

# Various Laws Concerning Use, Carry, & Possession of Firearms

## **OCGA § 16-3-21. Use of force in defense of self or others**

- (a) A person is justified in threatening or using force against another when and to the extent that he or she reasonably believes that such threat or force is necessary to defend himself or herself or a third person against such other's imminent use of unlawful force; however, except as provided in Code Section 16-3-23, a person is justified in using force which is intended or likely to cause death or great bodily harm only if he or she reasonably believes that such force is necessary to prevent death or great bodily injury to himself or herself or a third person or to prevent the commission of a forcible felony.
- (b) A person is not justified in using force under the circumstances specified in subsection (a) of this Code section if he:
- (1) Initially provokes the use of force against himself with the intent to use such force as an excuse to inflict bodily harm upon the assailant;
  - (2) Is attempting to commit, committing, or fleeing after the commission or attempted commission of a felony; or
  - (3) Was the aggressor or was engaged in a combat by agreement unless he withdraws from the encounter and effectively communicates to such other person his intent to do so and the other, notwithstanding, continues or threatens to continue the use of unlawful force.
- (c) Any rule, regulation, or policy of any agency of the state or any ordinance, resolution, rule, regulation, or policy of any county, municipality, or other political subdivision of the state which is in conflict with this Code section shall be null, void, and of no force and effect.
- (d) In a prosecution for murder or manslaughter, if a defendant raises as a defense a justification provided by subsection (a) of this Code section, the defendant, in order to establish the defendant's reasonable belief that the use of force or deadly force was immediately necessary, may be permitted to offer:
- (1) Relevant evidence that the defendant had been the victim of acts of family violence or child abuse committed by the deceased, as such acts are described in Code Sections 19-13-1 and 19-15-1, respectively; and
  - (2) Relevant expert testimony regarding the condition of the mind of the defendant at the time of the offense, including those relevant facts and circumstances relating to the family violence or child abuse that are the bases of the expert's opinion.

**HISTORY:** Laws 1833, Cobb's 1851 Digest, p. 785; Code 1863, § 4230; Code 1868, § 4267; Code 1873, § 4333; Code 1882, § 4333; Penal Code 1895, § 73; Penal Code 1910, § 73; Code 1933, § 26-1014; Code 1933, § 26-902, enacted by Ga. L. 1968, p. 1249, § 1; Ga. L. 1975, p. 1209, § 1; Ga. L. 1993, p. 1716, § 2; Ga. L. 2001, p. 1247, § 1.

## **OCGA § 16-3-23. Use of force in defense of habitation**

A person is justified in threatening or using force against another when and to the extent that he or she reasonably believes that such threat or force is necessary to prevent or terminate such other's unlawful entry into or attack upon a habitation; however, such person is justified in the use of force which is intended or likely to cause death or great bodily harm only if:

- (1) The entry is made or attempted in a violent and tumultuous manner and he or she reasonably believes that the entry is attempted or made for the purpose of assaulting or offering personal violence to any person dwelling or being therein and that such force is necessary to prevent the assault or offer of personal violence;
- (2) That force is used against another person who is not a member of the family or household and who unlawfully and forcibly enters or has unlawfully and forcibly entered the residence and the person using such force knew or had reason to believe that an unlawful and forcible entry occurred; or
- (3) The person using such force reasonably believes that the entry is made or attempted for the purpose of committing a felony therein and that such force is necessary to prevent the commission of the felony.

**HISTORY:** Laws 1833, Cobb's 1851 Digest, p. 785; Code 1863, § 4229; Code 1868, § 4266; Code 1873, § 4332; Code 1882, § 4332; Penal Code 1895, § 72; Penal Code 1910, § 72; Code 1933, § 26-1013; Code 1933, § 26-903, enacted by Ga. L. 1968, p. 1249, § 1; Ga. L. 2001, p. 1247, § 2.

## **OCGA § 16-3-23.1. No duty to retreat prior to use of force in self-defense**

A person who uses threats or force in accordance with Code Section 16-3-21, relating to the use of force in defense of self or others, Code Section 16-3-23, relating to the use of force in defense of a habitation, or Code Section 16-3-24, relating to the use of force in defense of property other than a habitation, has no duty to retreat and has the right to stand his or her ground and use force as provided in said Code sections, including deadly force.

**HISTORY:** Code 1981, § 16-3-23.1, enacted by Ga. L. 2006, p. 477, § 1/SB 396.

## **OCGA § 16-3-24. Use of force in defense of property other than a habitation**

(a) A person is justified in threatening or using force against another when and to the extent that he reasonably believes that such threat or force is necessary to prevent or terminate such other's trespass on or other tortious or criminal interference with real property other than a habitation or personal property:

- (1) Lawfully in his possession;
- (2) Lawfully in the possession of a member of his immediate family; or
- (3) Belonging to a person whose property he has a legal duty to protect.

(b) The use of force which is intended or likely to cause death or great bodily harm to prevent trespass on or other tortious or criminal interference with real property other than a habitation or personal property is not justified unless the person using such force reasonably believes that it is necessary to prevent the commission of a forcible felony.

**HISTORY:** Code 1933, § 26-904, enacted by Ga. L. 1968, p. 1249, § 1.

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## **OCGA § 16-3-24.1. Habitation and personal property defined**

As used in Code Sections 16-3-23 and 16-3-24, the term "habitation" means any dwelling, motor vehicle, or place of business, and "personal property" means personal property other than a motor vehicle.

HISTORY: Code 1981, § 16-3-24.1, enacted by Ga. L. 1998, p. 1153, § 1.1.

## **OCGA § 16-3-24.2. Immunity from prosecution; exception**

A person who uses threats or force in accordance with Code Section 16-3-21, 16-3-23, 16-3-23.1, or 16-3-24 shall be immune from criminal prosecution therefor unless in the use of deadly force, such person utilizes a weapon the carrying or possession of which is unlawful by such person under Part 2 of Article 4 of Chapter 11 of this title.

HISTORY: Code 1981, § 16-3-24.2, enacted by Ga. L. 1998, p. 1153, § 1.2; Ga. L. 1999, p. 81, § 16; Ga. L. 2006, p. 477, § 2/SB 396; Ga. L. 2014, p. 599, § 1-3/HB 60.

## **OCGA § 16-5-60(b). Reckless conduct causing harm to or endangering the bodily safety of another;**

(b) A person who causes bodily harm to or endangers the bodily safety of another person by consciously disregarding a substantial and unjustifiable risk that his act or omission will cause harm or endanger the safety of the other person and the disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation is guilty of a misdemeanor.

HISTORY: Code 1933, § 26-2910, enacted by Ga. L. 1968, p. 1249, § 1; Ga. L. 1988, p. 1799, § 3; Ga. L. 2003, p. 306, § 1.

## **OCGA § 16-11-101.1. Furnishing pistol or revolver to person under the age of 18 years**

(a) For the purposes of this Code section, the term:

(1) "Minor" means any person under the age of 18 years.

(2) "Pistol or revolver" means a handgun as defined in subsection (a) of Code Section 16-11-125.1.

(b) It shall be unlawful for a person intentionally, knowingly, or recklessly to sell or furnish a pistol or revolver to a minor, except that it shall be lawful for a parent or legal guardian to permit possession of a pistol or revolver by a minor for the purposes specified in subsection (c) of Code Section 16-11-132 unless otherwise expressly limited by subsection (c) of this Code section.

(c) (1) It shall be unlawful for a parent or legal guardian to permit possession of a pistol or revolver by a minor if the parent or legal guardian knows of a minor's conduct which violates the provisions of Code Section 16-11-132 and fails to make reasonable efforts to prevent any such violation of Code Section 16-11-132.

(2) Notwithstanding any provisions of subsection (c) of Code Section 16-11-132 or any other law to the contrary, it shall be unlawful for any parent or legal guardian intentionally, knowingly, or recklessly to furnish to or permit a minor to possess a pistol or revolver if such parent or legal guardian is aware of a substantial risk that such minor will use a pistol or revolver to commit a felony offense or if such parent or legal guardian who is aware of such substantial risk fails to make reasonable efforts to prevent commission of the offense by the minor.

(3) In addition to any other act which violates this subsection, a parent or legal guardian shall be deemed to have violated this subsection if such parent or legal guardian furnishes to or permits possession of a pistol or revolver by any minor who has been convicted of a forcible felony or forcible misdemeanor, as defined in Code Section 16-1-3, or who has been adjudicated for committing a delinquent act under the provisions of Article 6 of Chapter 11 of Title 15 for an offense which would constitute a forcible felony or forcible misdemeanor, as defined in Code Section 16-1-3, if such minor were an adult.

(d) Upon conviction of a violation of subsection (b) or (c) of this Code section, a person shall be guilty of a felony and punished by a fine not to exceed \$5,000.00 or by imprisonment for not less than three nor more than five years, or both.

HISTORY: Code 1981, § 16-11-101.1, enacted by Ga. L. 1994, p. 1012, § 13; Ga. L. 2000, p. 1630, § 1; Ga. L. 2010, p. 963, § 2-6/SB 308; Ga. L. 2013, p. 294, § 4-9/HB 242.

## **OCGA § 16-11-102. Pointing or aiming gun or pistol at another**

A person is guilty of a misdemeanor when he intentionally and without legal justification points or aims a gun or pistol at another, whether the gun or pistol is loaded or unloaded.

HISTORY: Ga. L. 1880-81, p. 151, § 1; Code 1882, § 4528a; Penal Code 1895, § 343; Penal Code 1910, § 349; Code 1933, § 26-5107; Code 1933, § 26-2908, enacted by Ga. L. 1968, p. 1249, § 1.

## **OCGA § 16-11-103. Discharge of gun or pistol near public highway; penalty**

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

(1) "Firearm" means any handgun, rifle, or shotgun.

(2) "Public highway" means every public street, road, and highway in this state.

(3) "Sport shooting range" means an area designated and operated by a person or entity for the sport shooting of firearms, target practice, trapshooting, skeet shooting, or shooting sporting clays and not available for such use by the general public without payment of a fee, membership contribution, or dues or without the invitation of an authorized person, or any area so designated and operated by a unit of government, regardless of the terms of admission thereto.

(4) "Unit of government" means any of the departments, agencies, authorities, or political subdivisions of the state, cities, municipal corporations, townships, or villages and any of their respective departments, agencies, or authorities.

(b) Except as provided in subsection (c) of this Code section, it shall be unlawful for any person, without legal justification, to discharge a firearm on or within 50 yards of a public highway.

(c) This Code section shall not apply to a discharge of a firearm which occurs within 50 yards of a public highway if such discharge is shielded from the view of a traveler on the public highway and occurs at:

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- (1) An indoor or outdoor sport shooting range;
- (2) Facilities used for firearm or hunting safety courses sponsored by a unit of government, nonprofit corporation, or commercial enterprise; or
- (3) The business location of any person, firm, retail dealer, wholesale dealer, pawnbroker, or corporation licensed as a firearm dealer pursuant to Chapter 16 of Title 43.

(d) Any person who violates subsection (b) of the Code section shall be guilty of a misdemeanor.

HISTORY: Ga. L. 1882-83, p. 131, §§ 1, 2; Penal Code 1895, § 508; Penal Code 1910, § 504; Code 1933, § 26-7301; Code 1933, § 26-2909, enacted by Ga. L. 1968, p. 1249, § 1; Ga. L. 2014, p. 200, § 1/HB 773.

