

**State Laws and Published Ordinances – Georgia**  
Current through the 2019 Regular Session of the General Assembly

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**Title 10 – Commerce and Trade**  
**Chapter 1 – Selling and Other Trade Practices**  
**Article 6 – Interstate Purchase of Rifles and Shotguns**

**Section 10-1-100. Out of state purchase of rifles and shotguns by residents.**

Residents of the State of Georgia may purchase rifles and shotguns in any state of the United States, provided such residents conform to applicable provisions of statutes and regulations of the United States, of the State of Georgia, and of the state in which the purchase is made.

**Section 10-1-101. Nonresidents may purchase rifles and shotguns in Georgia.**

Residents of any state of the United States may purchase rifles and shotguns in the State of Georgia, provided such residents conform to applicable provisions of statutes and regulations of the United States, of the State of Georgia, and of the state in which such persons reside.

**Title 16 – Crimes and Offenses**  
**Chapter 7. Damage to and Intrusion Upon Property**  
**Article 4. Bombs, Explosives, and Chemical and Biological Weapons**

**Section 16-7-80. Definitions.**

As used in this article, the term:

**(4) "Destructive device" means:**

**(A)** Any explosive, incendiary, or over-pressure device or poison gas which has been configured as a bomb; a grenade; a rocket with a propellant charge of more than four ounces; a missile having an explosive or incendiary charge of more than one-quarter ounce; a poison gas; a mine; a Molotov cocktail; or any other device which is substantially similar to such devices;

**(B)** Any type of weapon by whatever name known which will or may be readily converted to expel a projectile by the action of an explosive or other propellant, through a barrel which has a bore diameter of more than one-half inch in diameter; provided, however, that such term shall not include a pistol, rifle, or shotgun suitable for sporting or personal safety purposes or ammunition; a device which is neither designed or redesigned for use as a weapon; a device which, although originally designed for use as a weapon, is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; or surplus military ordnance sold, loaned, or given by authority of the appropriate official of the United States Department of Defense;

**(C)** A weapon of mass destruction;

**(D)** A bacteriological weapon or biological weapon; or

**(E)** Any combination of parts either designed or intended for use in converting any device into a destructive device as otherwise defined in this paragraph.

**Section 16-7-82. Manufacturing, transporting, distributing, possessing with intent to distribute, and offering to distribute an explosive device.**

**(a)** It shall be unlawful for any person to possess, manufacture, transport, distribute, possess with the intent to distribute, or offer to distribute a destructive device except as provided in this article.

**(b)** Any person convicted of a violation of this Code section shall be punished by imprisonment for not less than three nor more than 20 years or, by a fine of not more than \$25,000.00 or both or, if the defendant is a corporation, by a fine of not less than \$25,000.00 nor more than \$100,000.00 or not fewer than 5,000 nor more than 10,000 hours of community service or both.

**Section 16-7-83. Persons convicted or under indictment for certain offenses.**

**(a)** It shall be unlawful for any person who is under indictment for or who has been convicted of a felony by a court of this state, any other state, the United States including its territories, possessions, and dominions, or a foreign nation to possess, manufacture, transport, distribute, possess with the intent to distribute, or offer to distribute a destructive device, detonator, explosive, poison gas, or hoax device.

**(b)** It shall be unlawful for any person knowingly to distribute a destructive device, detonator, explosive, poison gas, or hoax device to any person:

**(1)** Who he or she knows or should know is under indictment for or has been convicted of a felony by a court of this state, any other state, the United States including its territories, possessions, and dominions, or a foreign nation; or

**(2)** Who he or she knows or should know has been adjudicated to be mentally incompetent or mentally ill by a court of this state, any other state, or the United States including its territories, possessions, and dominions.

(c) Any person convicted of a violation of this Code section shall be punished, in the case of an individual, by imprisonment for not less than one nor more than 15 years or by a fine of not more than \$25,000.00 or both or, if the defendant is a corporation, by a fine of not less than \$10,000.00 nor more than \$75,000.00 or not fewer than 1,000 nor more than 5,000 hours of community service or both.

