide for related matters; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 1 of Title 41 of the Official Code of Georgia Annotated, relating to general
9 provisions relative to nuisances, is amended by adding a new subsection to Code Section
10 41-1-9, relating to sport shooting ranges, to read as follows:

11 "41-1-9.

12 (a) As used in this Code section, the term:

13 (1) 'Person' means an individual, proprietorship, partnership, corporation, or
14 unincorporated association.

15 (2) 'Sport shooting range' or 'range' means an area designated and operated by a person
16 for the sport shooting of firearms and not available for such use by the general public

17 without payment of a fee, membership contribution, or dues or by invitation of an
18 authorized person, or any area so designated and operated by a unit of government,
19 regardless of the terms of admission thereto.

20 (3) 'Unit of government' means any of the departments, agencies, authorities, or political
21 subdivisions of the state, cities, municipal corporations, townships, or villages and any
22 of their respective departments, agencies, or authorities.

23 (b) No sport shooting range shall be or shall become a nuisance, either public or private,
24 solely as a result of changed conditions in or around the locality of such range if the range
25 has been in operation for one year since the date on which it commenced operation as a
26 sport shooting range. Subsequent physical expansion of the range or expansion of the types
27 of firearms in use at the range shall not establish a new date of commencement of
28 operations for purposes of this Code section.

29 (c) No sport shooting range or unit of government or person owning, operating, or using
30 a sport shooting range for the sport shooting of firearms shall be subject to any action for
31 civil or criminal liability, damages, abatement, or injunctive relief resulting from or relating
32 to noise generated by the operation of the range if the range remains in compliance with
33 noise control or nuisance abatement rules, regulations, statutes, or ordinances applicable
34 to the range on the date on which it commenced operation.

35 (d) No rules, regulations, statutes, or ordinances relating to noise control, noise pollution,
36 or noise abatement adopted or enacted by a unit of government shall be applied
37 retroactively to prohibit conduct at a sport shooting range, which conduct was lawful and
38 being engaged in prior to the adoption or enactment of such rules, regulations, statutes, or
39 ordinances.

40 (e) Nothing in this Code section shall prohibit a unit of government from bringing an
41 action against a sport shooting range, the owners or operators of a sport shooting range, or
42 the owners of real property on which a sport shooting range operates exclusively within the
43 unit of government's geographical limits, exclusive of its extraterritorial jurisdiction:

- 44 (1) For injunctive relief to enforce a valid rule, regulation, statute, or ordinance; or
45 (2) To require the sport shooting range to comply with generally accepted standards
46 followed by the sport shooting range industry in this state at the time of the sport shooting
47 range's construction."

48 SECTION 2.

49 Said chapter is further amended by adding new Code sections, to read as follows:

50 "41-1-9.1.

51 (a) As used in this Code section, the term:

52 (1) 'Claim' means any relief sought in a civil action, including all forms of monetary
53 recovery or injunctive relief.

54 (2) 'Claimant' means a person that seeks or has sought recovery of damages in a civil
55 action.

56 (3) 'Expert' means a person that:

57 (A) Gives opinion testimony about the appropriate standards of care and operation for
58 a sport shooting range, an owner or operator of a sport shooting range or the owner of
59 real property on which a sport shooting range is operated, or the causal relationship
60 between the injury, harm, or damages claimed and the alleged departure from the
61 applicable standards of care and operation for a range; and

62 (B) Is qualified to render opinions on the standards and causal relationship as provided
63 in Code Section 24-7-705.

64 (4) 'Expert report' means a written report by an expert that provides a fair summary of
65 the expert's opinions as of the date of the report regarding applicable standards of care for
66 operation of a sport shooting range, the manner in which a defendant failed to meet the
67 applicable standards or care and operation for a range, and the causal relationship
68 between that failure and the injury, harm, or damages claimed.

69 (5) 'Sport shooting range' or 'range' has the same meaning as provided in Code Section
70 41-1-9.

71 (b) Except as provided by subsection (c) of this Code section, a civil action may not be
72 brought against a sport shooting range, the owner or operator of a sport shooting range, or
73 the owner of the real property on which a sport shooting range is operated for recovery of
74 damages resulting from, or injunctive relief or abatement of a nuisance relating to, the
75 discharge of firearms.

76 (c) Nothing in this Code section prohibits a civil action against a sport shooting range, the
77 owner or operator of a sport shooting range, or the owner of the real property on which a
78 sport shooting range is operated for recovery of damages for:

79 (1) Breach of contract for use of the real property on which a sport shooting range is
80 located;

81 (2) Damage or harm to private property caused by the discharge of firearms on a sport
82 shooting range;

83 (3) Personal injury or death caused by the discharge of a firearm on a sport shooting
84 range; or

85 (4) Injunctive relief to enforce a valid rule, regulation, statute, or ordinance.