## **OCGA § 16-11-104. Discharge of firearms on property of another**

(a) It shall be unlawful for any person to fire or discharge a firearm on the property of another person, firm, or corporation without having first obtained permission from the owner or lessee of the property. This Code section shall not apply to:

- (1) Persons who fire or discharge a firearm in defense of person or property; and
- (2) Law enforcement officers.

(b) Any person who violates subsection (a) of this Code section is guilty of a misdemeanor.

HISTORY: Code 1933, § 26-2909.1, enacted by Ga. L. 1977, p. 1333, § 1.

## **OCGA § 16-11-125.1. Definitions**

As used in this part, the term:

- (1) "Handgun" means a firearm of any description, loaded or unloaded, from which any shot, bullet, or other missile can be discharged by an action of an explosive where the length of the barrel, not including any revolving, detachable, or magazine breech, does not exceed 12 inches; provided, however, that the term "handgun" shall not include a gun which discharges a single shot of .46 centimeters or less in diameter.
- (2) "Knife" means a cutting instrument designed for the purpose of offense and defense consisting of a blade that is greater than five inches in length which is fastened to a handle.
- (3) "License holder" means a person who holds a valid weapons carry license.
- (4) "Long gun" means a firearm with a barrel length of at least 18 inches and overall length of at least 26 inches designed or made and intended to be fired from the shoulder and designed or made to use the energy of the explosive in a fixed:
  - (A) Shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger or from which any shot, bullet, or other missile can be discharged; or
  - (B) Metallic cartridge to fire only a single projectile through a rifle bore for each single pull of the trigger; provided, however, that the term "long gun" shall not include a gun which discharges a single shot of .46 centimeters or less in diameter.
- (5) "Weapon" means a knife or handgun.
- (6) "Weapons carry license" or "license" means a license issued pursuant to Code Section 16-11-129.

HISTORY: Code 1981, § 16-11-125.1, enacted by Ga. L. 2010, p. 963, § 1-1/SB 308.

## **OCGA § 16-11-126. Having or carrying handguns, long guns, or other weapons; license requirement; exceptions for homes, motor vehicles, private property, and other locations and conditions**

- (a) Any person who is not prohibited by law from possessing a handgun or long gun may have or carry on his or her person a weapon or long gun on his or her property or inside his or her home, motor vehicle, or place of business without a valid weapons carry license.
- (b) Any person who is not prohibited by law from possessing a handgun or long gun may have or carry on his or her person a long gun without a valid weapons carry license, provided that if the long gun is loaded, it shall only be carried in an open and fully exposed manner.
- (c) Any person who is not prohibited by law from possessing a handgun or long gun may have or carry any handgun provided that it is enclosed in a case and unloaded.
- (d) Any person who is not prohibited by law from possessing a handgun or long gun who is eligible for a weapons carry license may transport a handgun or long gun in any private passenger motor vehicle; provided, however, that private property owners or persons in legal control of private property through a lease, rental agreement, licensing agreement, contract, or any other agreement to control access to such private property shall have the right to exclude or eject a person who is in possession of a weapon or long gun on their private property in accordance with paragraph (3) of subsection (b) of Code Section 16-7-21, except as provided in Code Section 16-11-135.
- (e) Any person licensed to carry a handgun or weapon in any other state whose laws recognize and give effect to a license issued pursuant to this part shall be authorized to carry a weapon in this state, but only while the licensee is not a resident of this state; provided, however, that such licensee shall carry the weapon in compliance with the laws of this state.
- (f) Any person with a valid hunting or fishing license on his or her person, or any person not required by law to have a hunting or fishing license, who is engaged in legal hunting, fishing, or sport shooting when the person has the permission of the owner of the land on which the activities are being conducted may have or carry on his or her person a handgun or long gun without a valid weapons carry license while hunting, fishing, or engaging in sport shooting.
- (g) Notwithstanding Code Sections 12-3-10, 27-3-1.1, 27-3-6, and 16-12-122 through 16-12-127, any person with a valid weapons carry license may carry a weapon in all parks, historic sites, or recreational areas, as such term is defined in Code Section 12-3-

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10, including all publicly owned buildings located in such parks, historic sites, and recreational areas, in wildlife management areas, and on public transportation; provided, however, that a person shall not carry a handgun into a place where it is prohibited by federal law.

- (h) (1) No person shall carry a weapon without a valid weapons carry license unless he or she meets one of the exceptions to having such license as provided in subsections (a) through (g) of this Code section.
- (2) A person commits the offense of carrying a weapon without a license when he or she violates the provisions of paragraph (1) of this subsection.
- (i) Upon conviction of the offense of carrying a weapon without a valid weapons carry license, a person shall be punished as follows:
  - (1) For the first offense, he or she shall be guilty of a misdemeanor; and
  - (2) For the second offense within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, and for any subsequent offense, he or she shall be guilty of a felony and, upon conviction thereof, shall be imprisoned for not less than two years and not more than five years.

**HISTORY:** Laws 1837, Cobb's 1851 Digest, pp. 848, 849; Ga. L. 1851-52, p. 269, §§ 1-3; Code 1863, § 4413; Ga. L. 1865-66, p. 233, §§ 1, 2; Code 1868, § 4454; Code 1873, § 4527; Ga. L. 1882-83, p. 48, § 1; Code 1882, § 4527; Ga. L. 1898, p. 60, § 1; Penal Code 1895, § 341; Penal Code 1910, § 347; Code 1933, § 26-5101; Code 1933, § 26-2901, enacted by Ga. L. 1968, p. 1249, § 1; Ga. L. 1976, p. 1430, § 1; Ga. L. 1982, p. 3, § 16; Ga. L. 1992, p. 6, § 16; Ga. L. 1996, p. 108, § 1; Ga. L. 1998, p. 1153, § 1; Ga. L. 2000, p. 1630, § 3; Ga. L. 2007, p. 47, § 16/SB 103; Ga. L. 2008, p. 533, § 3/SB 366; Ga. L. 2008, p. 1199, § 3/HB 89; Ga. L. 2009, p. 8, § 16/SB 46; Ga. L. 2010, p. 963, § 1-2/SB 308; Ga. L. 2014, p. 599, § 1-4/HB 60.

### **OCGA § 16-11-127. Carrying weapons in unauthorized locations**

- (a) As used in this Code section, the term:
  - (1) "Courthouse" means a building occupied by judicial courts and containing rooms in which judicial proceedings are held.
  - (2) "Government building" means:
    - (A) The building in which a government entity is housed;
    - (B) The building where a government entity meets in its official capacity; provided, however, that if such building is not a publicly owned building, such building shall be considered a government building for the purposes of this Code section only during the time such government entity is meeting at such building; or
    - (C) The portion of any building that is not a publicly owned building that is occupied by a government entity.
  - (3) "Government entity" means an office, agency, authority, department, commission, board, body, division, instrumentality, or institution of the state or any county, municipal corporation, consolidated government, or local board of education within this state.
  - (4) "Parking facility" means real property owned or leased by a government entity, courthouse, jail, prison, or place of worship that has been designated by such government entity, courthouse, jail, prison, or place of worship for the parking of motor vehicles at a government building or at such courthouse, jail, prison, or place of worship.
- (b) Except as provided in Code Section 16-11-127.1 and subsection (d) or (e) of this Code section, a person shall be guilty of carrying a weapon or long gun in an unauthorized location and punished as for a misdemeanor when he or she carries a weapon or long gun while:
  - (1) In a government building;
  - (2) In a courthouse;
  - (3) In a jail or prison;
  - (4) In a place of worship, unless the governing body or authority of the place of worship permits the carrying of weapons or long guns by license holders;
  - (5) In a state mental health facility as defined in Code Section 37-1-1 which admits individuals on an involuntary basis for treatment of mental illness, developmental disability, or addictive disease; provided, however, that carrying a weapon or long gun in such location in a manner in compliance with paragraph (3) of subsection (d) of this Code section shall not constitute a violation of this subsection;
  - (6) On the premises of a nuclear power facility, except as provided in Code Section 16-11-127.2, and the punishment provisions of Code Section 16-11-127.2 shall supersede the punishment provisions of this Code section; or
  - (7) Within 150 feet of any polling place, except as provided in subsection (i) of Code Section 21-2-413.
- (c) A license holder or person recognized under subsection (e) of Code Section 16-11-126 shall be authorized to carry a weapon as provided in Code Section 16-11-135 and in every location in this state not listed in subsection (b) or prohibited by subsection (e) of this Code section; provided, however, that private property owners or persons in legal control of private property through a lease, rental agreement, licensing agreement, contract, or any other agreement to control access to such private property shall have the right to exclude or eject a person who is in possession of a weapon or long gun on their private property in accordance with paragraph (3) of subsection (b) of Code Section 16-7-21, except as provided in Code Section 16-11-135. A violation of subsection (b) of this Code section shall not create or give rise to a civil action for damages.
- (d) Subsection (b) of this Code section shall not apply:
  - (1) To the use of weapons or long guns as exhibits in a legal proceeding, provided such weapons or long guns are secured and handled as directed by the personnel providing courtroom security or the judge hearing the case;
  - (2) To a license holder who approaches security or management personnel upon arrival at a location described in subsection (b) of this Code section and notifies such security or management personnel of the presence of the weapon or long gun and

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explicitly follows the security or management personnel's direction for removing, securing, storing, or temporarily surrendering such weapon or long gun; and

- (3) To a weapon or long gun possessed by a license holder which is under the possessor's control in a motor vehicle or is in a locked compartment of a motor vehicle or one which is in a locked container in or a locked firearms rack which is on a motor vehicle and such vehicle is parked in a parking facility.
- (e) (1) A license holder shall be authorized to carry a weapon in a government building when the government building is open for business and where ingress into such building is not restricted or screened by security personnel. A license holder who enters or attempts to enter a government building carrying a weapon where ingress is restricted or screened by security personnel shall be guilty of a misdemeanor if at least one member of such security personnel is certified as a peace officer pursuant to Chapter 8 of Title 35; provided, however, that a license holder who immediately exits such building or immediately leaves such location upon notification of his or her failure to clear security due to the carrying of a weapon shall not be guilty of violating this subsection or paragraph (1) of subsection (b) of this Code section. A person who is not a license holder and who attempts to enter a government building carrying a weapon shall be guilty of a misdemeanor.
- (2) Any license holder who violates subsection (b) of this Code section in a place of worship shall not be arrested but shall be fined not more than \$100.00. Any person who is not a license holder who violates subsection (b) of this Code section in a place of worship shall be punished as for a misdemeanor.

HISTORY: Ga. L. 1870, p. 421, §§ 1, 2; Ga. L. 1878-79, p. 64, § 1; Code 1882, § 4528; Penal Code 1895, § 342; Ga. L. 1909, p. 90, § 1; Penal Code 1910, § 348; Code 1933, § 26-5102; Code 1933, § 26-2902, enacted by Ga. L. 1968, p. 1249, § 1; Ga. L. 1976, p. 1430, § 2; Ga. L. 1986, p. 673, § 1; Ga. L. 1987, p. 358, § 1; Ga. L. 1992, p. 1315, § 1; Ga. L. 1996, p. 748, § 11; Ga. L. 1997, p. 514, § 1; Ga. L. 2003, p. 423, § 1; Ga. L. 2008, p. 1199, § 4/HB 89; Ga. L. 2010, p. 963, § 1-3/SB 308; Ga. L. 2014, p. 432, § 2-5/HB 826; Ga. L. 2014, p. 599, § 1-5/HB 60.