(d) Notwithstanding any other provision of law, the Department of Behavioral Health and Developmental Disabilities shall make available to any law enforcement agency or district attorney of this state such information as may be necessary to establish that a person has been adjudicated by any court to be mentally incompetent or mentally ill.

(e) The provisions of this Code section shall not apply to:

(1) Any person who has been pardoned for a 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 any other state or of a foreign nation and, by the terms of the pardon, has expressly been authorized to receive, possess, distribute, or transport a destructive device, explosive, poison gas, or detonator; or

(2) 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 explosives by the secretary of the United States Department of the Treasury pursuant to 18 U.S.C. 845, may apply to the Board of Public Safety for relief from the disabilities imposed by this Code section in the same manner as is provided in subsection (d) of Code Section 16-11-131. The board may grant such relief under the same standards and conditions as apply to firearms.

#### **Section 16-7-84. Distribution of certain materials to persons under 21 years of age.**

(a) It shall be unlawful for any person to distribute or to offer to distribute a destructive device, explosive, poison gas, or detonator to any person who is under 21 years of age.

(b) Any person convicted of a violation of this Code section shall be punished, in the case of an individual, by imprisonment for not less than one nor more than three years or by a fine of not more than \$10,000.00 or both or, if the defendant is a corporation, by a fine of not more than \$20,000.00 or not fewer than 3,000 hours of community service or both.

§ 16-7-88. Possessing, transporting, or receiving explosives, destructive devices, bacteriological weapon, or biological weapon with intent to kill, injure, or intimidate individuals or destroy public buildings; sentencing; enhanced penalties

#### **Section 16-7-90. Records and reports.**

It shall be the duty of any person authorized by paragraph (1) or (2) of Code Section 16-7-93 to manufacture, possess, transport, distribute, or use a destructive device, detonator, explosive, or hoax device within the state:

(1) To maintain such records as may be required pursuant to Title 25. Such records may be inspected by the Commissioner or the director or such officers' designees or any law enforcement officer or fire official during normal business hours; and

(2) To report promptly the loss or theft of any destructive device, detonator, explosive, or hoax device to the Georgia Bureau of Investigation.

#### **Section 16-7-93. Exceptions to applicability of provisions.**

The provisions of Code Sections 16-7-82, 16-7-84, 16-7-85, and 16-7-86 shall not apply to:

(1) Any person authorized to manufacture, possess, transport, distribute, or use a destructive device or detonator pursuant to the laws of the United States, as amended, or pursuant to Title 25 when such person is acting in accordance with such laws and any regulations issued pursuant thereto;

(4) A law enforcement, fire service, or emergency management agency of this state, any agency or authority of a political subdivision of this state, or the United States and any employee or authorized agent thereof while in performance of official duties and any law enforcement officer, fire official, or emergency management official of the United States or any other state while attending training in this state;

(5) The armed forces of the United States or of this state;

(6) Research or educational programs conducted by or on behalf of a college, university, or secondary school which have been authorized by the chief executive officer of such educational institution or his or her designee and which is conducted in accordance with the laws of the United States and of this state;

**Chapter 11 – Offenses Against Public Order and Safety**  
**Article 4 – Dangerous Instrumentalities and Practices**  
**Part 1 – General Provision**

**Section 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 § 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 § 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 § 16-11-132 and fails to make reasonable efforts to prevent any such violation of Code § 16-11-132.

(2) Notwithstanding any provisions of subsection (c) of Code § 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 § 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 § 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 or by imprisonment for not less than 3 nor more than 5 years, or both.

**Section 16-11-113. Offense of transferring firearm to individual other than actual buyer.**

(a) Any person who knowingly attempts to solicit, persuade, encourage, or entice any dealer to transfer or otherwise convey a firearm to an individual who is not the actual buyer, to an individual who is on probation as a felony first offender pursuant to Article 3 of Chapter 8 of Title 42, to an individual who is on probation and sentenced for a felony under subsection (a) or (c) of Code Section 16-13-2, or to an individual who has been convicted of a felony by a court of this state or any other state, as well as any other person who willfully and intentionally aids or abets such person, shall be guilty of a felony and upon conviction shall be punished by imprisonment for not less than one year nor more than five years; provided, however, that upon a second or subsequent conviction, by imprisonment for not less than five nor more than ten years.

