

Senate Bill 163

By: Senators Moore of the 53rd, Anavitarte of the 31st, Summers of the 13th, Tillery of the 19th, Strickland of the 42nd and others

**AS PASSED SENATE**

A BILL TO BE ENTITLED

AN ACT

1 To amend Part 5 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia  
2 Annotated, relating to Brady Law regulations, so as to revise standards for bringing an action  
3 against the government for an unauthorized act relating to regulation of weapons; to provide  
4 for definitions; to provide for related matters; to repeal conflicting laws; and for other  
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 The General Assembly recognizes the importance of securing firearms for lawful purposes.

9 **Section 2.**

10 Part 5 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,  
11 relating to Brady Law regulations, is amended by revising Code Section 16-11-173, relating  
12 to legislative findings, preemption of local regulation and lawsuits, and exceptions, as  
13 follows:

14 "16-11-173.

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

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16 (1) 'Lawful weapons carrier' shall have the same meaning as set forth in Code  
17 Section 16-11-125.1.

18 (2) 'Weapon' means any device designed or intended to be used, or capable of being  
19 used, for offense or defense, including but not limited to firearms, bladed devices, clubs,  
20 electric stun devices, and defense sprays.

21 (b)(1) It is declared by the General Assembly that the regulation of firearms and other  
22 weapons is properly an issue of general, state-wide concern.

23 (2) The General Assembly further declares that the lawful design, marketing,  
24 manufacture, and sale of firearms and ammunition and other weapons to the public is not  
25 unreasonably dangerous activity and does not constitute a nuisance per se.

26 ~~(b)~~(c)(1) Except as otherwise provided in ~~subsection (c)~~ of this Code section, no county  
27 or municipal corporation, by zoning, by ordinance or resolution, or by any other means,  
28 nor any agency, board, department, commission, political subdivision, school district, or  
29 authority of this state, other than the General Assembly, by rule or regulation or by any  
30 other means shall regulate in any manner:

31 (A) Gun shows;

32 (B) The possession, ownership, transport, carrying, transfer, sale, purchase, licensing,  
33 storage, or registration of firearms or other weapons or components of firearms or other  
34 weapons;

35 (C) Firearms dealers or dealers of other weapons; or

36 (D) Dealers in components of firearms or other weapons.

37 (2) The authority to bring suit and right to recover against any weapons, firearms, or  
38 ammunition manufacturer, trade association, or dealer by or on behalf of any  
39 governmental unit created by or pursuant to an Act of the General Assembly or the  
40 Constitution, or any department, agency, or authority thereof, for damages, abatement,  
41 or injunctive relief resulting from or relating to the lawful design, manufacture,  
42 marketing, or sale of weapons, firearms, or ammunition to the public shall be reserved

43 exclusively to the state. This paragraph shall not prohibit a political subdivision or local  
44 government authority from bringing an action against a weapons, firearms, or  
45 ammunition manufacturer or dealer for breach of contract or express warranty as to  
46 weapons, firearms, or ammunition purchased by the political subdivision or local  
47 government authority.

48 ~~(c)~~(d)(1) A county or municipal corporation may regulate the transport, carrying, or  
49 possession of firearms by employees of the local unit of government, or by unpaid  
50 volunteers of such local unit of government, in the course of their employment or  
51 volunteer functions with such local unit of government; provided, however, that the  
52 sheriff or chief of police shall be solely responsible for regulating and determining the  
53 possession, carrying, and transportation of firearms and other weapons by employees  
54 under his or her respective supervision so long as such regulations comport with state and  
55 federal law.

56 (2) The commanding officer of any law enforcement agency shall regulate and determine  
57 the possession, carrying, and transportation of firearms and other weapons by employees  
58 under his or her supervision so long as such regulations comport with state and federal  
59 law.

60 (3) The district attorney, and the solicitor-general in counties where there is a state court,  
61 shall regulate and determine the possession, carrying, and transportation of firearms and  
62 other weapons by county employees under his or her supervision so long as such  
63 regulations comport with state and federal law.

64 ~~(d)~~(e) Nothing contained in this Code section shall prohibit municipalities or counties, by  
65 ordinance or resolution, from requiring the ownership of guns by heads of households  
66 within the political subdivision.

67 ~~(e)~~(f) Nothing contained in this Code section shall prohibit municipalities or counties, by  
68 ordinance or resolution, from reasonably limiting or prohibiting the discharge of firearms  
69 within the boundaries of the municipal corporation or county.

70 ~~(f) As used in this Code section, the term 'weapon' means any device designed or intended~~  
 71 ~~to be used, or capable of being used, for offense or defense, including but not limited to~~  
 72 ~~firearms, bladed devices, clubs, electric stun devices, and defense sprays.~~

73 ~~(g) Any person aggrieved as a result of a violation of this Code section may bring an~~  
 74 ~~action against the person who caused such aggrievement. The aggrieved person shall be~~  
 75 ~~entitled to reasonable attorney's fees and expenses of litigation and may recover or obtain~~  
 76 ~~against the person who caused such damages any of the following:~~

77 ~~(1) Actual damages or \$100.00, whichever is greater;~~

78 ~~(2) Equitable relief, including, but not limited to, an injunction or restitution of money~~  
 79 ~~and property; and~~

80 ~~(3) Any other relief which the court deems proper~~ Any individual who is a lawful  
 81 weapons carrier who is or has been subject to an act, rule, regulation, ordinance, or  
 82 resolution in violation of this Code section shall have standing to bring:

83 (1) An action in mandamus or other legal proceeding against a public entity or public  
 84 officer in his or her official capacity to obtain declaratory or injunctive relief. A  
 85 prevailing plaintiff in such action shall be entitled to recover his or her costs in such  
 86 action, including reasonable attorney's fees; or

87 (2) A civil action when such individual suffers personal, property, or economic damage  
 88 and recover the greater of:

89 (A) Actual damages or \$50,000.00, whichever is greater, plus the expenses of litigation  
 90 and reasonable attorney's fees; or

91 (B) Liquidated damages of three times the expenses of litigation and reasonable  
 92 attorney's fees.

93 (h) Any action brought pursuant to this Code section shall be brought in the superior court  
 94 of the county in which the violation occurred and within one year of such violation."

95

## SECTION 2.

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