## **OCGA § 16-11-127.1. Carrying weapons within school safety zones, at school functions, or on a bus or other transportation furnished by a school**

- (a) As used in this Code section, the term:
  - (1) "Bus or other transportation furnished by a school" means a bus or other transportation furnished by a public or private elementary or secondary school.
  - (2) "School function" means a school function or related activity that occurs outside of a school safety zone and is for a public or private elementary or secondary school.
  - (3) "School safety zone" means in or on any real property or building owned by or leased to:
    - (A) Any public or private elementary school, secondary school, or local board of education and used for elementary or secondary education; and
    - (B) Any public or private technical school, vocational school, college, university, or other institution of postsecondary education.
  - (4) "Weapon" means and includes any pistol, revolver, or any weapon designed or intended to propel a missile of any kind, or any dirk, bowie knife, switchblade knife, ballistic knife, any other knife having a blade of two or more inches, straight-edge razor, razor blade, spring stick, knuckles, whether made from metal, thermoplastic, wood, or other similar material, blackjack, any bat, club, or other bludgeon-type weapon, or any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain, or any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart, or any weapon of like kind, and any stun gun or taser as defined in subsection (a) of Code Section 16-11-106. This paragraph excludes any of these instruments used for classroom work authorized by the teacher.
- (b) (1) Except as otherwise provided in subsection (c) of this Code section, it shall be unlawful for any person to carry to or to possess or have under such person's control while within a school safety zone or at a school function, or on a bus or other transportation furnished by a school any weapon or explosive compound, other than fireworks the possession of which is regulated by Chapter 10 of Title 25.
- (2) Any license holder who violates this subsection shall be guilty of a misdemeanor. Any person who is not a license holder who violates this subsection shall be guilty of a felony and, upon conviction thereof, be punished by a fine of not more than \$10,000.00, by imprisonment for not less than two nor more than ten years, or both.
- (3) Any person convicted of a violation of this subsection involving a dangerous weapon or machine gun, as such terms are defined in Code Section 16-11-121, shall be punished by a fine of not more than \$10,000.00 or by imprisonment for a period of not less than five nor more than ten years, or both.
- (4) A child who violates this subsection may be subject to the provisions of Code Section 15-11-601.
- (c) The provisions of this Code section shall not apply to:
  - (1) Baseball bats, hockey sticks, or other sports equipment possessed by competitors for legitimate athletic purposes;
  - (2) Participants in organized sport shooting events or firearm training courses;
  - (3) Persons participating in military training programs conducted by or on behalf of the armed forces of the United States or the Georgia Department of Defense;

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- (4) Persons participating in law enforcement training conducted by a police academy certified by the Georgia Peace Officer Standards and Training Council or by a law enforcement agency of the state or the United States or any political subdivision thereof;
  - (5) The following persons, when acting in the performance of their official duties or when en route to or from their official duties:
    - (A) A peace officer as defined by Code Section 35-8-2;
    - (B) A law enforcement officer of the United States government;
    - (C) A prosecuting attorney of this state or of the United States;
    - (D) An employee of the Georgia Department of Corrections or a correctional facility operated by a political subdivision of this state or the United States who is authorized by the head of such correctional agency or facility to carry a firearm;
    - (E) A person employed as a campus police officer or school security officer who is authorized to carry a weapon in accordance with Chapter 8 of Title 20; and
    - (F) Medical examiners, coroners, and their investigators who are employed by the state or any political subdivision thereof;
  - (6) A person who has been authorized in writing by a duly authorized official of a public or private elementary or secondary school or a public or private technical school, vocational school, college, university, or other institution of postsecondary education or a local board of education as provided in Code Section 16-11-130.1 to have in such person's possession or use within a school safety zone, at a school function, or on a bus or other transportation furnished by a school a weapon which would otherwise be prohibited by this Code section. Such authorization shall specify the weapon or weapons which have been authorized and the time period during which the authorization is valid;
  - (7) A person who is licensed in accordance with Code Section 16-11-129 or issued a permit pursuant to Code Section 43-38-10, when such person carries or picks up a student within a school safety zone, at a school function, or on a bus or other transportation furnished by a school or a person who is licensed in accordance with Code Section 16-11-129 or issued a permit pursuant to Code Section 43-38-10 when he or she has any weapon legally kept within a vehicle when such vehicle is parked within a school safety zone or is in transit through a designated school safety zone;
  - (8) A weapon possessed by a license holder which is under the possessor's control in a motor vehicle or which is in a locked compartment of a motor vehicle or one which is in a locked container in or a locked firearms rack which is on a motor vehicle which is being used by an adult over 21 years of age to bring to or pick up a student within a school safety zone, at a school function, or on a bus or other transportation furnished by a school, or when such vehicle is used to transport someone to an activity being conducted within a school safety zone which has been authorized by a duly authorized official or local board of education as provided by paragraph (6) of this subsection; provided, however, that this exception shall not apply to a student attending a public or private elementary or secondary school;
  - (9) Persons employed in fulfilling defense contracts with the government of the United States or agencies thereof when possession of the weapon is necessary for manufacture, transport, installation, and testing under the requirements of such contract;
  - (10) Those employees of the State Board of Pardons and Paroles when specifically designated and authorized in writing by the members of the State Board of Pardons and Paroles to carry a weapon;
  - (11) The Attorney General and those members of his or her staff whom he or she specifically authorizes in writing to carry a weapon;
  - (12) Probation supervisors employed by and under the authority of the Department of Corrections pursuant to Article 2 of Chapter 8 of Title 42, known as the "State-wide Probation Act," when specifically designated and authorized in writing by the director of the Division of Probation;
  - (13) Public safety directors of municipal corporations;
  - (14) State and federal trial and appellate judges;
  - (15) United States attorneys and assistant United States attorneys;
  - (16) Clerks of the superior courts;
  - (17) Teachers and other personnel who are otherwise authorized to possess or carry weapons, provided that any such weapon is in a locked compartment of a motor vehicle or one which is in a locked container in or a locked firearms rack which is on a motor vehicle; or
  - (18) Constables of any county of this state.
- (d) (1) This Code section shall not prohibit any person who resides or works in a business or is in the ordinary course transacting lawful business or any person who is a visitor of such resident located within a school safety zone from carrying, possessing, or having under such person's control a weapon within a school safety zone; provided, however, that it shall be unlawful for any such person to carry, possess, or have under such person's control while at a school building or school function or on school property or a bus or other transportation furnished by a school any weapon or explosive compound, other than fireworks the possession of which is regulated by Chapter 10 of Title 25.
- (2) Any person who violates this subsection shall be subject to the penalties specified in subsection (b) of this Code section.
- (e) It shall be no defense to a prosecution for a violation of this Code section that:
- (1) School was or was not in session at the time of the offense;
  - (2) The real property was being used for other purposes besides school purposes at the time of the offense; or
  - (3) The offense took place on a bus or other transportation furnished by a school.
- (f) In a prosecution under this Code section, a map produced or reproduced by any municipal or county agency or department for the purpose of depicting the location and boundaries of the area of the real property of a school board or a private or public

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elementary or secondary school that is used for school purposes or the area of any public or private technical school, vocational school, college, university, or other institution of postsecondary education, or a true copy of the map, shall, if certified as a true copy by the custodian of the record, be admissible and shall constitute prima-facie evidence of the location and boundaries of the area, if the governing body of the municipality or county has approved the map as an official record of the location and boundaries of the area. A map approved under this Code section may be revised from time to time by the governing body of the municipality or county. The original of every map approved or revised under this subsection or a true copy of such original map shall be filed with the municipality or county and shall be maintained as an official record of the municipality or county. This subsection shall not preclude the prosecution from introducing or relying upon any other evidence or testimony to establish any element of this offense. This subsection shall not preclude the use or admissibility of a map or diagram other than the one which has been approved by the municipality or county.

(g) A county school board may adopt regulations requiring the posting of signs designating the areas of school boards and private or public elementary and secondary schools as "Weapon-free and Violence-free School Safety Zones."

**HISTORY:** Code 1981, § 16-11-127.1, enacted by Ga. L. 1992, p. 1315, § 2; Ga. L. 1994, p. 543, § 1; Ga. L. 1994, p. 547, § 1; Ga. L. 1994, p. 1012, § 4; Ga. L. 1995, p. 10, § 16; Ga. L. 1999, p. 362, § 1; Ga. L. 2000, p. 20, § 6; Ga. L. 2000, p. 1630, § 4; Ga. L. 2003, p. 140, § 16; Ga. L. 2008, p. 533, § 3/SB 366; Ga. L. 2008, p. 1199, § 5/HB 89; Ga. L. 2009, p. 8, § 16/SB 46; Ga. L. 2010, p. 463, § 2/SB 299; Ga. L. 2010, p. 963, § 1-4/SB 308; Ga. L. 2013, p. 294, § 4-10/HB 242; Ga. L. 2014, p. 432, § 1-1/HB 826; Ga. L. 2014, p. 599, § 1-6/HB 60.

## **OCGA § 16-11-127.2. Weapons on premises of nuclear power facility**

(a) Except as provided in subsection (c) of this Code section, it shall be unlawful for any person to carry, possess, or have under such person's control while on the premises of a nuclear power facility a weapon or long gun. Any person who violates this subsection shall be guilty of a misdemeanor.

(b) Any person who violates subsection (a) of this Code section with the intent to do bodily harm on the premises of a nuclear power facility shall be guilty of a felony and, upon conviction thereof, shall be punished by a fine of not more than \$10,000.00, by imprisonment for not less than two nor more than 20 years, or both.

(c) This Code section shall not apply to a security officer authorized to carry dangerous weapons pursuant to Code Section 16-11-124 who is acting in connection with his or her official duties on the premises of a federally licensed nuclear power facility; nor shall this Code section apply to persons designated in paragraph (2), (3), (4), or (8) of subsection (c) of Code Section 16-11-127.1.

**HISTORY:** Code 1981, § 16-11-127.2, enacted by Ga. L. 2006, p. 812, § 2/SB 532; Ga. L. 2007, p. 47, § 16/SB 103; Ga. L. 2010, p. 963, § 1-5/SB 308; Ga. L. 2014, p. 432, § 2-6/HB 826.

**OCGA § 16-11-128. Carrying pistol without license.** Reserved. Repealed by Ga. L. 2010, p. 963, § 1-6, effective June 4, 2010.