(b)

(1) Any person who knowingly and intentionally provides a firearm to any other person who is on probation as a felony first offender pursuant to Article 3 of Chapter 8 of Title 42 or to any person who has been convicted of a felony by a court of this state or any other state shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one year nor more than five years; provided, however, that upon a second or subsequent conviction, such person shall be punished by imprisonment for not less than five nor more than ten years.

(2) Nothing in this subsection shall be construed as requiring a provider of a firearm to affirmatively confirm that a person to whom a firearm is provided is not a felony first offender or a person who has been convicted of a felony.

(3) This subsection shall not apply to any person providing a firearm to any other person who has been:

(A) 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 any other state of the United States or of a foreign nation and, by the terms of the pardon, has expressly been authorized to receive, possess, or transport a firearm; or

(B) Otherwise granted relief from the disabilities of Code Section 16-11-131 pursuant to subsections (c) and (d) of such Code section.

(c) This Code section shall not apply to a federal law enforcement officer or a peace officer, as defined in Code Section 16-1-3, in the performance of his or her official duties or other person under such officer's direct supervision.

## **Part 2 – Possession of Dangerous Weapons**

### **Section 16-11-120. Short title.**

This part shall be known and may be cited as the "Georgia Firearms and Weapons Act."

### **Section 16-11-121. Definitions.**

As used in this part, the term:

(1) "**Dangerous weapon**" means any weapon commonly known as a "rocket launcher," "bazooka," or "recoilless rifle" which fires explosive or nonexplosive rockets designed to injure or kill personnel or destroy heavy armor, or similar weapon used for such purpose. The term shall also mean a weapon commonly known as a "mortar" which fires high explosive from a metallic cylinder and which is commonly used by the armed forces as an antipersonnel weapon or similar weapon used for such purpose. The term shall also mean a weapon commonly known as a "hand grenade" or other similar weapon which is designed to explode and injure personnel or similar weapon used for such purpose.

(2) "**Machine gun**" means any weapon which shoots or is designed to shoot, automatically, more than 6 shots, without manual reloading, by a single function of the trigger.

(3) "**Person**" means any individual, partnership, company, association, or corporation.

(4) "**Sawed-off rifle**" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder; and designed or redesigned, made or remade, to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifle bore for each single pull of the trigger; and which has a barrel or barrels of less than 16 inches in length or has an overall length of less than 26 inches.

(5) "**Sawed-off shotgun**" means a shotgun or any weapon made from a shotgun whether by alteration, modification, or otherwise having one or more barrels less than 18 inches in length or if such weapon as modified has an overall length of less than 26 inches.

(6) "**Shotgun**" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder; and designed or redesigned, and made or remade, to use the energy of the explosive in a fixed 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.

(7) "**Silencer**" means any device for silencing or diminishing the report of any portable weapon such as a rifle, carbine, pistol, revolver, machine gun, shotgun, fowling piece, or other device from which a shot, bullet, or projectile may be discharged by an explosive.

### **Section 16-11-122. Possession of sawed-off shotgun or rifle, machine gun, silencer, or dangerous weapon prohibited**

No person shall have in his possession any sawed-off shotgun, sawed-off rifle, machine gun, dangerous weapon, or silencer except as provided in Code § 16-11-124.

### **Section 16-11-123. Unlawful possession of firearms or weapons.**

A person commits the offense of unlawful possession of firearms or weapons when he or she knowingly has in his or her possession any sawed-off shotgun, sawed-off rifle, machine gun, dangerous weapon, or silencer, and, upon conviction thereof, he or she shall be punished by imprisonment for a period of 5 years.

