

O.C.G.A. § 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.

O.C.G.A. § 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.

O.C.G.A. § 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.

O.C.G.A. § 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.

O.C.G.A. § 16-11-125.1 Definitions (new code section)

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.

O.C.G.A. § 16-11-126 Carrying a weapon (completely revised)

- (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 property through a lease, rental agreement, licensing agreement, contract, or any other agreement to control access to such property shall have the right to forbid possession of a weapon or long gun on their property, 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 12-3-10, 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 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.

Georgia Weapons Carry License Reciprocity (according to the Georgia Attorney General as of 1/15/2008, www.law.ga.gov)

Effective January 15, 2008, Georgia reciprocates in recognizing firearms licenses with the following 23 states: Alabama, Alaska, Arkansas, Arizona, Colorado, Florida, Idaho, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Montana, New Hampshire, North Carolina, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Utah and Wyoming. Georgia firearms permit holders must familiarize themselves with the individual requirements and limitations on firearms permits in any of the reciprocating states where they wish to exercise their rights under this reciprocity program.

O.C.G.A. § 16-11-127 Carrying a weapon in an unauthorized location (completely revised)

- (a) As used in this Code section, the term:
 - (1) 'Bar' means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including, but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.
 - (2) 'Courthouse' means a building occupied by judicial courts and containing rooms in which judicial proceedings are held.
 - (3) '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.
 - (4) '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.
 - (5) 'Parking facility' means real property owned or leased by a government entity, courthouse, jail, prison, place of worship, or bar that has been designated by such government entity, courthouse, jail, prison, place of worship, or bar for the parking of motor vehicles at a government building or at such courthouse, jail, prison, place of worship, or bar.
- (b) 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;

- (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) In a bar, unless the owner of the bar permits the carrying of weapons or long guns by license holders;
 - (7) 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
 - (8) Within 150 feet of any polling place, except as provided in subsection (i) of Code Section 21-2-413.
- (c) Except as provided in Code Section 16-11-127.1, 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) of this Code section; provided, however, that private property owners or persons in legal control of property through a lease, rental agreement, licensing agreement, contract, or any other agreement to control access to such property shall have the right to forbid possession of a weapon or long gun on their property, 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 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.

O.C.G.A. § 16-11-127.1 Carrying weapons within school safety zones (partially revised)

Amended by revising subsections (a) and (b), paragraphs (7) and (8) of subsection (c), and subsections (f) and (g) of Code Section 16-11-127.1, relating to carrying weapons within school safety zones, at school functions, or on school property, as follows:

- (a) As used in this Code section, the term:
- (1) 'School safety zone' means in or on any real property owned by or leased to any public or private elementary school, secondary school, or school board and used for elementary or secondary education and in or on the campus of any public or private technical school, vocational school, college, university, or institution of postsecondary education.
 - (2) '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 building, school function, or school property or on a bus or other transportation furnished by the 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 shall be subject to the provisions of Code Section 15-11-63.
- (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;
 - (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 the school to have in such person's possession or use as part of any activity being conducted at a school building, school property, or school function 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 at a school building, school function, or school property or on a bus or other transportation furnished by the 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 at such school property or is in transit through a designated school 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 at a school building, school function, or school property or on a bus or other transportation furnished by the school, or when such vehicle is used to transport someone to an activity being conducted on school property which has been authorized by a duly authorized official of the school; provided, however, that this exception shall not apply to a student attending such 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 school 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, 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, a school bus, or other transportation furnished by the 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.
- (3) This subsection shall not be construed to waive or alter any legal requirement for possession of weapons or firearms otherwise required by law.
- (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 school vehicle.
- (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 elementary or secondary school that is used for school purposes or the area of any campus of any public or private technical school, vocational school, college, university, or 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.'

O.C.G.A. § 16-11-127.2 Firearm or weapon on premises of nuclear power facility (partially revised)

- (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 (3), (4), (5), or (9) of subsection (c) of Code Section 16-11-127.1.

O.C.G.A. § 16-11-128, Carrying a pistol without a license (*deleted*)

O.C.G.A. § 16-11-129, Weapons carry license (*partially revised*)

(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 the 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 a plea of guilty or a finding of guilt by a court of competent jurisdiction or the acceptance of a plea of nolo contendere, irrespective of the pendency or availability of an appeal or an application for collateral relief.
- (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 under 21 years of age;
- (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;
- (H) Any person who has been convicted of any of the following:
 - (i) Pointing a gun or a pistol at another in violation of Code Section 16-11-102;
 - (ii) Carrying a weapon without a weapons carry license in violation of Code Section 16-11-126; or
 - (iii) 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; or
- (J) 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.