## **OCGA § 16-11-129. Weapons carry license; temporary renewal permit; mandamus**

(a) Application for weapons carry license or renewal license; term. The judge of the probate court of each county may, on application under oath and on payment of a fee of \$30.00, issue a weapons carry license or renewal license valid for a period of five years to any person whose domicile is in that county or who is on active duty with the United States armed forces and who is not a domiciliary of this state but who either resides in that county or on a military reservation located in whole or in part in that county at the time of such application. Such license or renewal license shall authorize that person to carry any weapon in any county of this state notwithstanding any change in that person's county of residence or state of domicile. Applicants shall submit the application for a weapons carry license or renewal license to the judge of the probate court on forms prescribed and furnished free of charge to persons wishing to apply for the license or renewal license. An applicant who is not a United States citizen shall provide sufficient personal identifying data, including without limitation his or her place of birth and United States issued alien or admission number, as the Georgia Bureau of Investigation may prescribe by rule or regulation. An applicant who is in nonimmigrant status shall provide proof of his or her qualifications for an exception to the federal firearm prohibition pursuant to 18 U.S.C. Section 922(y). Forms shall be designed to elicit information from the applicant pertinent to his or her eligibility under this Code section, including citizenship, but shall not require data which is nonpertinent or irrelevant, such as serial numbers or other identification capable of being used as a de facto registration of firearms owned by the applicant. The Department of Public Safety shall furnish application forms and license forms required by this Code section. The forms shall be furnished to each judge of each probate court within this state at no cost.

(b) Licensing exceptions.

(1) As used in this subsection, the term:

(A) "Controlled substance" means any drug, substance, or immediate precursor included in the definition of controlled substances in paragraph (4) of Code Section 16-13-21.

(B) "Convicted" means an adjudication of guilt. Such term shall not include an order of discharge and exoneration pursuant to Article 3 of Chapter 8 of Title 42.

(C) "Dangerous drug" means any drug defined as such in Code Section 16-13-71.

(2) No weapons carry license shall be issued to:

(A) Any person younger than 21 years of age unless he or she:

(i) Is at least 18 years of age;

(ii) Provides proof that he or she has completed basic training in the armed forces of the United States; and

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- (iii) Provides proof that he or she is actively serving in the armed forces of the United States or has been honorably discharged from such service;
  - (B) Any person who has been convicted of a felony by a court of this state or any other state; by a court of the United States, including its territories, possessions, and dominions; or by a court of any foreign nation and has not been pardoned for such felony by the President of the United States, the State Board of Pardons and Paroles, or the person or agency empowered to grant pardons under the constitution or laws of such state or nation;
  - (C) Any person against whom proceedings are pending for any felony;
  - (D) Any person who is a fugitive from justice;
  - (E) Any person who is prohibited from possessing or shipping a firearm in interstate commerce pursuant to subsections (g) and (n) of 18 U.S.C. Section 922;
  - (F) Any person who has been convicted of an offense arising out of the unlawful manufacture or distribution of a controlled substance or other dangerous drug;
  - (G) Any person who has had his or her weapons carry license revoked pursuant to subsection (e) of this Code section within three years of the date of his or her application;
  - (H) Any person who has been convicted of any of the following:
    - (i) Carrying a weapon without a weapons carry license in violation of Code Section 16-11-126; or
    - (ii) Carrying a weapon or long gun in an unauthorized location in violation of Code Section 16-11-127 and has not been free of all restraint or supervision in connection therewith and free of any other conviction for at least five years immediately preceding the date of the application;
  - (I) Any person who has been convicted of any misdemeanor involving the use or possession of a controlled substance and has not been free of all restraint or supervision in connection therewith or free of:
    - (i) A second conviction of any misdemeanor involving the use or possession of a controlled substance; or
    - (ii) Any conviction under subparagraphs (E) through (G) of this paragraph for at least five years immediately preceding the date of the application;
  - (J) Except as provided for in subsection (b.1) of this Code section, any person who has been hospitalized as an inpatient in any mental hospital or alcohol or drug treatment center within the five years immediately preceding the application. The judge of the probate court may require any applicant to sign a waiver authorizing any mental hospital or treatment center to inform the judge whether or not the applicant has been an inpatient in any such facility in the last five years and authorizing the superintendent of such facility to make to the judge a recommendation regarding whether the applicant is a threat to the safety of others and whether a license to carry a weapon should be issued. When such a waiver is required by the judge, the applicant shall pay a fee of \$3.00 for reimbursement of the cost of making such a report by the mental health hospital, alcohol or drug treatment center, or the Department of Behavioral Health and Developmental Disabilities, which the judge shall remit to the hospital, center, or department. The judge shall keep any such hospitalization or treatment information confidential. It shall be at the discretion of the judge, considering the circumstances surrounding the hospitalization and the recommendation of the superintendent of the hospital or treatment center where the individual was a patient, to issue the weapons carry license or renewal license;
  - (K) Except as provided for in subsection (b.1) of this Code section, any person who has been adjudicated mentally incompetent to stand trial; or
  - (L) Except as provided for in subsection (b.1) of this Code section, any person who has been adjudicated not guilty by reason of insanity at the time of the crime pursuant to Part 2 of Article 6 of Chapter 7 of Title 17.
- (b.1) Petitions for relief from certain licensing exceptions.
- (1) Persons provided for under subparagraphs (b)(2)(J), (b)(2)(K), and (b)(2)(L) of this Code section may petition the court in which such adjudication, hospitalization, or treatment proceedings, if any, under Chapter 3 or 7 of Title 37 occurred for relief. A copy of such petition for relief shall be served as notice upon the opposing civil party or the prosecuting attorney for the state, as the case may be, or their successors, who appeared in the underlying case. Within 30 days of the receipt of such petition, such court shall hold a hearing on such petition for relief. Such prosecuting attorney for the state may represent the interests of the state at such hearing.
  - (2) At the hearing provided for under paragraph (1) of this subsection, the court shall receive and consider evidence in a closed proceeding concerning:
    - (A) The circumstances which caused the person to be subject to subparagraph (b)(2)(J), (b)(2)(K), or (b)(2)(L) of this Code section;
    - (B) The person's mental health and criminal history records, if any. The judge of such court may require any such person to sign a waiver authorizing the superintendent of any mental hospital or treatment center to make to the judge a recommendation regarding whether such person is a threat to the safety of others. When such a waiver is required by the judge, the applicant shall pay a fee of \$3.00 for reimbursement of the cost of making such a report by the mental health hospital, alcohol or drug treatment center, or the Department of Behavioral Health and Developmental Disabilities, which the judge shall remit to the hospital, center, or department;
    - (C) The person's reputation which shall be established through character witness statements, testimony, or other character evidence; and
    - (D) Changes in the person's condition or circumstances since such adjudication, hospitalization, or treatment proceedings under Chapter 3 or 7 of Title 37.



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The judge shall issue an order of his or her decision no later than 30 days after the hearing.

- (3) The court shall grant the petition for relief if such court finds by a preponderance of the evidence that the person will not likely act in a manner dangerous to public safety in carrying a weapon and that granting the relief will not be contrary to the public interest. A record shall be kept of the hearing; provided, however, that such records shall remain confidential and be disclosed only to a court or to the parties in the event of an appeal. Any appeal of the court's ruling on the petition for relief shall be de novo review.
  - (4) If the court grants such person's petition for relief, the applicable subparagraph (b)(2)(J), (b)(2)(K), or (b)(2)(L) of this Code section shall not apply to such person in his or her application for a weapons carry license or renewal; provided, however, that such person shall comply with all other requirements for the issuance of a weapons carry license or renewal license. The clerk of such court shall report such order to the Georgia Crime Information Center immediately, but in no case later than ten business days after the date of such order.
  - (5) A person may petition for relief under this subsection not more than once every two years. In the case of a person who has been hospitalized as an inpatient, such person shall not petition for relief prior to being discharged from such treatment.
- (c) Fingerprinting. Following completion of the application for a weapons carry license, the judge of the probate court shall require the applicant to proceed to an appropriate law enforcement agency in the county or to any vendor approved by the Georgia Bureau of Investigation for fingerprint submission services with the completed application so that such agency or vendor can capture the fingerprints of the applicant. The law enforcement agency shall be entitled to a fee of \$5.00 from the applicant for its services in connection with fingerprinting and processing of an application. Fingerprinting shall not be required for applicants seeking temporary renewal licenses or renewal licenses.
- (d) Investigation of applicant; issuance of weapons carry license; renewal.
- (1) For both weapons carry license applications and requests for license renewals, the judge of the probate court shall within five business days following the receipt of the application or request direct the law enforcement agency to request a fingerprint based criminal history records check from the Georgia Crime Information Center and Federal Bureau of Investigation for purposes of determining the suitability of the applicant and return an appropriate report to the judge of the probate court. Fingerprints shall be in such form and of such quality as prescribed by the Georgia Crime Information Center and under standards adopted by the Federal Bureau of Investigation. The Georgia Bureau of Investigation may charge such fee as is necessary to cover the cost of the records search.
  - (2) For both weapons carry license applications and requests for license renewals, the judge of the probate court shall within five business days following the receipt of the application or request also direct the law enforcement agency to conduct a background check using the Federal Bureau of Investigation's National Instant Criminal Background Check System and return an appropriate report to the probate judge.
  - (3) When a person who is not a United States citizen applies for a weapons carry license or renewal of a license under this Code section, the judge of the probate court shall direct the law enforcement agency to conduct a search of the records maintained by United States Immigration and Customs Enforcement and return an appropriate report to the probate judge. As a condition to the issuance of a license or the renewal of a license, an applicant who is in nonimmigrant status shall provide proof of his or her qualifications for an exception to the federal firearm prohibition pursuant to 18 U.S.C. Section 922(y).
  - (4) The law enforcement agency shall report to the judge of the probate court within 30 days, by telephone and in writing, of any findings relating to the applicant which may bear on his or her eligibility for a weapons carry license or renewal license under the terms of this Code section. When no derogatory information is found on the applicant bearing on his or her eligibility to obtain a license or renewal license, a report shall not be required. The law enforcement agency shall return the application directly to the judge of the probate court within such time period. Not later than ten days after the judge of the probate court receives the report from the law enforcement agency concerning the suitability of the applicant for a license, the judge of the probate court shall issue such applicant a license or renewal license to carry any weapon unless facts establishing ineligibility have been reported or unless the judge determines such applicant has not met all the qualifications, is not of good moral character, or has failed to comply with any of the requirements contained in this Code section. The judge of the probate court shall date stamp the report from the law enforcement agency to show the date on which the report was received by the judge of the probate court.
- (e) Revocation, loss, or damage to license. If, at any time during the period for which the weapons carry license was issued, the judge of the probate court of the county in which the license was issued shall learn or have brought to his or her attention in any manner any reasonable ground to believe the licensee is not eligible to retain the license, the judge may, after notice and hearing, revoke the license of the person upon a finding that such person is not eligible for a weapons carry license pursuant to subsection (b) of this Code section or an adjudication of falsification of application, mental incompetency, or chronic alcohol or narcotic usage. It shall be unlawful for any person to possess a license which has been revoked, and any person found in possession of any such revoked license, except in the performance of his or her official duties, shall be guilty of a misdemeanor. Loss of any license issued in accordance with this Code section or damage to the license in any manner which shall render it illegible shall be reported to the judge of the probate court of the county in which it was issued within 48 hours of the time the loss or damage becomes known to the license holder. The judge of the probate court shall thereupon issue a replacement for and shall take custody of and destroy a damaged license; and in any case in which a license has been lost, he or she shall issue a cancellation order and notify by telephone and in writing each of the law enforcement agencies whose records were checked before issuance of the original license. The judge shall charge the fee specified in subsection (k) of Code Section 15-9-60 for such services.