### **Section 16-11-124. Exemptions from application of part.**

This part shall not apply to:

(1) A peace officer of any duly authorized police agency of this state or of any political subdivision thereof, or a law enforcement officer of any department or agency of the United States who is regularly employed and paid by the United States, this state, or any such political subdivision, or an employee of the Department of Corrections of this state who is authorized in writing by the commissioner of corrections to transfer or possess such firearms while in the official performance of his duties;

(8) A member of the National Guard or of the armed forces of the United States to wit: the army, navy, marine corps, air force, or coast guard who, while serving therein, possesses such firearm in the line of duty;

(9) Any sawed-off shotgun, sawed-off rifle, machine gun, dangerous weapon, or silencer which has been modified or changed to the extent that it is inoperative. Examples of the requisite modification include weapons with their barrel or barrels filled with lead, hand grenades filled with sand, or other nonexplosive materials;

(10) Possession of a sawed-off shotgun, sawed-off rifle, machine gun, dangerous weapon, or silencer by a person who is authorized to possess the same because he has registered the sawed-off shotgun, sawed-off rifle, machine

gun, dangerous weapon, or silencer in accordance with the dictates of the National Firearms Act, 68A Stat. 725 (26 U.S.C. §§ 5841-5862); and

(11) A security officer employed by a federally licensed nuclear power facility or a licensee of such facility, including a contract security officer, who is trained and qualified under a security plan approved by the United States Nuclear Regulatory Commission or other federal agency authorized to regulate nuclear facility security; provided, however, that this exemption shall apply only while such security officer is acting in connection with his or her official duties on the premises of such nuclear power facility or on properties outside the facility property pursuant to a written agreement entered into with the local law enforcement agency having jurisdiction over the facility. The exemption under this paragraph does not include the possession of silencers.

### **Section 16-11-125. Burden of proof as to exemptions.**

In any complaint, accusation, or indictment and in any action or proceeding brought for the enforcement of this part it shall not be necessary to negate any exception, excuse, proviso, or exemption contained in this part, and the burden of proof of any such exception, excuse, proviso, or exemption shall be upon the defendant.

## **Part 3 – Carrying and Possession of Firearms**

### **Section 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.

(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 0.46 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 § 16-11-129.

### **Section 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.... 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, at a school function, or on a bus or other transportation furnished by a school any weapon or explosive compound, other than fireworks or consumer 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, by imprisonment for not less than 2 nor more than 10 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 § 16-11-121, shall be punished by a fine of not more than \$10,000 or by imprisonment for a period of not less than 5 nor more than 10 years, or both.

**(4)** A child who violates this subsection may be subject to the provisions of Code § 15-11-601.

**(c)** The provisions of this Code section shall not apply to:

**(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 § 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 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 department or correctional agency or facility to carry a firearm;

**(E)** An employee of the Department of Community Supervision who is authorized by the commissioner of community supervision to carry a firearm;

**(F)** 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

**(G)** Medical examiners, coroners, and their investigators who are employed by the state or any political subdivision thereof;

provided, however, that this Code section shall not apply to any extent to persons who are provided for under Code Section 16-11-130;

**(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 § 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 § 16-11-129 or issued a permit pursuant to Code § 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 § 16-11-129 or issued a permit pursuant to Code § 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) Community supervision officers employed by and under the authority of the Department of Community Supervision when specifically designated and authorized in writing by the commissioner of community supervision;

(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;

(18) Constables of any county of this state; or

(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.

(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."

(h) Nothing in this Code section shall in any way operate or be construed to affect, repeal, or limit the exemptions provided for under Code § 16-11-130.

### **Section 16-11-129. Weapons carry license; temporary renewal permit; mandamus; verification of license.**

(a) Application for weapons carry license or renewal license; term.

(1) The judge of the probate court of each county shall, on application under oath, on payment of a fee of \$30, and on the investigation of applicant pursuant to subsections (b) and (d) of this Code section, issue a weapons carry license or renewal license valid for a period of 5 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.

(2)

(A) As used in this paragraph, the term 'service member' means an active duty member of the regular or reserve component of the United States Army, United States Navy, United States Marine Corps, United States Coast Guard, United States Air Force, United States National Guard, Georgia Army National Guard, or Georgia Air National Guard.

