

Senate Bill 146

By: Senators Fort of the 39th, Orrock of the 36th, Davenport of the 44th, Butler of the 55th, Harbison of the 15th and others

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 define certain terms; to prohibit
3 the possession of an assault weapon; to prohibit the possession of a high-capacity magazine;
4 to change provisions relating to exemptions for the possession of assault weapons and
5 high-capacity magazines; to provide for enhanced penalties for the use of an assault weapon
6 or firearm with a high-capacity magazine during the commission of certain crimes; to
7 harmonize a cross-reference; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to
11 dangerous instrumentalities and practices, is amended by revising Code Section 16-11-121,
12 relating to definitions, as follows:

13 "16-11-121.

14 As used in this part, the term:

15 (1) 'Antique firearm' means any firearm not designed or redesigned for using rim-fire or
16 conventional center-fire ignition with fixed ammunition and manufactured in or before
17 1898, including any matchlock, flintlock, percussion cap, or similar type of ignition
18 system or replica thereof, whether actually manufactured before or after the year 1898,
19 and any firearm using fixed ammunition manufactured in or before 1898, for which
20 ammunition is no longer manufactured in the United States and is not readily available
21 in the ordinary channels of commercial trade.

22 (2) 'Assault weapon' means:

23 (A) A semiautomatic, center-fire rifle able to accept detachable magazines and any one
24 of the following:

25 (i) A pistol grip that protrudes conspicuously beneath the action of the weapon;

26 (ii) A forward pistol grip;

27 (iii) A thumbhole stock;

- 28 (iv) A folding or telescoping stock;
29 (v) A grenade launcher or flare launcher; or
30 (vi) A flash suppressor or a threaded barrel designed to accommodate a flash
31 suppressor;
32 (B) A semiautomatic, center-fire rifle that has a fixed magazine with the capacity to
33 accept more than ten rounds;
34 (C) A semiautomatic, center-fire rifle that has an overall length of less than 30 inches;
35 (D) A semiautomatic pistol that has the capacity to accept a detachable magazine and
36 any one of the following:
37 (i) A threaded barrel capable of accepting a flash suppressor, forward handgrip, or
38 silencer;
39 (ii) A second handgrip;
40 (iii) A shroud that is attached to or partially or completely encircles the barrel, except
41 a slide that encloses the barrel, that allows the bearer to fire the weapon without
42 burning the bearer's hand; or
43 (iv) The capacity to accept a detachable magazine at some location outside of the
44 pistol grip;
45 (E) A semiautomatic pistol with a fixed magazine that has the capacity to accept more
46 than ten rounds;
47 (F) A semiautomatic shotgun that has both of the following:
48 (i) A folding or telescoping stock; and
49 (ii) A pistol grip that protrudes conspicuously beneath the action of the weapon,
50 thumbhole stock, or vertical handgrip;
51 (G) A semiautomatic shotgun that has the ability to accept a detachable magazine; or
52 (H) Any shotgun with a revolving cylinder.

53 Such term shall not include any antique firearm or pistols sanctioned by the International
54 Olympic Committee and by USA Shooting that were used for Olympic target shooting
55 purposes as of June 30, 2013.

56 (3) 'Dangerous weapon' means any weapon commonly known as a 'rocket launcher,'
57 'bazooka,' or 'recoilless rifle' which fires explosive or nonexplosive rockets designed to
58 injure or kill personnel or destroy heavy armor, or similar weapon used for such purpose.
59 The term shall also mean a weapon commonly known as a 'mortar' which fires high
60 explosive from a metallic cylinder and which is commonly used by the armed forces as
61 an antipersonnel weapon or similar weapon used for such purpose. The term shall also
62 mean a weapon commonly known as a 'hand grenade' or other similar weapon which is
63 designed to explode and injure personnel or similar weapon used for such purpose. The

64 term shall also mean an assault weapon and any weapon equipped with a high-capacity
 65 magazine.

66 (4) 'High-capacity magazine' means a magazine capable of holding more than ten rounds
 67 of ammunition, but shall not include any of the following:

68 (A) A feeding device that has been permanently altered so that it cannot accommodate
 69 more than ten rounds;

70 (B) A .22 caliber tube ammunition feeding device; or

71 (C) A tubular magazine that is contained in a lever-action firearm.

72 ~~(2)~~(5) 'Machine gun' means any weapon which shoots or is designed to shoot,
 73 automatically, more than six shots, without manual reloading, by a single function of the
 74 trigger.

75 (6) 'Magazine' means any ammunition feeding device.

76 ~~(3)~~(7) 'Person' means any individual, partnership, company, association, or corporation.

77 ~~(4)~~(8) 'Sawed-off rifle' means a weapon designed or redesigned, made or remade, and
 78 intended to be fired from the shoulder; and designed or redesigned, made or remade, to
 79 use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile
 80 through a rifle bore for each single pull of the trigger; and which has a barrel or barrels
 81 of less than 16 inches in length or has an overall length of less than 26 inches.

82 ~~(5)~~(9) 'Sawed-off shotgun' means a shotgun or any weapon made from a shotgun whether
 83 by alteration, modification, or otherwise having one or more barrels less than 18 inches
 84 in length or if such weapon as modified has an overall length of less than 26 inches.

85 ~~(6)~~(10) 'Shotgun' means a weapon designed or redesigned, made or remade, and intended
 86 to be fired from the shoulder; and designed or redesigned, and made or remade, to use the
 87 energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a
 88 number of ball shot or a single projectile for each single pull of the trigger.