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- (f) (1) Weapons carry license specifications. Weapons carry licenses issued prior to January 1, 2012, shall be in the format specified by the former provisions of this paragraph as they existed on June 30, 2013.
- (2) On and after January 1, 2012, newly issued or renewal weapons carry licenses shall incorporate overt and covert security features which shall be blended with the personal data printed on the license to form a significant barrier to imitation, replication, and duplication. There shall be a minimum of three different ultraviolet colors used to enhance the security of the license incorporating variable data, color shifting characteristics, and front edge only perimeter visibility. The weapons carry license shall have a color photograph viewable under ambient light on both the front and back of the license. The license shall incorporate custom optical variable devices featuring the great seal of the State of Georgia as well as matching demetalized optical variable devices viewable under ambient light from the front and back of the license incorporating microtext and unique alphanumeric serialization specific to the license holder. The license shall be of similar material, size, and thickness of a credit card and have a holographic laminate to secure and protect the license for the duration of the license period.
- (3) Using the physical characteristics of the license set forth in paragraph (2) of this subsection, The Council of Probate Court Judges of Georgia shall create specifications for the probate courts so that all weapons carry licenses in this state shall be uniform and so that probate courts can petition the Department of Administrative Services to purchase the equipment and supplies necessary for producing such licenses. The department shall follow the competitive bidding procedure set forth in Code Section 50-5-102.
- (g) Alteration or counterfeiting of license; penalty. A person who deliberately alters or counterfeits a weapons carry license or who possesses an altered or counterfeit weapons carry license with the intent to misrepresent any information contained in such license shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for a period of not less than one nor more than five years.
- (h) Licenses for former law enforcement officers. Except as otherwise provided in Code Section 16-11-130, any person who has served as a law enforcement officer for at least ten of the 12 years immediately preceding the retirement of such person as a law enforcement officer shall be entitled to be issued a weapons carry license as provided for in this Code section without the payment of any of the fees provided for in this Code section. Such person shall comply with all the other provisions of this Code section relative to the issuance of such licenses. As used in this subsection, the term "law enforcement officer" means any peace officer who is employed by the United States government or by the State of Georgia or any political subdivision thereof and who is required by the terms of his or her employment, whether by election or appointment, to give his or her full time to the preservation of public order or the protection of life and property or the prevention of crime. Such term shall include conservation rangers.
- (i) Temporary renewal licenses.
- (1) Any person who holds a weapons carry license under this Code section may, at the time he or she applies for a renewal of the license, also apply for a temporary renewal license if less than 90 days remain before expiration of the license he or she then holds or if the previous license has expired within the last 30 days.
- (2) Unless the judge of the probate court knows or is made aware of any fact which would make the applicant ineligible for a five-year renewal license, the judge shall at the time of application issue a temporary renewal license to the applicant.
- (3) Such a temporary renewal license shall be in the form of a paper receipt indicating the date on which the court received the renewal application and shall show the name, address, sex, age, and race of the applicant and that the temporary renewal license expires 90 days from the date of issue.
- (4) During its period of validity the temporary renewal license, if carried on or about the holder's person together with the holder's previous license, shall be valid in the same manner and for the same purposes as a five-year license.
- (5) A \$1.00 fee shall be charged by the probate court for issuance of a temporary renewal license.
- (6) A temporary renewal license may be revoked in the same manner as a five-year license.
- (j) Applicant may seek relief. When an eligible applicant fails to receive a license, temporary renewal license, or renewal license within the time period required by this Code section and the application or request has been properly filed, the applicant may bring an action in mandamus or other legal proceeding in order to obtain a license, temporary renewal license, or renewal license. When an applicant is otherwise denied a license, temporary renewal license, or renewal license and contends that he or she is qualified to be issued a license, temporary renewal license, or renewal license, the applicant may bring an action in mandamus or other legal proceeding in order to obtain such license. Additionally, the applicant may request a hearing before the judge of the probate court relative to the applicant's fitness to be issued such license. Upon the issuance of a denial, the judge of the probate court shall inform the applicant of his or her rights pursuant to this subsection. If such applicant is the prevailing party, he or she shall be entitled to recover his or her costs in such action, including reasonable attorney's fees.
- (k) Data base prohibition. A person or entity shall not create or maintain a multijurisdictional data base of information regarding persons issued weapons carry licenses.
- (l) Verification of license. The judge of a probate court or his or her designee shall be authorized to verify the legitimacy and validity of a weapons carry license to a license holder, pursuant to a subpoena or court order, or for public safety purposes, but shall not be authorized to provide any further information regarding license holders.

HISTORY: Ga. L. 1910, p. 134, §§ 2, 3; Code 1933, §§ 26-5104, 26-5105; Ga. L. 1960, p. 938, § 1; Code 1933, § 26-2904, enacted by Ga. L. 1968, p. 1249, § 1; Ga. L. 1976, p. 1430, § 4; Ga. L. 1978, p. 1607, §§ 1, 2; Ga. L. 1981, p. 946, § 1; Ga. L. 1981, p. 1325, § 1; Ga. L. 1983, p. 1431, § 1; Ga. L. 1984, p. 935, § 1; Ga. L. 1984, p. 1388, § 1; Ga. L. 1986, p. 305, § 1; Ga. L. 1986, p. 481, §§ 1, 2; Ga. L. 1990, p. 138, § 1; Ga. L. 1990, p. 2012, § 1; Ga. L. 1992, p. 6, § 16; Ga. L. 1994, p. 351, § 1; Ga. L. 1996, p. 108, §§ 3-5; Ga. L. 1997, p. 514, § 2; Ga. L. 2002, p. 1011, § 2; Ga. L. 2006, p. 264, § 1/ HB 1032; Ga. L. 2008, p. 1199, § 6/ HB

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89; Ga. L. 2009, p. 453, § 3-2/HB 228; Ga. L. 2010, p. 963, § 1-7/SB 308; Ga. L. 2011, p. 752, § 16/HB 142; Ga. L. 2014, p. 599, § 1-7/HB 60.

## **OCGA § 16-11-130. Exemptions from Code Sections 16-11-126 through 16-11-127.2**

- (a) Code Sections 16-11-126 through 16-11-127.2 shall not apply to or affect any of the following persons if such persons are employed in the offices listed below or when authorized by federal or state law, regulations, or order:
- (1) Peace officers, as such term is defined in paragraph (11) of Code Section 16-1-3, and retired peace officers so long as they remain certified whether employed by the state or a political subdivision of the state or another state or a political subdivision of another state but only if such other state provides a similar privilege for the peace officers of this state;
  - (2) Wardens, superintendents, and keepers of correctional institutions, jails, or other institutions for the detention of persons accused or convicted of an offense;
  - (3) Persons in the military service of the state or of the United States;
  - (4) Persons employed in fulfilling defense contracts with the government of the United States or agencies thereof when possession of the weapon or long gun is necessary for manufacture, transport, installation, and testing under the requirements of such contract;
  - (5) District attorneys, investigators employed by and assigned to a district attorney's office, assistant district attorneys, attorneys or investigators employed by the Prosecuting Attorneys' Council of the State of Georgia, and any retired district attorney, assistant district attorney, district attorney's investigator, or attorney or investigator retired from the Prosecuting Attorneys' Council of the State of Georgia, if such employee is retired in good standing and is receiving benefits under Title 47 or is retired in good standing and receiving benefits from a county or municipal retirement system;
  - (6) State court solicitors-general; investigators employed by and assigned to a state court solicitor-general's office; assistant state court solicitors-general; the corresponding personnel of any city court expressly continued in existence as a city court pursuant to Article VI, Section X, Paragraph I, subparagraph (5) of the Constitution; and the corresponding personnel of any civil court expressly continued as a civil court pursuant to said provision of the Constitution;
  - (7) Those employees of the State Board of Pardons and Paroles when specifically designated and authorized in writing by the members of the State Board of Pardons and Paroles to carry a weapon or long gun;
  - (8) The Attorney General and those members of his or her staff whom he or she specifically authorizes in writing to carry a weapon or long gun;
  - (9) Chief probation officers, probation officers, intensive probation officers, and surveillance officers employed by and under the authority of the Department of Corrections pursuant to Article 2 of Chapter 8 of Title 42, known as the "State-wide Probation Act," when specifically designated and authorized in writing by the director of Division of Probation;
  - (10) Public safety directors of municipal corporations;
  - (11) Explosive ordnance disposal technicians, as such term is defined by Code Section 16-7-80, and persons certified as provided in Code Section 35-8-13 to handle animals trained to detect explosives, while in the performance of their duties;
  - (12) State and federal judges, judges of probate, juvenile, and magistrate courts, full-time judges of municipal and city courts, and permanent part-time judges of municipal and city courts;
  - (12.1) Former state and federal judges, judges of probate, juvenile, and magistrate courts, full-time judges of municipal and city courts, and permanent part-time judges of municipal courts who are retired from their respective offices, provided that such judge would otherwise be qualified to be issued a weapons carry license;
  - (12.2) Former state and federal judges, judges of probate, juvenile, and magistrate courts, full-time judges of municipal and city courts, and permanent part-time judges of municipal courts who are no longer serving in their respective office, provided that he or she served as such judge for more than 24 months and provided, further, that such judge would otherwise be qualified to be issued a weapons carry license;
  - (13) United States Attorneys and Assistant United States Attorneys;
  - (14) County medical examiners and coroners and their sworn officers employed by county government;
  - (15) Clerks of the superior courts; and
  - (16) Constables employed by a magistrate court of this state.
- (b) Code Sections 16-11-126 through 16-11-127.2 shall not apply to or affect persons who at the time of their retirement from service with the Department of Corrections were chief probation officers, probation officers, intensive probation officers, or surveillance officers, when specifically designated and authorized in writing by the director of the Division of Probation.
- (c) Code Sections 16-11-126 through 16-11-127.2 shall not apply to or affect any:
- (1) Sheriff, retired sheriff, deputy sheriff, or retired deputy sheriff if such retired sheriff or deputy sheriff is eligible to receive or is receiving benefits under the Peace Officers' Annuity and Benefit Fund provided under Chapter 17 of Title 47, the Sheriffs' Retirement Fund of Georgia provided under Chapter 16 of Title 47, or any other public retirement system established under the laws of this state for service as a law enforcement officer;
  - (2) Member of the Georgia State Patrol or agent of the Georgia Bureau of Investigation or retired member of the Georgia State Patrol or agent of the Georgia Bureau of Investigation if such retired member or agent is receiving benefits under the Employees' Retirement System;
  - (3) Full-time law enforcement chief executive engaging in the management of a county, municipal, state, state authority, or federal law enforcement agency in the State of Georgia, including any college or university law enforcement chief executive that is registered or certified by the Georgia Peace Officer Standards and Training Council; or retired law enforcement chief

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executive that formerly managed a county, municipal, state, state authority, or federal law enforcement agency in the State of Georgia, including any college or university law enforcement chief executive that was registered or certified at the time of his or her retirement by the Georgia Peace Officer Standards and Training Council, if such retired law enforcement chief executive is receiving benefits under the Peace Officers' Annuity and Benefit Fund provided under Chapter 17 of Title 47 or is retired in good standing and receiving benefits from a county, municipal, State of Georgia, state authority, or federal retirement system; or

- (4) Police officer of any county, municipal, state, state authority, or federal law enforcement agency in the State of Georgia, including any college or university police officer that is registered or certified by the Georgia Peace Officer Standards and Training Council, or retired police officer of any county, municipal, state, state authority, or federal law enforcement agency in the State of Georgia, including any college or university police officer that was registered or certified at the time of his or her retirement by the Georgia Peace Officer Standards and Training Council, if such retired employee is receiving benefits under the Peace Officers' Annuity and Benefit Fund provided under Chapter 17 of Title 47 or is retired in good standing and receiving benefits from a county, municipal, State of Georgia, state authority, or federal retirement system.