**(B)** Any service member whose weapons carry license or renewal license expired while such service member was serving on active duty outside this state shall be authorized to carry any weapon in accordance with such expired license for a period of six months from the date of his or her discharge from active duty or reassignment to a location within this state. When carrying a weapon pursuant to Code Section 16-11-137, the service member shall also have in his or her immediate possession a copy of the official military orders or a written verification signed by such service member's commanding officer which shall evidence that such service member is authorized to carry any weapon in accordance with such expired license for a period of six months from the date of his or her discharge from active duty or reassignment to a location within this state.

**(3)**

**(A)** 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.

**(B)**

**(i)** An application shall be considered to be for a renewal license if the applicant has a weapons carry license or renewal license with 90 or fewer days remaining before the expiration of such weapons carry license or renewal license or 30 or fewer days since the expiration of such weapons carry license or renewal license regardless of the county of issuance of the applicant's expired or expiring weapons carry license or renewal license.

**(ii)** An application of any service member whose weapons carry license or renewal license expired while such service member was serving on active duty outside this state shall be considered to be for a renewal license if such service member applies within six months from the date of his or her discharge from active duty or reassignment to a location within this state as provided for in a copy of such service member's official military orders or a written verification signed by such service member's commanding officer as provided by the service member.

**(iii)** 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. § 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.

**(a.1) Gun safety information.**

**(1)** Upon receipt of an application for a weapons carry license or renewal license, the judge of the probate court may provide applicants printed information on gun safety that is produced by any person or organization that, in the discretion of the judge of the probate court, offers practical advice for gun safety. The source of such printed information shall be prominently displayed on such printed information.

**(2)** The Department of Natural Resources shall maintain on its principal, public website information, or a hyperlink to information, which provides resources for information on hunter education and classes and courses in this state that render instruction in gun safety. No person shall be required to take such classes or courses for purposes of this Code section where such information shall be provided solely for the convenience of the citizens of this state.

**(3)** Neither the judge of the probate court nor the Department of Natural Resources shall be liable to any person for personal injuries or damage to property arising from conformance to this subsection.

**(b) Licensing exceptions.**

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

**(A) "Armed forces"** means active duty or a reserve component of the United States Army, United States Navy, United States Marine Corps, United States Coast Guard, United States Air Force, United States National Guard, Georgia Army National Guard, or Georgia Air National Guard.

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

**(C) "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.

**(D) "Dangerous drug"** means any drug defined as such in Code § 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
- (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. § 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 3 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 § 16-11-126; or

**(ii)** Carrying a weapon or long gun in an unauthorized location in violation of Code § 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 5 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 5 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 5 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 5 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 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 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.

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 10 business days after the date of such order.

**(5)** A person may petition for relief under this subsection not more than once every 2 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 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)**

**(A)** For weapons carry license applications, the judge of the probate court shall within 5 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.

**(B)** For requests for license renewals, the presentation of a weapons carry license issued by any probate judge in this state shall be evidence to the judge of the probate court to whom a request for license renewal is made that the fingerprints of the weapons carry license holder are on file with the judge of the probate court who issued the weapons carry license, and the judge of the probate court to whom a request for license renewal is made shall, within 5 business days following the receipt of the request, direct the law enforcement agency to request a nonfingerprint 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 to whom a request for license renewal is made.

**(2)** For both weapons carry license applications and requests for license renewals, the judge of the probate court shall within 5 business days following the receipt of the application or request also direct the law enforcement agency, in the same manner as provided for in subparagraph (B) of paragraph (1) of this subsection, 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. § 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 10 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.

**(1)** 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. The judge of the probate court shall report such revocation to the Georgia Crime Information Center immediately but in no case later than 10 days after such revocation. It shall be unlawful for any person to possess a license which has been revoked pursuant to this paragraph, 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.

**(2)** If a person is convicted of any crime or involved in any matter which would make the maintenance of a weapons carry license by such person unlawful pursuant to subsection (b) of this Code section, the judge of the superior court or state court hearing such case or presiding over such matter shall inquire whether such person is the holder of a weapons carry license. If such person is the holder of a weapons carry license, then the judge of the superior court or state court shall inquire of such person the county of the probate court which issued such weapons carry license, or if such person has ever had his or her weapons carry license renewed, then of the county of the probate court which most recently issued such person a renewal license. The judge of the superior court or state court shall notify the judge of the probate court of such county of the matter which makes the maintenance of a weapons carry license by such person to be unlawful pursuant to subsection (b) of this Code section. The Council of Superior Court Judges of Georgia and The Council of State Court Judges of Georgia shall provide by rule for the procedures which judges of the superior court and the judges of the state courts, respectively, are to follow for the purposes of this paragraph.