- (3) If first offender treatment without adjudication of guilt for a conviction contained in subparagraph (F) or (I) of paragraph (2) of this subsection was entered and such sentence was successfully completed and such person has not had any other conviction since the completion of such sentence and for at least five years immediately preceding the date of the application, he or she shall be eligible for a weapons carry license provided that no other license exception applies.
- (c) *Fingerprinting.*
Following completion of the application for a weapons carry license or the renewal of a license, the judge of the probate court shall require the applicant to proceed to an appropriate law enforcement agency in the county with the completed application. The appropriate local law enforcement agency in each county shall then capture the fingerprints of the applicant for a weapons carry license or renewal license and place the name of the applicant on the blank license form. The appropriate local law enforcement agency shall place the fingerprint on a blank license form which has been furnished to the law enforcement agency by the judge of the probate court if a fingerprint is required to be furnished by subsection (f) of this Code section. The law enforcement agency shall be entitled to a fee of \$5.00 from the applicant for its services in connection with the application.
- (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 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 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 the United States Bureau of 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 and the blank license form with the fingerprint thereon 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. It shall be required that any license holder under this Code section have in his or her possession his or her valid license whenever he or she is carrying a weapon under the authority granted by this Code section, and his or her failure to do so shall be prima-facie evidence of a violation of Code Section 16-11-126. 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.
- (f) (1) *Weapons carry license specifications.* Weapons carry licenses issued as prescribed in this Code section shall be printed on durable but lightweight card stock, and the completed card shall be laminated in plastic to improve its wearing qualities and to inhibit alterations. Measurements shall be 3 1/4 inches long and 2 1/4 inches wide. Each shall be serially numbered within the county of issuance and shall bear the full name, residential address, birth date, weight, height, color of eyes, and sex of the licensee. The license shall show the date of issuance, the expiration date, and the probate court in which issued and shall be signed by the licensee and bear the signature or facsimile thereof of the judge. The seal of the court shall be placed on the face before the license is laminated. Licenses issued on and before December 31, 2011, shall bear a clear print of the licensee's right index finger; however, if the right index fingerprint cannot be secured for any reason, the print of another finger may be used but such print shall be marked to identify the finger from which the print is taken.
- (2) (A) 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.

- (B) Using the physical characteristics of the license set forth in subparagraph (A) of this paragraph, 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 permit, 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) When an eligible applicant fails to receive a license, temporary permit, 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 license, or renewal license. 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.

O.C.G.A. § 16-11-130 Exemptions from § 16-11-126 through 16-11-127.2 (partially revised)

Provides that certain government officers are exempted from the provisions of these sections.

O.C.G.A. § 16-11-131 Possession of firearms by convicted felons and first offender probationers

Provides that possession of a firearm by a convicted felon or a felony first offender probationer is illegal unless they are pardoned or otherwise have rights restored.

O.C.G.A. § 16-11-132, Possession of a pistol or revolver by a person under the age of 18 years (partially revised)

- (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 delinquent under the provisions of Article 1 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."

O.C.G.A § 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 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.

O.C.G.A § 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
(partially revised)

- (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 their 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.

- (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.

O.C.G.A § 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.

O.C.G.A § 16-11-103 Discharge of gun or pistol near public highway or street

A person is guilty of a misdemeanor when, without legal justification, he discharges a gun or pistol on or within 50 yards of a public highway or street.

O.C.G.A § 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.

Coweta County 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)

18 USC 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.

Protecting the right of individuals to bear arms in units of the National Park System and the National Wildlife Refuge System (2/22/2010)

The Secretary of the Interior shall not promulgate or enforce any regulation that prohibits an individual from possessing a firearm including an assembled or functional firearm in any unit of the National Park System or the National Wildlife Refuge System if—

- (1) the individual is not otherwise prohibited by law from possessing the firearm; and
- (2) the possession of the firearm is in compliance with the law of the State in which the unit of the National Park System or the National Wildlife Refuge System is located.



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MEDIA ADVISORY

MEDIA ADVISORY

For immediate release
March 23, 2010

North Dakota added by Attorney General Baker to List of States Entitled to Georgia's Firearm Permit Reciprocity

Attorney General Thurbert Baker announced today an addition to Georgia's program of reciprocal recognition to firearms permit holders from other states. Legislation initially passed in 1996 allowed Georgia to grant this privilege to citizens of states which recognized Georgia firearms permits.

The State of North Dakota has determined that it will honor Georgia firearms permits. Therefore, effective March 23, 2010, Georgia recognizes firearms permits issued by North Dakota.

With this revision, Georgia now reciprocates in recognizing firearms licenses with the following states:

Alabama, Alaska, Arkansas, Arizona, Colorado, Florida, Idaho, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Montana, New Hampshire, North Carolina, North Dakota, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Utah and Wyoming.

As always, Georgia firearms permit holders should familiarize themselves with the individual requirements and limitations on firearms permits in any of the reciprocating states where they wish to exercise their rights under this reciprocity program.

FILED IN OFFICE

This 16th day of June, 2010

Beverly H. Paradise
Clerk, Oglethorpe County Probate Court

