

The House Committee on Public Safety and Homeland Security offers the following substitute to HB 1454:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 16 of the Official Code of Georgia Annotated, relating to crimes and
2 offenses, so as to revise various laws pertaining to firearms and the carrying and possession
3 of firearms and other weapons; to revise the database prohibition; to provide for relief; to
4 provide for a preemption for the discharge of firearms under certain circumstances; to amend
5 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, so as to
6 revise requirements for the disposition of firearms in custody of law enforcement agencies;
7 to provide for causes of action; to provide for related matters; to repeal conflicting laws; and
8 for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

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

15 "(k) **Database ~~Data-base~~ prohibition.**

16 (1) As used in this subsection, the term:

H. B. 1454 (SUB)

(A) 'Government entity' means an office, agency, authority, department, commission, board, body, division, instrumentality, or institution of the state or of any county, municipal corporation, or consolidated government within this state.

(B) 'Multijurisdictional ~~data base~~ database' means a ~~data base~~ database of information shared between or among more than one government entity or between or among a government entity and any office, agency, authority, department, commission, board, body, division, instrumentality, or institution of the United States or of any other state.

(2) No person or government entity shall knowingly and willfully:

(A) Create or maintain a multijurisdictional ~~data base~~ database regarding persons issued or who have applied for weapons carry licenses; or

(B) Keep, or cause to be kept, any list, record, or registry of privately owned firearms or owners of such firearms; provided, however, that nothing in this subparagraph shall prohibit a person from keeping, or causing to be kept, any list, record, or registry of firearms owned by such person.

(3) Any person aggrieved by a violation of this subsection may bring an action for relief. Such person who proves by a preponderance of the evidence that he or she is or was contained in such a multijurisdictional database or in a list, record, or registry as forth in paragraph (2) of this subsection shall be entitled to obtain, in addition to appropriate declaratory or injunctive relief:

(A) One hundred dollars or actual damages, whichever is greater; and

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

SECTION 2.

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

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

(2) No municipality, county, or consolidated government shall prohibit the discharge of
firearms on a parcel of land that is five acres or more in size, provided that the owner or
lawful occupants of such land consent to such discharging of firearms. Nothing in this
paragraph shall preempt a zoning ordinance which prohibits or limits commercial
shooting ranges or other commercial activity upon such parcel."

SECTION 3.

Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
amended by revising subsection (g) of Code Section 17-5-54, relating to disposition of
personal property in custody of law enforcement agency, as follows:

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

(2) Otherwise, an unclaimed firearm:

(A) Possessed by a municipal corporation shall be disposed of as provided for in Code
Section 36-37-6; provided, however, that municipal corporations shall not have the
right to reject any bids or to cancel any proposed sale of such firearms, and all sales
~~shall~~ may be to ~~persons~~ any person, but the transfer of such firearms shall only be to
persons, specified by the winning bidders, who are licensed as firearms collectors,

dealers, importers, or manufacturers under the provisions of 18 U.S.C. Section 921, et seq., and who are authorized to receive such firearms under the terms of such license. The municipal corporation shall dispose of all such firearms at least once every 12 months during any time in which the municipal corporation has an inventory of five or more firearms. If a municipal corporation does not dispose of such firearms as required by this Code section, a person interested in acquiring any such firearms may bring an action in mandamus or other legal proceeding to compel the disposition. A person who has been unable to acquire a firearm because of the municipal corporation's failure to dispose of the firearm pursuant to this Code section shall, in addition to any other relief to which he or she is entitled, be entitled to actual damages or \$100.00, whichever is greater. A prevailing plaintiff in such an action shall be entitled to his or her costs, including reasonable attorney's fees; or

(B) Possessed by the state or a political subdivision other than a municipal corporation, shall be disposed of by sale at public auction. While any person may bid at auction, the transfer of such firearms shall only be to persons, specified by the winning bidders, who are licensed as firearms collectors, dealers, importers, or manufacturers under the provisions of 18 U.S.C. Section 921, et seq., and who are authorized to receive such firearms under the terms of such license. Auctions required by this subparagraph may occur online on a rolling basis or at live events, but in no event shall such auctions occur less frequently than once every 12 months during any time in which the political subdivision or state custodial agency has an inventory of five or more ~~saleable~~ firearms. If the state or a political subdivision other than a municipal corporation does not dispose of such firearms as required by this Code section, a person interested in acquiring any such firearms may bring an action in mandamus or other legal proceeding to compel the disposition. A person who has been unable to acquire a firearm because of the state or such political subdivision's failure to dispose of the firearm pursuant to this Code section shall, in addition to any other relief to which he or she is entitled, be

95 entitled to actual damages or \$100.00, whichever is greater. A prevailing plaintiff in
96 such an action shall be entitled to his or her costs, including reasonable attorney's fees.

97 (3) If no bids from eligible recipients are received within six months from when bidding
98 opened on a firearm offered for sale pursuant to paragraph (2) of this subsection, the
99 firearm shall be transferred to the Division of Forensic Sciences of the Georgia Bureau
100 of Investigation, a municipal or county law enforcement forensic laboratory for training
101 or experimental purposes, or be destroyed."

102 **SECTION 4.**

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