**(3)** 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. The judge shall charge the fee specified in subsection (k) of Code § 15-9-60 for such services.

**(f)** Weapons carry license specifications.

**(1)** 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 3 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 § 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 1 nor more than 5 years.

(h) Licenses for former law enforcement officers.

(1) Except as otherwise provided in Code § 16-11-130, any person who has served as a law enforcement officer for at least:

(A) Ten of the 12 years immediately preceding the retirement of such person as a law enforcement officer; or

(B) Ten years and left such employment as a result of a disability arising in the line of duty; and

retired or left such employment in good standing with a state or federal certifying agency and receives benefits under the Peace Officers' Annuity and Benefit Fund provided for under Chapter 17 of Title 47 or from a county, municipal, State of Georgia, state authority, federal, private sector, individual, or educational institution retirement system or program 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.

(2) Such person as provided for in paragraph (1) of this subsection shall comply with all the other provisions of this Code section relative to the issuance of such licenses, including, but not limited to the requirements under paragraph (2) of subsection (b) of this Code section. Any person seeking to be issued a license pursuant to this subsection shall state his or her qualifications for eligibility under this subsection on his or her application under oath as provided for in subsection (a) of this Code section.

(3) 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 game wardens.

(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 5-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 5-year license.

(5) A \$1 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 5-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 of a license holder pursuant to a subpoena or court order, for public safety purposes to law enforcement agencies pursuant to paragraph (40) of subsection (a) of Code § 50-18-72, and for licensing to a judge of a probate court or his or her designee pursuant to paragraph (40) of subsection (a) of Code § 50-18-72; provided, however, that the judge of a probate court or his or her designee shall not be authorized to provide any further information regarding license holders.

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

**(a)** Code §§ 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 § 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, § 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)** Community supervision officers employed by and under the authority of the Department of Community Supervision when specifically designated and authorized in writing by the commissioner of community supervision;

**(10)** Public safety directors of municipal corporations;

**(11)** Explosive ordnance disposal technicians, as such term is defined by Code § 16-7-80, and persons certified as provided in Code § 35-8-13 to handle animals trained to detect explosives, while in the performance of their duties;

**(12)** Federal judges, Justices of the Supreme Court, Judges of the Court of Appeals, judges of superior, state, probate, juvenile, and magistrate courts, full-time judges of municipal and city courts, permanent part-time judges of municipal and city courts, and administrative law judges;

**(12.1)** Former federal judges, Justices of the Supreme Court, Judges of the Court of Appeals, judges of superior, state, probate, juvenile, and magistrate courts, full-time judges of municipal and city courts, permanent part-time judges of municipal courts, and administrative law judges who are retired from their respective offices, provided that such judge or Justice would otherwise be qualified to be issued a weapons carry license;

**(12.2)** Former federal judges, Justices of the Supreme Court, Judges of the Court of Appeals, judges of superior, state, probate, juvenile, and magistrate courts, full-time judges of municipal and city courts, permanent part-time

judges of municipal courts, and administrative law judges who are no longer serving in their respective office, provided that he or she served as such judge or Justice for more than 24 months; and provided, further, that such judge or Justice 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 §§ 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 Community Supervision were community supervision officers, when specifically designated and authorized in writing by the commissioner of community supervision.

(c) Code §§ 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 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 §§ 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 § 16-11-126 or 16-11-127 need not negate any exemptions.

#### **Section 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 § 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 § 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 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.

