

House Bill 161

By: Representatives Au of the 50th, Oliver of the 82nd, Gilliard of the 162nd, Neal of the 79th,
Holcomb of the 81st, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia
2 Annotated, relating to carrying and possession of firearms, so as to establish the offense of
3 making a firearm accessible to a child; to provide for definitions; to provide for exceptions
4 and affirmative defenses; to provide for criminal penalties; to require a notice by certain
5 firearm dealers; to provide for a short title; to provide for related matters; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 This Act shall be known and may be cited as the "Pediatric Health Safe Storage Act."

10 **SECTION 2.**

11 Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,
12 relating to carrying and possession of firearms, is amended by adding a new Code section to
13 read as follows:

14 "16-11-132.1.

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

H. B. 161

- 16 (1) 'Child' means a person younger than 18 years of age.
- 17 (2) 'Dealer' shall have the same meaning as provided for under Code Section 16-11-171.
- 18 (3) 'Family' means a parent, grandparent, or sibling.
- 19 (4) 'Readily dischargeable firearm' means a firearm that is loaded with ammunition,
20 whether or not a round is in the chamber.
- 21 (5) 'Secure' means to take steps that a reasonable person would believe sufficient to
22 prevent the access to a readily dischargeable firearm by a child, including, but not limited
23 to, placing a firearm in a locked container or temporarily rendering the firearm inoperable
24 by a trigger lock or other means.
- 25 (b) Except where possession of a firearm by a child is lawful under Code Section
26 16-11-132, a person commits the offense of making a firearm accessible to a child if such
27 child gains access to a readily dischargeable firearm, and the person with criminal
28 negligence:
- 29 (1) Failed to secure the firearm; or
- 30 (2) Left the firearm in a place to which the person knew or should have known the child
31 could gain access.
- 32 (c) It shall be an affirmative defense to prosecution under this Code section that the child's
33 access to the firearm:
- 34 (1) Was supervised by a person older than 18 years of age and was for hunting, sporting,
35 or other lawful purposes;
- 36 (2) Consisted of lawful defense by the child of people or property; or
- 37 (3) Was gained by entering property in violation of the law.
- 38 (d)(1) Except as provided under paragraph (2) of this subsection, a violation of
39 subsection (b) of this Code section shall be a misdemeanor.
- 40 (2) A violation of subsection (b) of this Code section shall be a misdemeanor of a high
41 and aggravated nature when the child discharges the firearm and causes death or serious
42 bodily injury to himself or herself or another person.

43 (3) No person who commits a violation of subsection (b) of this Code section shall be
44 arrested before the seventh day after the date on which the offense was committed if:

45 (A) Such person is family of the child who discharged the firearm; and

46 (B) The child, in discharging the firearm, caused the death of or serious injury to such
47 child.

48 (e)(1) A dealer shall post in a conspicuous position on the premises where the dealer
49 conducts business a sign that contains the following warning in block letters not less than
50 one inch in height:

51 'IT IS UNLAWFUL TO STORE, TRANSPORT, OR ABANDON AN UNSECURED
52 FIREARM IN A PLACE WHERE CHILDREN CAN OBTAIN ACCESS TO THE
53 FIREARM.'

54 (2) A violation of this subsection shall be a misdemeanor of a high and aggravated nature
55 punishable by a fine not to exceed \$5,000.00."

56 **SECTION 3.**

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