89 ~~(7)~~(11) 'Silencer' means any device for silencing or diminishing the report of any
 90 portable weapon such as a rifle, carbine, pistol, revolver, machine gun, shotgun, fowling
 91 piece, or other device from which a shot, bullet, or projectile may be discharged by an
 92 explosive."

93 **SECTION 2.**

94 Said article is further amended by revising Code Section 16-11-122, relating to possession
 95 of sawed off shotgun or rifle, machine gun, silencer, or dangerous weapon prohibited, as
 96 follows:

97 "16-11-122.

98 No person shall have in his or her possession any sawed-off shotgun, sawed-off rifle,
 99 machine gun, dangerous weapon, or silencer ~~except as provided in Code Section~~
 100 ~~16-11-124.~~"

101 **SECTION 3.**

102 Said article is further amended by revising Code Section 16-11-124, relating to exemptions
 103 from application of this part, as follows:

104 "16-11-124.

105 (a) This part shall not apply to:

106 (1) A peace officer of any duly authorized police agency of this state or of any political
 107 subdivision thereof, or a law enforcement officer of any department or agency of the
 108 United States who is regularly employed and paid by the United States, this state, or any
 109 such political subdivision, or an employee of the Department of Corrections of this state
 110 who is authorized in writing by the commissioner of corrections to transfer or possess
 111 such firearms while in the official performance of his or her duties;

112 (2) A member of the National Guard or of the armed forces of the United States to wit:
 113 the army, navy, marine corps, air force, or coast guard who, while serving therein,
 114 possesses such firearm in the line of duty;

115 (3) Any sawed-off shotgun, sawed-off rifle, machine gun, dangerous weapon, or silencer
 116 which has been modified or changed to the extent that it is inoperative. Examples of the
 117 requisite modification include weapons with their barrel or barrels filled with lead, hand
 118 grenades filled with sand, or other nonexplosive materials;

119 (4) Possession of a sawed-off shotgun, sawed-off rifle, machine gun, dangerous weapon,
 120 or silencer by a person who is authorized to possess the same because he or she has
 121 registered the sawed-off shotgun, sawed-off rifle, machine gun, dangerous weapon, or
 122 silencer in accordance with the dictates of the National Firearms Act, 68A Stat. 725 (26
 123 U.S.C. Sections 5841-5862); and

124 (5) A security officer employed by a federally licensed nuclear power facility or a
 125 licensee of such facility, including a contract security officer, who is trained and qualified
 126 under a security plan approved by the United States Nuclear Regulatory Commission or
 127 other federal agency authorized to regulate nuclear facility security; provided, however,
 128 that this exemption shall apply only while such security officer is acting in connection
 129 with his or her official duties on the premises of such nuclear power facility or on
 130 properties outside the facility property pursuant to a written agreement entered into with
 131 the local law enforcement agency having jurisdiction over the facility. The exemption
 132 under this paragraph does not include the possession of silencers.

133 (b) The Department of Law shall create rules and regulations to exempt models of
 134 competitive pistols that would otherwise fall within the definition of 'assault weapon' from
 135 being classified as an assault weapon. The exempt competitive pistols may be based on
 136 recommendations by USA Shooting consistent with the regulations contained in the USA
 137 Shooting official rules or may be based on the recommendation or rules of any other
 138 organization that the department deems relevant."

139 **SECTION 4.**

140 Said article is further amended by revising subsection (a) of Code Section 16-11-151, relating
 141 to prohibited training, as follows:

142 "(a) As used in this Code section, the term 'dangerous weapon' has the same meaning as
 143 found in ~~paragraph (1)~~ of Code Section 16-11-121."

144 **SECTION 5.**

145 Said article is further amended by revising paragraph (1) of subsection (a) of Code Section
 146 16-11-160, relating to the use of machine guns, sawed-off rifles, sawed-off shotguns, or
 147 firearms with silencers during the commission of certain offenses, as follows:

148 "(a)(1) It shall be unlawful for any person to possess or to use a machine gun, sawed-off
 149 rifle, sawed-off shotgun, ~~or a firearm equipped with a silencer,~~ assault weapon, or firearm
 150 equipped with a high-capacity magazine, as ~~those terms are~~ defined in Code Section
 151 16-11-121, during the commission or the attempted commission of any of the following
 152 offenses:

- 153 (A) Aggravated assault as defined in Code Section 16-5-21;
- 154 (B) Aggravated battery as defined in Code Section 16-5-24;
- 155 (C) Robbery as defined in Code Section 16-8-40;
- 156 (D) Armed robbery as defined in Code Section 16-8-41;
- 157 (E) Murder or felony murder as defined in Code Section 16-5-1;
- 158 (F) Voluntary manslaughter as defined in Code Section 16-5-2;
- 159 (G) Involuntary manslaughter as defined in Code Section 16-5-3;
- 160 (H) Sale, possession for sale, transportation, manufacture, offer for sale, or offer to
 161 manufacture controlled substances in violation of any provision of Article 2 of Chapter
 162 13 of this title, the 'Georgia Controlled Substances Act';
- 163 (I) Terroristic threats or acts as defined in Code Section 16-11-37;
- 164 (J) Arson as defined in Code Section 16-7-60, 16-7-61, or 16-7-62 or arson of lands as
 165 defined in Code Section 16-7-63;
- 166 (K) Influencing witnesses as defined in Code Section 16-10-93; and
- 167 (L) Participation in criminal gang activity as defined in Code Section 16-15-4."

168

SECTION 6.

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