### **Section 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 1 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, who is on probation and was sentenced for a felony under subsection (a) or (c) of Code Section 16-13-2, 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 year nor more than ten years; provided, however, that upon a second or subsequent conviction, such person shall be imprisoned for not less than five nor more than ten years; provided, further, that if the felony for 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 5 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 or under conditional discharge for a forcible felony and who attempts to purchase or obtain transfer of a firearm shall be guilty of a felony and upon conviction shall be punished by

imprisonment for not less than one year nor more than five years; provided, however, that upon a second or subsequent conviction, such person shall be punished by imprisonment for not less than five nor more than ten 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. § 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, 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 sentenced as a first offender pursuant to Article 3 of Chapter 8 of Title 42 or sentenced pursuant to subsection (a) or (c) or Code Section 16-13-2 and subsequently discharged without court adjudication of guilt as a matter of law pursuant to Code Section 42-8-60 or 16-13-2, as applicable, shall, upon such discharge, be relieved from the disabilities imposed by this Code section.

### **Section 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 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 or by imprisonment for a period of 3 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. § 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 § 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 § 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 § 16-1-3, if such person were an adult.

### **Section 16-11-133. Minimum periods of confinement for persons convicted who have prior convictions.**

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

(1) "**Felony**" means any offense punishable by imprisonment for a term of 1 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, stun gun, taser, 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 has previously been convicted of or who has previously entered a guilty plea to the offense of murder, murder in the second degree, armed robbery, home invasion in any degree, kidnapping, rape, aggravated child molestation, aggravated sodomy, aggravated sexual battery, or any felony involving the use or possession of a firearm and who shall have on or within arm's reach of his or her person a firearm during the commission of, or the attempt to commit:

(1) Any crime against or involving the person of another;

(2) The unlawful entry into a building or vehicle;

(3) A theft from a building or theft of a vehicle;

(4) Any crime involving the possession, manufacture, delivery, distribution, dispensing, administering, selling, or possession with intent to distribute any controlled substance as provided in Code § 16-13-30; or

(5) Any crime involving the trafficking of cocaine, marijuana, or illegal drugs as provided in Code § 16-13-31,

and which crime is a felony, commits a felony and, upon conviction thereof, shall be punished by confinement for a period of 15 years, such sentence to run consecutively to any other sentence which the person has received.

(c) Upon the second or subsequent conviction of a convicted felon under this Code section, such convicted felon shall be punished by confinement for life. Notwithstanding any other law to the contrary, the sentence of any convicted felon which is imposed for violating this Code section a second or subsequent time shall not be suspended by the court and probationary sentence imposed in lieu thereof.

(d) Any crime committed in violation of subsections (b) and (c) of this Code section shall be considered a separate offense.

## **Part 5 – Brady Law Regulations**

### **Section 16-11-171. Definitions.**

As used in this part, the term:

(1) "**Center**" means the Georgia Crime Information Center within the Georgia Bureau of Investigation.

(2) "**Dealer**" means any person licensed as a dealer pursuant to 18 U.S.C. § 921, et seq.

(3) "**Firearm**" means any weapon that is designed to or may readily be converted to expel a projectile by the action of an explosive or the frame or receiver of any such weapon, any firearm muffler or firearm silencer, or any destructive device as defined in 18 U.S.C. § 921(a)(3).

(4) "**Involuntarily hospitalized**" means hospitalized as an inpatient in any mental health facility pursuant to Code § 37-3-81 or hospitalized as an inpatient in any mental health facility as a result of being adjudicated mentally incompetent to stand trial or being adjudicated not guilty by reason of insanity at the time of the crime pursuant to Part 2 of Article 6 of Title 17.

**(5) "NICS"** means the National Instant Criminal Background Check System created by the federal "Brady Handgun Violence Prevention Act" (P. L. No. 103-159).

**Section 16-11-172. Transfers or purchases of firearms subject to the NICS; information concerning persons who have been involuntarily hospitalized to be forwarded to the FBI; penalties for breach of confidentiality; exceptions.**

**(a)** All transfers or purchases of firearms conducted by a licensed importer, licensed manufacturer, or licensed dealer shall be subject to the NICS. To the extent possible, the center shall provide to the NICS all necessary criminal history information and wanted person records in order to complete an NICS check.

**(b)** The center shall forward to the Federal Bureau of Investigation information concerning persons who have been involuntarily hospitalized as defined in this part for the purpose of completing an NICS check.

