

Senate Bill 268

By: Senator Summers of the 13th, Harbin of the 16th, Hickman of the 4th, Anavitarte of the 31st, Anderson of the 24th 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 provide for protections against  
3 the infringements on the right to keep and bear arms; to provide for legislative findings and  
4 intent; to provide for a cause of action; to provide for related matters; to provide for a short  
5 title; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 This Act shall be known and may be cited as the "Second Amendment Preservation Act."

9 **SECTION 2.**

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 adding a new part to read as  
12 follows:

13 "Part 614 16-11-180.15 The General Assembly finds and declares that:16 (1) The General Assembly is firmly resolved to support and defend the Constitution of  
17 the United States against all enemies, whether foreign or domestic, and is duty bound to  
18 oppose every infraction of those foundational principles;19 (2) Acting through the Constitution of the United States, the people of the several states  
20 created the federal government to be their agent in the exercise of a few defined powers,  
21 while reserving for the state governments the power to legislate on matters concerning  
22 the lives, liberties, and properties of citizens in the ordinary course of affairs;23 (3) The limitation of the federal government's power is affirmed under the 10th  
24 Amendment to the Constitution of the United States, which defines the total scope of  
25 federal power as being that which has been delegated by the people of the several states  
26 to the federal government, and all power not delegated to the federal government in the  
27 Constitution of the United States is reserved to the states respectively or to the people  
28 themselves;29 (4) If the federal government assumes powers that the people did not grant it in the  
30 Constitution of the United States, its acts are unauthoritative, void, and of no force;31 (5) The several states of the United States of America are not united on the principle of  
32 unlimited submission to their federal government. The government created by the  
33 compact among the states is not the exclusive or final judge of the extent of the powers  
34 granted to it by the Constitution, because that would have made the federal government's  
35 discretion, and not the Constitution, the measure of those powers. To the contrary, as in  
36 all other cases of compacts among powers having no common judge, each party has an  
37 equal right to judge itself, as well of infractions as of the mode and measure of redress.  
38 Although the several states have granted supremacy to laws and treaties made pursuant

39 to the powers granted in the Constitution, such supremacy does not apply to various  
40 federal statutes, orders, rules, regulations, or other actions which restrict or prohibit the  
41 manufacture, ownership, and use of firearms, firearm accessories, or ammunition  
42 exclusively within the borders of this state; such statues, orders, rules, regulations, and  
43 other actions exceed the powers granted to the federal government except to the extent  
44 they are necessary and proper for the government and regulation of the land and naval  
45 forces of the United States or for the organizing, arming, and disciplining militia forces  
46 actively employed in the service of the United States Armed Forces;

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

53 (7) The people of the several states have also granted Congress the power "to lay and  
54 collect taxes, duties, imports, and excises, to pay the debts, and provide for the common  
55 defense and general welfare of the United States" and "to make all laws which shall be  
56 necessary and proper for carrying into execution the powers vested by the Constitution  
57 of the United States in the government of the United States, or in any department or  
58 office thereof." These constitutional provisions merely identify the means by which the  
59 federal government may execute its limited powers and shall not be construed to grant  
60 unlimited power, because to do so would be to destroy the carefully constructed  
61 equilibrium between the federal and state governments. Consequently, the General  
62 Assembly rejects any claim that the taxing and spending powers of Congress may be used  
63 to diminish in any way the right of the people to keep and bear arms; and

64 (8) The people of this state have vested the General Assembly with the authority to  
65 regulate the manufacture, possession, exchange, and use of firearms within the borders

66 of this state, subject only to the limits imposed by the Second Amendment to the  
67 Constitution of the United States and Article I, Section I, Paragraph 8 of the Constitution  
68 of Georgia.

69 16-11-181.

70 (a) All federal acts, laws, orders, rules, and regulations, whether past, present, or future,  
71 which infringe on the people's right to keep and bear arms, as guaranteed by the Second  
72 Amendment to the Constitution of the United States and Article I, Section I, Paragraph 8  
73 of the Constitution of Georgia, shall be invalid in this state, shall not be recognized by this  
74 state, shall be specifically rejected by this state, and shall be considered null, void, and of  
75 no effect in this state.

76 (b) Such federal acts, laws, orders, rules, and regulations provided for under subsection (a)  
77 of this Code section include, but are not limited to:

78 (1) The provisions of the federal Gun Control Act of 1934;

79 (2) The provisions of the federal Gun Control Act of 1968;

80 (3) Any tax, levy, fee, or stamp imposed on firearms, firearm accessories, or ammunition  
81 not common to all other goods and services which could have a chilling effect on the  
82 purchase or ownership of those items by law-abiding citizens;

83 (4) Any registering or tracking of firearms, firearm accessories, or ammunition which  
84 could have a chilling effect on the purchase or ownership of those items by law-abiding  
85 citizens;

86 (5) Any registering or tracking of the owners of firearms, firearm accessories, or  
87 ammunition which could have a chilling effect on the purchase or ownership of those  
88 items by law-abiding citizens;

89 (6) Any act forbidding the possession, ownership, or use or transfer of any type of  
90 firearm, firearm accessory, or ammunition by law-abiding citizens; and

91 (7) Any act ordering the confiscation of firearms, firearm accessories, or ammunition  
92 from law-abiding citizens.

93 16-11-182.

94 (a) It shall be the duty of the courts and law enforcement agencies of this state to protect  
95 the rights of law-abiding citizens to keep and bear arms within the borders of this state  
96 from the infringements provided for under Code Section 16-11-181.

97 (b) No public officer or employee of this state shall have any authority to enforce or  
98 attempt to enforce any of the infringements on the right to keep and bear arms provided for  
99 under Code Section 16-11-181.

100 (c) Any official, agent, or employee of the United States government who enforces or  
101 attempts to enforce any of the infringements on the right to keep and bear arms included  
102 in Code Section 16-11-181 shall be guilty of a misdemeanor.

103 (d) Any citizen of this state who has been subject to an effort to enforce any of the  
104 infringements on the right to keep and bear arms included in Code Section 16-11-181 shall  
105 have a private cause of action for declaratory judgment and for damages against any person  
106 or entity attempting such enforcement."

107 **SECTION 3.**

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