

Senate Bill 49

By: Senators Parent of the 44th, Jones II of the 22nd, Merritt of the 9th, Halpern of the 39th, Harbison of the 15th 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 related matters; to repeal conflicting laws; and for other
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

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

12 "16-11-132.1.

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

14 (1) 'Child' means a person younger than 17 years of age.

15 (2) 'Dealer' shall have the same meaning as provided for under Code Section 16-11-171.

16 (3) 'Family' means a parent, grandparent, or sibling.

17 (4) 'Readily dischargeable firearm' means a firearm that is loaded with ammunition,
18 whether or not a round is in the chamber.

19 (5) 'Secure' means to take steps that a reasonable person would believe sufficient to
20 prevent the access to a readily dischargeable firearm by a child, including, but not limited
21 to, placing a firearm in a locked container or temporarily rendering the firearm inoperable
22 by a trigger lock or other means.

23 (b) Except where possession of a firearm by a child is lawful under Code
24 Section 16-11-132, a person commits the offense of making a firearm accessible to a child
25 if such child gains access to a readily dischargeable firearm, and the person with criminal
26 negligence:

27 (1) Failed to secure the firearm; or

28 (2) Left the firearm in a place to which the person knew or should have known the child
29 could gain access.

30 (c) It shall be an affirmative defense to prosecution under this Code section that the child's
31 access to the firearm:

32 (1) Was supervised by a person older than 18 years of age and was for hunting, sporting,
33 or other lawful purposes;

34 (2) Consisted of lawful defense by the child of people or property; or

35 (3) Was gained by entering property in violation of the law.

36 (d)(1) Except as provided under paragraph (2) of this subsection, a violation of
37 subsection (b) of this Code section shall be a misdemeanor.

38 (2) A violation of subsection (b) of this Code section shall be a misdemeanor of a high
39 and aggravated nature when the child discharges the firearm and causes death or serious
40 bodily injury to himself or herself or another person.

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

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

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

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

49 'IT IS UNLAWFUL TO STORE, TRANSPORT, OR ABANDON AN UNSECURED
50 FIREARM IN A PLACE WHERE CHILDREN ARE LIKELY TO BE AND CAN
51 OBTAIN ACCESS TO THE FIREARM.'

52 (2) A violation of this subsection shall be a misdemeanor punishable by a fine of not
53 more than \$500.00."

54 **SECTION 2.**

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