In addition, any such sheriff, retired sheriff, deputy sheriff, retired deputy sheriff, active or retired law enforcement chief executive, or other law enforcement officer referred to in this subsection shall be authorized to carry a handgun on or off duty anywhere within the state and the provisions of Code Sections 16-11-126 through 16-11-127.2 shall not apply to the carrying of such firearms.

- (d) A prosecution based upon a violation of Code Section 16-11-126 or 16-11-127 need not negative any exemptions.

**HISTORY:** Code 1933, § 26-2907, enacted by Ga. L. 1968, p. 1249, § 1; Ga. L. 1974, p. 481, § 1; Ga. L. 1979, p. 1019, § 1; Ga. L. 1982, p. 3, § 16; Ga. L. 1982, p. 789, § 2; Ga. L. 1984, p. 22, § 16; Ga. L. 1985, p. 283, § 1; Ga. L. 1986, p. 1205, § 2; Ga. L. 1988, p. 472, § 1; Ga. L. 1990, p. 558, § 1; Ga. L. 1991, p. 94, § 16; Ga. L. 1993, p. 604, § 1; Ga. L. 1994, p. 547, § 2; Ga. L. 1996, p. 416, § 6; Ga. L. 1996, p. 748, § 12; Ga. L. 1997, p. 514, § 3; Ga. L. 1998, p. 657, §§ 1-3; Ga. L. 2000, p. 843, §§ 1, 2; Ga. L. 2003, p. 140, § 16; Ga. L. 2006, p. 531, § 1/HB 1044; Ga. L. 2008, p. 577, § 16/SB 396; Ga. L. 2010, p. 963, § 2-7/SB 308; Ga. L. 2011, p. 508, § 1/HB 266; Ga. L. 2014, p. 599, § 1-8/HB 60.

## **OCGA § 16-11-130.1. Allowing personnel to carry weapons within certain school safety zones and at school functions**

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

- (1) "Bus or other transportation furnished by a school" means a bus or other transportation furnished by a public or private elementary or secondary school.
- (2) "School function" means a school function or related activity that occurs outside of a school safety zone for a public or private elementary or secondary school.
- (3) "School safety zone" means in or on any real property or building owned by or leased to any public or private elementary or secondary school or local board of education and used for elementary or secondary education.
- (4) "Weapon" shall have the same meaning as set forth in Code Section 16-11-127.1.

- (b) This Code section shall not be construed to require or otherwise mandate that any local board of education or school administrator adopt or implement a practice or program for the approval of personnel to possess or carry weapons within a school safety zone, at a school function, or on a bus or other transportation furnished by a school nor shall this Code section create any liability for adopting or declining to adopt such practice or program. Such decision shall rest with each individual local board of education. If a local board of education adopts a policy to allow certain personnel to possess or carry weapons as provided in paragraph (6) of subsection (c) of Code Section 16-11-127.1, such policy shall include approval of personnel to possess or carry weapons and provide for:

- (1) Training of approved personnel prior to authorizing such personnel to carry weapons. The training shall at a minimum include training on judgment pistol shooting, marksmanship, and a review of current laws relating to the use of force for the defense of self and others; provided, however, that the local board of education training policy may substitute for certain training requirements the personnel's prior military or law enforcement service if the approved personnel has previously served as a certified law enforcement officer or has had military service which involved similar weapons training;
- (2) An approved list of the types of weapons and ammunition and the quantity of weapons and ammunition authorized to be possessed or carried;
- (3) The exclusion from approval of any personnel who has had an employment or other history indicating any type of mental or emotional instability as determined by the local board of education; and
- (4) A mandatory method of securing weapons which shall include at a minimum a requirement that the weapon, if permitted to be carried concealed by personnel, shall be carried on the person and not in a purse, briefcase, bag, or similar other accessory which is not secured on the body of the person and, if maintained separate from the person, shall be maintained in a secured lock safe or similar lock box that cannot be easily accessed by students.

- (c) Any personnel selected to possess or carry weapons within a school safety zone, at a school function, or on a bus or other transportation furnished by a school shall be a license holder, and the local board of education shall be responsible for conducting a criminal history background check of such personnel annually to determine whether such personnel remains qualified to be a license holder.

- (d) The selection of approved personnel to possess or carry a weapon within a school safety zone, at a school function, or on a bus or other transportation furnished by a school shall be done strictly on a voluntary basis. No personnel shall be required to possess or

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carry a weapon within a school safety zone, at a school function, or on a bus or other transportation furnished by a school and shall not be terminated or otherwise retaliated against for refusing to possess or carry a weapon.

- (e) The local board of education shall be responsible for any costs associated with approving personnel to carry or possess weapons within a school safety zone, at a school function, or on a bus or other transportation furnished by a school; provided, however, that nothing contained in this Code section shall prohibit any approved personnel from paying for part or all of such costs or using any other funding mechanism available, including donations or grants from private persons or entities.
- (f) Documents and meetings pertaining to personnel approved to carry or possess weapons within a school safety zone, at a school function, or on a bus or other transportation furnished by a school shall be considered employment and public safety security records and shall be exempt from disclosure under Article 4 of Chapter 18 of Title 50.

HISTORY: Code 1981, § 16-11-130.1, enacted by Ga. L. 2014, p. 599, § 1-9/HB 60.

## **OCGA § 16-11-130.2. Carrying a weapon or long gun at a commercial service airport**

- (a) No person shall enter the restricted access area of a commercial service airport, in or beyond the airport security screening checkpoint, knowingly possessing or knowingly having under his or her control a weapon or long gun. Such area shall not include an airport drive, general parking area, walkway, or shops and areas of the terminal that are outside the screening checkpoint and that are normally open to unscreened passengers or visitors to the airport. Any restricted access area shall be clearly indicated by prominent signs indicating that weapons are prohibited in such area.
- (b) A person who is not a license holder and who violates this Code section shall be guilty of a misdemeanor. A license holder who violates this Code section shall be guilty of a misdemeanor; provided, however, that a license holder who is notified at the screening checkpoint for the restricted access area that he or she is in possession of a weapon or long gun and who immediately leaves the restricted access area following such notification and completion of federally required transportation security screening procedures shall not be guilty of violating this Code section.
- (c) Any person who violates this Code section with the intent to commit a separate felony offense shall be guilty of a felony and, upon conviction thereof, shall be punished by a fine of not less than \$1,000.00 nor more than \$15,000.00, imprisonment for not less than one nor more than ten years, or both.
- (d) Any ordinance, resolution, regulation, or policy of any county, municipality, or other political subdivision of this state which is in conflict with this Code section shall be null, void, and of no force and effect, and this Code section shall preempt any such ordinance, resolution, regulation, or policy.

HISTORY: Code 1981, § 16-11-130.2, enacted by Ga. L. 2014, p. 599, § 1-9/HB 60.

## **OCGA § 16-11-131. Possession of firearms by convicted felons and first offender probationers**

- (a) As used in this Code section, the term:
  - (1) "Felony" means any offense punishable by imprisonment for a term of one year or more and includes conviction by a court-martial under the Uniform Code of Military Justice for an offense which would constitute a felony under the laws of the United States.
  - (2) "Firearm" includes any handgun, rifle, shotgun, or other weapon which will or can be converted to expel a projectile by the action of an explosive or electrical charge.
- (b) Any person who is on probation as a felony first offender pursuant to Article 3 of Chapter 8 of Title 42 or who has been convicted of a felony by a court of this state or any other state; by a court of the United States including its territories, possessions, and dominions; or by a court of any foreign nation and who receives, possesses, or transports any firearm commits a felony and, upon conviction thereof, shall be imprisoned for not less than one nor more than five years; provided, however, that if the felony as to which the person is on probation or has been previously convicted is a forcible felony, then upon conviction of receiving, possessing, or transporting a firearm, such person shall be imprisoned for a period of five years.
- (b.1) Any person who is prohibited by this Code section from possessing a firearm because of conviction of a forcible felony or because of being on probation as a first offender for a forcible felony pursuant to this Code section and who attempts to purchase or obtain transfer of a firearm shall be guilty of a felony and shall be punished by imprisonment for not less than one nor more than five years.
- (c) This Code section shall not apply to any person who has been pardoned for the felony by the President of the United States, the State Board of Pardons and Paroles, or the person or agency empowered to grant pardons under the constitutions or laws of the several states or of a foreign nation and, by the terms of the pardon, has expressly been authorized to receive, possess, or transport a firearm.
- (d) A person who has been convicted of a felony, but who has been granted relief from the disabilities imposed by the laws of the United States with respect to the acquisition, receipt, transfer, shipment, or possession of firearms by the secretary of the United States Department of the Treasury pursuant to 18 U.S.C. Section 925, shall, upon presenting to the Board of Public Safety proof that the relief has been granted and it being established from proof submitted by the applicant to the satisfaction of the Board of Public Safety that the circumstances regarding the conviction and the applicant's record and reputation are such that the acquisition, receipt, transfer, shipment, or possession of firearms by the person would not present a threat to the safety of the citizens of Georgia and that the granting of the relief sought would not be contrary to the public interest, be granted relief from the disabilities imposed by this Code section. A person who has been convicted under federal or state law of a felony pertaining to antitrust violations, unfair trade practices, or restraint of trade shall, upon presenting to the Board of Public Safety proof, and it being established from said proof, submitted by the applicant to the satisfaction of the Board of Public Safety that the circumstances regarding the conviction and the applicant's record and reputation are such that the acquisition, receipt, transfer,

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shipment, or possession of firearms by the person would not present a threat to the safety of the citizens of Georgia and that the granting of the relief sought would not be contrary to the public interest, be granted relief from the disabilities imposed by this Code section. A record that the relief has been granted by the board shall be entered upon the criminal history of the person maintained by the Georgia Crime Information Center and the board shall maintain a list of the names of such persons which shall be open for public inspection.

- (e) As used in this Code section, the term "forcible felony" means any felony which involves the use or threat of physical force or violence against any person and further includes, without limitation, murder; murder in the second degree; burglary in any degree; robbery; armed robbery; home invasion in any degree; kidnapping; hijacking of an aircraft or motor vehicle; aggravated stalking; rape; aggravated child molestation; aggravated sexual battery; arson in the first degree; the manufacturing, transporting, distribution, or possession of explosives with intent to kill, injure, or intimidate individuals or destroy a public building; terroristic threats; or acts of treason or insurrection.
- (f) Any person placed on probation as a first offender pursuant to Article 3 of Chapter 8 of Title 42 and subsequently discharged without court adjudication of guilt pursuant to Code Section 42-8-62 shall, upon such discharge, be relieved from the disabilities imposed by this Code section.