86 (d) Damages may be awarded, or an injunction may be obtained, in a civil action brought
87 under this Code section if the claimant shows by a preponderance of the evidence, through
88 the testimony of one or more experts, that the sport shooting range, the owner or operator
89 of the sport shooting range, or the owner of real property on which the sport shooting range
90 is operated deviated from the standards of care and operation for a range that are
91 reasonably expected of an ordinarily prudent sport shooting range owner or operator of a
92 sport shooting range, or owner of real property on which a sport shooting range is operated
93 in the same or similar circumstances.

94 41-1-9.2.
95 (a) In a suit against a sport shooting range, an owner or operator of a sport shooting range,
96 or the owner of real property on which a sport shooting range is operated, a claimant shall,
97 not later than 90 days after the date the original petition was filed, serve on each party or
98 the party's attorney one or more expert reports, together with a curriculum vitae of each
99 expert listed in the report for each defendant against whom a claim is asserted. The date
100 for serving the report may be extended by written agreement of the affected parties. Each
101 defendant whose conduct is implicated in a report shall file and serve any objection to the
102 sufficiency of the report not later than 21 days after the date the report is served or all
103 objections shall be waived.
104 (b) If an expert for the defendant has not been served within the period specified by
105 subsection (a) of this Code section, the court, on the motion of the affected defendant, shall,
106 subject to subsection (c) of this Code section, enter an order that:
107 (1) Awards to the affected defendant attorney's fees and costs of court incurred by the
108 defendant; and
109 (2) Dismisses the claim with prejudice with respect to the affected defendant.
110 (c) If an expert report has not been served within the period specified by subsection (a) of
111 this Code section because elements of the report are found to be deficient, the court may
112 grant one extension of not more than 30 days to the claimant to cure such deficiency. If
113 the claimant does not receive notice of the court's ruling granting the extension until after
114 the ninetieth day after the date the deadline has passed, then the 30 day extension shall run
115 from the date the plaintiff first received such notice.
116 (d) Notwithstanding any other provision of this Code section, a claimant may satisfy any
117 requirement of this Code section for serving an expert report by serving reports of separate
118 experts regarding different defendants or regarding different issues arising from the
119 conduct of a defendant, including issues of liability and causation. Nothing in this section
120 shall be construed to mean that a single expert must address all liability and causation

121 issues with respect to all defendants or with respect to both liability and causation issues
122 for a defendant.

123 (e) The court shall grant a motion challenging the adequacy of an expert report only if it
124 appears to the court, after a hearing, that such report does not represent an objective, good
125 faith effort to comply with the requirements of an expert report as provided in subsection
126 (a) of Code Section 41-1-9.1.

127 (f) Until a claimant has served the expert report and curriculum vitae as required by
128 subsection (a) of this Code section, all discovery is stayed except that after a claim is filed
129 all claimants, collectively, may take not more than two depositions before the expert report
130 is served as required by subsection (a) of this Code section.

131 41-1-9.3.

132 (a) Except as provided by any other law, a unit of government shall not adopt regulations
133 relating to:

134 (1) The transfer, private ownership, keeping, transportation, licensing, or registration of
135 firearms, ammunition, or firearm supplies; or

136 (2) The discharge of a firearm at a sport shooting range.

137 (b) Subsection (a) of this Code section shall not affect the authority a municipality has
138 under another law to:

139 (1) Require residents or public employees to be armed for personal or national defense,
140 law enforcement, or another lawful purpose;

141 (2) Regulate the discharge of firearms within the limits of the municipality, other than
142 at a sport shooting range;

143 (3) Regulate the use of property, the location of a business, or uses at a business under
144 the municipality's fire code, zoning ordinance, or land-use regulations so long as any such
145 rule, regulation, statute, or ordinance is not used to circumvent the intent of subsection
146 (a) or paragraph (5) of this subsection;

- 147 (4) Regulate the use of firearms in the case of an insurrection, riot, or natural disaster if
148 the municipality finds the regulations necessary to protect public health and safety;
149 (5) Regulate the storage or transportation of explosives to protect public health and
150 safety, except that 25 pounds or less of black powder for each private residence and 50
151 pounds or less of black powder for each retail dealer are not subject to regulation;
152 (6) Regulate the carrying of a firearm by a person other than a person licensed to carry
153 a concealed handgun as provided in Code Section 16-11-126, at a:
154 (A) Public park;
155 (B) Public meeting of a municipality, county, or other governmental body;
156 (C) Political rally, parade, or official political meeting; or
157 (D) Nonfirearms related school, college, or professional athletic event; or
158 (7) Regulate the hours of operation of a sport shooting range, except that the hours of
159 operation may not be more limited than the least limited hours of operation of any other
160 business in the municipality other than a business permitted or licensed to sell or serve
161 alcoholic beverages for on-premises consumption."

162 **SECTION 3.**

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