HISTORY: Code 1933, § 26-2914, enacted by Ga. L. 1980, p. 1509, § 1; Ga. L. 1982, p. 1171, § 2; Ga. L. 1983, p. 945, § 1; Ga. L. 1987, p. 476, §§ 1, 2; Ga. L. 1989, p. 14, § 16; Ga. L. 2000, p. 1630, § 5; Ga. L. 2012, p. 899, § 8-5/ HB 1176; Ga. L. 2014, p. 426, § 4/ HB 770; Ga. L. 2014, p. 444, § 2-5/ HB 271.

### **OCGA § 16-11-132. Possession of handgun by person under the age of 18 years**

- (a) For the purposes of this Code section, a handgun is considered loaded if there is a cartridge in the chamber or cylinder of the handgun.
- (b) Notwithstanding any other provisions of this part and except as otherwise provided in this Code section, it shall be unlawful for any person under the age of 18 years to possess or have under such person's control a handgun. A person convicted of a first violation of this subsection shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \$1,000.00 or by imprisonment for not more than 12 months, or both. A person convicted of a second or subsequent violation of this subsection shall be guilty of a felony and shall be punished by a fine of \$5,000.00 or by imprisonment for a period of three years, or both.
- (c) Except as otherwise provided in subsection (d) of this Code section, the provisions of subsection (b) of this Code section shall not apply to:
  - (1) Any person under the age of 18 years who is:
    - (A) Attending a hunter education course or a firearms safety course;
    - (B) Engaging in practice in the use of a firearm or target shooting at an established range authorized by the governing body of the jurisdiction where such range is located;
    - (C) Engaging in an organized competition involving the use of a firearm or participating in or practicing for a performance by an organized group under 26 U.S.C. Section 501(c)(3) which uses firearms as a part of such performance;
    - (D) Hunting or fishing pursuant to a valid license if such person has in his or her possession such a valid hunting or fishing license if required; is engaged in legal hunting or fishing; has permission of the owner of the land on which the activities are being conducted; and the handgun, whenever loaded, is carried only in an open and fully exposed manner; or
    - (E) Traveling to or from any activity described in subparagraphs (A) through (D) of this paragraph if the handgun in such person's possession is not loaded;
  - (2) Any person under the age of 18 years who is on real property under the control of such person's parent, legal guardian, or grandparent and who has the permission of such person's parent or legal guardian to possess a handgun; or
  - (3) Any person under the age of 18 years who is at such person's residence and who, with the permission of such person's parent or legal guardian, possesses a handgun for the purpose of exercising the rights authorized in Code Section 16-3-21 or 16-3-23.
- (d) Subsection (c) of this Code section shall not apply to any person under the age of 18 years who has been convicted of a forcible felony or forcible misdemeanor, as defined in Code Section 16-1-3, or who has been adjudicated for committing a delinquent act under the provisions of Article 6 of Chapter 11 of Title 15 for an offense which would constitute a forcible felony or forcible misdemeanor, as defined in Code Section 16-1-3, if such person were an adult.

HISTORY: Code 1981, § 16-11-132, enacted by Ga. L. 1994, p. 1012, § 12; Ga. L. 2000, p. 1630, § 6; Ga. L. 2010, p. 963, § 1-8/ SB 308; Ga. L. 2013, p. 294, § 4-11/ HB 242.

### **OCGA § 16-11-134. Discharging firearm while under the influence of alcohol or drugs**

- (a) It shall be unlawful for any person to discharge a firearm while:
  - (1) Under the influence of alcohol or any drug or any combination of alcohol and any drug to the extent that it is unsafe for the person to discharge such firearm except in the defense of life, health, and property;
  - (2) The person's alcohol concentration is 0.08 grams or more at any time while discharging such firearm or within three hours after such discharge of such firearm from alcohol consumed before such discharge ended; or
  - (3) Subject to the provisions of subsection (b) of this Code section, there is any amount of marijuana or a controlled substance, as defined in Code Section 16-13-21, present in the person's blood or urine, or both, including the metabolites and derivatives of each or both without regard to whether or not any alcohol is present in the person's breath or blood.
- (b) The fact that any person charged with violating this Code section is or has been legally entitled to use a drug shall not constitute a defense against any charge of violating this Code section; provided, however, that such person shall not be in violation of this

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Code section unless such person is rendered incapable of possessing or discharging a firearm safely as a result of using a drug other than alcohol which such person is legally entitled to use.

- (c) Any person convicted of violating subsection (a) of this Code section shall be guilty of a misdemeanor of a high and aggravated nature.

HISTORY: Code 1981, § 16-11-134, enacted by Ga. L. 1995, p. 139, § 1.

## **OCGA § 16-11-135. Public or private employer's parking lots; right of privacy in vehicles in employer's parking lot or invited guests on lot; severability; rights of action**

- (a) Except as provided in this Code section, no private or public employer, including the state and its political subdivisions, shall establish, maintain, or enforce any policy or rule that has the effect of allowing such employer or its agents to search the locked privately owned vehicles of employees or invited guests on the employer's parking lot and access thereto.
- (b) Except as provided in this Code section, no private or public employer, including the state and its political subdivisions, shall condition employment upon any agreement by a prospective employee that prohibits an employee from entering the parking lot and access thereto when the employee's privately owned motor vehicle contains a firearm that is locked out of sight within the trunk, glove box, or other enclosed compartment or area within such privately owned motor vehicle, provided that any applicable employees possess a Georgia weapons carry license.
- (c) Subsection (a) of this Code section shall not apply:
- (1) To searches by certified law enforcement officers pursuant to valid search warrants or valid warrantless searches based upon probable cause under exigent circumstances;
  - (2) To vehicles owned or leased by an employer;
  - (3) To any situation in which a reasonable person would believe that accessing a locked vehicle of an employee is necessary to prevent an immediate threat to human health, life, or safety; or
  - (4) When an employee consents to a search of his or her locked privately owned vehicle by licensed private security officers for loss prevention purposes based on probable cause that the employee unlawfully possesses employer property.
- (d) Subsections (a) and (b) of this Code section shall not apply:
- (1) To an employer providing applicable employees with a secure parking area which restricts general public access through the use of a gate, security station, security officers, or other similar means which limit public access into the parking area, provided that any employer policy allowing vehicle searches upon entry shall be applicable to all vehicles entering the property and applied on a uniform and frequent basis;
  - (2) To any penal institution, correctional institution, detention facility, diversion center, jail, or similar place of confinement or confinement alternative;
  - (3) To facilities associated with electric generation owned or operated by a public utility;
  - (4) To any United States Department of Defense contractor, if such contractor operates any facility on or contiguous with a United States military base or installation or within one mile of an airport;
  - (5) To an employee who is restricted from carrying or possessing a firearm on the employer's premises due to a completed or pending disciplinary action;
  - (6) Where transport of a firearm on the premises of the employer is prohibited by state or federal law or regulation;
  - (7) To parking lots contiguous to facilities providing natural gas transmission, liquid petroleum transmission, water storage and supply, and law enforcement services determined to be so vital to the State of Georgia, by a written determination of the Georgia Department of Homeland Security, that the incapacity or destruction of such systems and assets would have a debilitating impact on public health or safety; or
  - (8) To any area used for parking on a temporary basis.
- (e) No employer, property owner, or property owner's agent shall be held liable in any criminal or civil action for damages resulting from or arising out of an occurrence involving the transportation, storage, possession, or use of a firearm, including, but not limited to, the theft of a firearm from an employee's automobile, pursuant to this Code section unless such employer commits a criminal act involving the use of a firearm or unless the employer knew that the person using such firearm would commit such criminal act on the employer's premises. Nothing contained in this Code section shall create a new duty on the part of the employer, property owner, or property owner's agent. An employee at will shall have no greater interest in employment created by this Code section and shall remain an employee at will.
- (f) In any action relating to the enforcement of any right or obligation under this Code section, an employer, property owner, or property owner's agent's efforts to comply with other applicable federal, state, or local safety laws, regulations, guidelines, or ordinances shall be a complete defense to any employer, property owner, or property owner's agent's liability.
- (g) In any action brought against an employer, employer's agent, property owner, or property owner's agent relating to the criminal use of firearms in the workplace, the plaintiff shall be liable for all legal costs of such employer, employer's agent, property owner, or property owner's agent if such action is concluded in such employer, employer's agent, property owner, or property owner's agent's favor.
- (h) This Code section shall not be construed so as to require an employer, property owner, or property owner's agent to implement any additional security measures for the protection of employees, customers, or other persons. Implementation of remedial security measures to provide protection to employees, customers, or other persons shall not be admissible in evidence to show prior negligence or breach of duty of an employer, property owner, or property owner's agent in any action against such employer, its officers or shareholders, or property owners.

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- (i) All actions brought based upon a violation of subsection (a) of this Code section shall be brought exclusively by the Attorney General.
  - (j) In the event that subsection (e) of this Code section is declared or adjudged by any court to be invalid or unconstitutional for any reason, the remaining portions of this Code section shall be invalid and of no further force or effect. The General Assembly declares that it would not have enacted the remaining provisions of this Code section if it had known that such portion hereof would be declared or adjudged invalid or unconstitutional.
  - (k) Nothing in this Code section shall restrict the rights of private property owners or persons in legal control of property through a lease, a rental agreement, a contract, or any other agreement to control access to such property. When a private property owner or person in legal control of property through a lease, a rental agreement, a contract, or any other agreement is also an employer, his or her rights as a private property owner or person in legal control of property shall govern.
- HISTORY: Code 1981, § 16-11-135, enacted by Ga. L. 2008, p. 1199, § 7/HB 89; Ga. L. 2009, p. 8, § 16/SB 46; Ga. L. 2010, p. 963, § 1-9/SB 308.

## **OCGA § 16-11-136. Restrictions on possession, manufacture, sale, or transfer of knives**

- (a) As used in this Code section, the term:
    - (1) "Courthouse" shall have the same meaning as set forth in Code Section 16-11-127.
    - (2) "Government building" shall have the same meaning as set forth in Code Section 16-11-127.
    - (3) "Knife" means any cutting instrument with a blade and shall include, without limitation, a knife as such term is defined in Code Section 16-11-125.1.
  - (b) Except for restrictions in courthouses and government buildings, no county, municipality, or consolidated government shall, by rule or ordinance, constrain the possession, manufacture, sale, or transfer of a knife more restrictively than the provisions of this part.
- HISTORY: Code 1981, § 16-11-136, enacted by Ga. L. 2012, p. 1141, § 1/SB 432.

## **OCGA § 16-11-137. Required possession of weapons carry license or proof of exemption when carrying a weapon; detention for investigation of carrying permit**

- (a) Every license holder shall have his or her valid weapons carry license in his or her immediate possession at all times when carrying a weapon, or if such person is exempt from having a weapons carry license pursuant to Code Section 16-11-130 or subsection (c) of Code Section 16-11-127.1, he or she shall have proof of his or her exemption in his or her immediate possession at all times when carrying a weapon, and his or her failure to do so shall be prima-facie evidence of a violation of the applicable provision of Code Sections 16-11-126 through 16-11-127.2.
  - (b) A person carrying a weapon shall not be subject to detention for the sole purpose of investigating whether such person has a weapons carry license.
  - (c) A person convicted of a violation of this Code section shall be fined not more than \$10.00 if he or she produces in court his or her weapons carry license, provided that it was valid at the time of his or her arrest, or produces proof of his or her exemption.
- HISTORY: Code 1981, § 16-11-137, enacted by Ga. L. 2014, p. 432, § 1-2/HB 826; Code 1981, § 16-11-137, enacted by Ga. L. 2014, p. 599, § 1-10/HB 60.

## **OCGA § 16-11-138. Defense of self or others as absolute defense**

Defense of self or others, as contemplated by and provided for under Article 2 of Chapter 3 of Title 16, shall be an absolute defense to any violation under this part.

HISTORY: Code 1981, § 16-11-138, enacted by Ga. L. 2014, p. 599, § 1-10/HB 60.

## **18USC §922G. Unlawful acts**

- (g) It shall be unlawful for any person—
  - (1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;
  - (2) who is a fugitive from justice;
  - (3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));
  - (4) who has been adjudicated as a mental defective or who has been committed to a mental institution;
  - (5) who, being an alien—
    - (A) is illegally or unlawfully in the United States; or
    - (B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));
  - (6) who has been discharged from the Armed Forces under dishonorable conditions;
  - (7) who, having been a citizen of the United States, has renounced his citizenship;
  - (8) who is subject to a court order that—
    - (A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;
    - (B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and



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- (C) (i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child;  
or
- (ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or
- (9) who has been convicted in any court of a misdemeanor crime of domestic violence,  
to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

### 18USC §922Q.

*The Gun-Free School Zones Act of 1990 was ruled unconstitutional by the United States Supreme Court in United States v. Lopez, 514 U.S. 549 (1995). Subsequently, the Act was rewritten in 1996 to circumvent the ruling. Various authorities disagree, nevertheless, the Act appears to remain an unconstitutional overreach of Congressional authority.*

- (q) (1) The Congress finds and declares that—
  - (A) crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem;
  - (B) crime at the local level is exacerbated by the interstate movement of drugs, guns, and criminal gangs;
  - (C) firearms and ammunition move easily in interstate commerce and have been found in increasing numbers in and around schools, as documented in numerous hearings in both the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate;
  - (D) in fact, even before the sale of a firearm, the gun, its component parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce;
  - (E) while criminals freely move from State to State, ordinary citizens and foreign visitors may fear to travel to or through certain parts of the country due to concern about violent crime and gun violence, and parents may decline to send their children to school for the same reason;
  - (F) the occurrence of violent crime in school zones has resulted in a decline in the quality of education in our country;
  - (G) this decline in the quality of education has an adverse impact on interstate commerce and the foreign commerce of the United States;
  - (H) States, localities, and school systems find it almost impossible to handle gun-related crime by themselves—even States, localities, and school systems that have made strong efforts to prevent, detect, and punish gun-related crime find their efforts unavailing due in part to the failure or inability of other States or localities to take strong measures; and
  - (I) the Congress has the power, under the interstate commerce clause and other provisions of the Constitution, to enact measures to ensure the integrity and safety of the Nation's schools by enactment of this subsection.
- (2) (A) It shall be unlawful for any individual knowingly to possess a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the individual knows, or has reasonable cause to believe, is a school zone.
- (B) Subparagraph (A) does not apply to the possession of a firearm—
  - (i) on private property not part of school grounds;
  - (ii) if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtains such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;
  - (iii) that is—
    - (I) not loaded; and
    - (II) in a locked container, or a locked firearms rack that is on a motor vehicle;
  - (iv) by an individual for use in a program approved by a school in the school zone;
  - (v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;
  - (vi) by a law enforcement officer acting in his or her official capacity; or
  - (vii) that is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.
- (3) (A) Except as provided in subparagraph (B), it shall be unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the person knows is a school zone.
- (B) Subparagraph (A) does not apply to the discharge of a firearm—
  - (i) on private property not part of school grounds;
  - (ii) as part of a program approved by a school in the school zone, by an individual who is participating in the program;
  - (iii) by an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual; or
  - (iv) by a law enforcement officer acting in his or her official capacity.
- (4) Nothing in this subsection shall be construed as preempting or preventing a State or local government from enacting a statute establishing gun free school zones as provided in this subsection.

# Various Laws Concerning Use, Carry, & Possession of Firearms

## **18USC §926A. Interstate transportation of firearms**

Notwithstanding any other provision of any law or any rule or regulation of a State or any political subdivision thereof, any person who is not otherwise prohibited by this chapter from transporting, shipping, or receiving a firearm shall be entitled to transport a firearm for any lawful purpose from any place where he may lawfully possess and carry such firearm to any other place where he may lawfully possess and carry such firearm if, during such transportation the firearm is unloaded, and neither the firearm nor any ammunition being transported is readily accessible or is directly accessible from the passenger compartment of such transporting vehicle: Provided, That in the case of a vehicle without a compartment separate from the driver's compartment the firearm or ammunition shall be contained in a locked container other than the glove compartment or console.

(Added Pub. L. 99-360, §1(a), July 8, 1986, 100 Stat. 766.)

### Prior Provisions

A prior section 926A, added Pub. L. 99-308, §107(a), May 19, 1986, 100 Stat. 460, provided that any person not prohibited by this chapter from transporting, shipping, or receiving a firearm be entitled to transport an unloaded, not readily accessible firearm in interstate commerce notwithstanding any provision of any legislation enacted, or rule or regulation prescribed by any State or political subdivision thereof, prior to repeal by Pub. L. 99-360, §1(a).

### Effective Date

Section effective on date on which Firearms Owners' Protection Act, Pub. L. 99-308, became effective, see section 2 of Pub. L. 99-360, set out as an Effective Date of 1986 Amendments note under section 921 of this title.

## **18USC §930. Possession of firearms and dangerous weapons in Federal facilities**

- (a) Except as provided in subsection (d), whoever knowingly possesses or causes to be present a firearm or other dangerous weapon in a Federal facility (other than a Federal court facility), or attempts to do so, shall be fined under this title or imprisoned not more than 1 year, or both.
- (b) Whoever, with intent that a firearm or other dangerous weapon be used in the commission of a crime, knowingly possesses or causes to be present such firearm or dangerous weapon in a Federal facility, or attempts to do so, shall be fined under this title or imprisoned not more than 5 years, or both.
- (c) A person who kills any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, or attempts or conspires to do such an act, shall be punished as provided in sections 1111, 1112, 1113, and 1117.
- (d) Subsection (a) shall not apply to—
  - (1) the lawful performance of official duties by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of law;
  - (2) the possession of a firearm or other dangerous weapon by a Federal official or a member of the Armed Forces if such possession is authorized by law; or
  - (3) the lawful carrying of firearms or other dangerous weapons in a Federal facility incident to hunting or other lawful purposes.
- (e)
  - (1) Except as provided in paragraph (2), whoever knowingly possesses or causes to be present a firearm or other dangerous weapon in a Federal court facility, or attempts to do so, shall be fined under this title, imprisoned not more than 2 years, or both.
  - (2) Paragraph (1) shall not apply to conduct which is described in paragraph (1) or (2) of subsection (d).
- (f) Nothing in this section limits the power of a court of the United States to punish for contempt or to promulgate rules or orders regulating, restricting, or prohibiting the possession of weapons within any building housing such court or any of its proceedings, or upon any grounds appurtenant to such building.
- (g) As used in this section:
  - (1) The term "Federal facility" means a building or part thereof owned or leased by the Federal Government, where Federal employees are regularly present for the purpose of performing their official duties.
  - (2) The term "dangerous weapon" means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2½ inches in length.
  - (3) The term "Federal court facility" means the courtroom, judges' chambers, witness rooms, jury deliberation rooms, attorney conference rooms, prisoner holding cells, offices of the court clerks, the United States attorney, and the United States marshal, probation and parole offices, and adjoining corridors of any court of the United States.
- (h) Notice of the provisions of subsections (a) and (b) shall be posted conspicuously at each public entrance to each Federal facility, and notice of subsection (e) shall be posted conspicuously at each public entrance to each Federal court facility, and no person shall be convicted of an offense under subsection (a) or (e) with respect to a Federal facility if such notice is not so posted at such facility, unless such person had actual notice of subsection (a) or (e), as the case may be.

(Added Pub. L. 100-690, title VI, §6215(a), Nov. 18, 1988, 102 Stat. 4361; amended Pub. L. 101-647, title XXII, §2205(a), Nov. 29, 1990, 104 Stat. 4857; Pub. L. 103-322, title VI, §60014, Sept. 13, 1994, 108 Stat. 1973; Pub. L. 104-294, title VI, §603(t), (u), Oct. 11, 1996, 110 Stat. 3506; Pub. L. 107-56, title VIII, §811(b), Oct. 26, 2001, 115 Stat. 381; Pub. L. 110-177, title II, §203, Jan. 7, 2008, 121 Stat. 2537.)

### Amendments

2008—Subsec. (e)(1). Pub. L. 110-177 inserted "or other dangerous weapon" after "firearm".

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2001—Subsec. (c). Pub. L. 107-56 struck out “or attempts to kill” after “A person who kills”, inserted “or attempts or conspires to do such an act,” before “shall be punished”, and substituted “1113, and 1117” for “and 1113”.

1996—Subsec. (e)(2). Pub. L. 104-294, §603(t), substituted “subsection (d)” for “subsection (c)”.

Subsec. (g). Pub. L. 104-294, §603(u)(1), redesignated subsec. (g), related to posting notice in Federal facilities, as (h).

Subsec. (h). Pub. L. 104-294, §603(u)(2), substituted “(e)” for “(d)” wherever appearing.

Pub. L. 104-294, §603(u)(1), redesignated subsec. (g), related to posting notice in Federal facilities, as (h).

1994—Subsec. (a). Pub. L. 103-322, §60014(2), substituted “(d)” for “(c)”.

Subsecs. (c) to (g). Pub. L. 103-322, §60014(1), (3), added subsec. (c) and redesignated former subsecs. (c) to (f) as (d) to (g), respectively.

1990—Subsec. (a). Pub. L. 101-647, §2205(a)(1), inserted “(other than a Federal court facility)” after “Federal facility”.

Subsecs. (d), (e). Pub. L. 101-647, §2205(a)(2), (3), added subsec. (d) and redesignated former subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 101-647, §2205(a)(2), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (f)(3). Pub. L. 101-647, §2205(a)(4), added par. (3).

Subsec. (g). Pub. L. 101-647, §2205(a)(5), inserted “and notice of subsection (d) shall be posted conspicuously at each public entrance to each Federal court facility,” after “each Federal facility,” “or (d)” before “with respect to”, and “or (d), as the case may be” before the period.

Pub. L. 101-647, §2205(a)(2), redesignated subsec. (f) as (g).

Effective Date of 1990 Amendment

Section 2205(b) of Pub. L. 101-647 provided that: “The amendments made by subsection (a) [amending this section] shall apply to conduct engaged in after the date of the enactment of this Act [Nov. 29, 1990].”

## **Coweta Code of Ordinances Sec. 42-1. - Discharge of firearms.**

(a) It shall be unlawful for any person to discharge any firearm within 100 yards of an occupied dwelling without the consent of the owner.

(b) It shall also be unlawful for any person to discharge any firearm within 50 yards of a property line without the permission of the owner.

(c) It shall be unlawful for any person to discharge a firearm, crossbow or bow and arrow across a property line without permission of the owner.

(d) This section does not apply to the use of firearms in the defense of home or family.

(Ord. of 11-7-95; Ord. of 12-5-95; Ord. of 12-17-96)