**(c)** Any government official who willfully or intentionally compromises the identity, confidentiality, and security of any records and data pursuant to this part shall be guilty of a felony and fined no less than \$5,000 and shall be subject to automatic dismissal from his or her employment.

**(d)** The provisions of this part shall not apply to:

**(1)** Any firearm, including any handgun with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898;

**(2)** Any replica of any firearm described in paragraph (1) of this subsection if such replica is not designed or redesigned to use rimfire or conventional center-fire fixed ammunition or uses rimfire or conventional center-fire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; and

**(3)** Any firearm which is a curio or relic as defined by 27 CFR 178.11.

**Section 16-11-173. Legislative findings; preemption of local regulation and lawsuits; exceptions.**

**(a)**

**(1)** It is declared by the General Assembly that the regulation of firearms and other weapons is properly an issue of general, state-wide concern.

**(2)** The General Assembly further declares that the lawful design, marketing, manufacture, and sale of firearms and ammunition and other weapons to the public is not unreasonably dangerous activity and does not constitute a nuisance per se.

**(b)**

**(1)** Except as provided in subsection (c) of this Code section, no county or municipal corporation, by zoning, by ordinance or resolution, or by any other means, nor any agency, board, department, commission, political subdivision, school district, or authority of this state, other than the General Assembly, by rule or regulation or by any other means shall regulate in any manner:

**(A)** Gun shows;

**(B)** The possession, ownership, transport, carrying, transfer, sale, purchase, licensing, or registration of firearms or other weapons or components of firearms or other weapons;

**(C)** Firearms dealers or dealers of other weapons; or

**(D)** Dealers in components of firearms or other weapons.

**(2)** The authority to bring suit and right to recover against any weapons, firearms, or ammunition manufacturer, trade association, or dealer by or on behalf of any governmental unit created by or pursuant to an Act of the General Assembly or the Constitution, or any department, agency, or authority thereof, for damages, abatement, or injunctive relief resulting from or relating to the lawful design, manufacture, marketing, or sale of weapons, firearms, or ammunition to the public shall be reserved exclusively to the state. This paragraph shall not prohibit a political subdivision or local government authority from bringing an action against a weapons, firearms, or ammunition manufacturer or dealer for breach of contract or express warranty as to weapons, firearms, or ammunition purchased by the political subdivision or local government authority.

**(c)**

**(1)** A county or municipal corporation may regulate the transport, carrying, or possession of firearms by employees of the local unit of government, or by unpaid volunteers of such local unit of government, in the course of their employment or volunteer functions with such local unit of government; provided, however, that the sheriff or chief of police shall be solely responsible for regulating and determining the possession, carrying, and transportation of

firearms and other weapons by employees under his or her respective supervision so long as such regulations comport with state and federal law.

(2) The commanding officer of any law enforcement agency shall regulate and determine the possession, carrying, and transportation of firearms and other weapons by employees under his or her supervision so long as such regulations comport with state and federal law.

(3) The district attorney, and the solicitor-general in counties where there is a state court, shall regulate and determine the possession, carrying, and transportation of firearms and other weapons by county employees under his or her supervision so long as such regulations comport with state and federal law.

(d) Nothing contained in this Code section shall prohibit municipalities or counties, by ordinance or resolution, from requiring the ownership of guns by heads of households within the political subdivision.

(e) Nothing contained in this Code section shall prohibit municipalities or counties, by ordinance or resolution, from reasonably limiting or prohibiting the discharge of firearms within the boundaries of the municipal corporation or county.

(f) As used in this Code section, the term "**weapon**" means any device designed or intended to be used, or capable of being used, for offense or defense, including but not limited to firearms, bladed devices, clubs, electric stun devices, and defense sprays.

(g) Any person aggrieved as a result of a violation of this Code section may bring an action against the person who caused such aggrievement. The aggrieved person shall be entitled to reasonable attorney's fees and expenses of litigation and may recover or obtain against the person who caused such damages any of the following:

(1) Actual damages or \$100, whichever is greater;

(2) Equitable relief, including, but not limited to, an injunction or restitution of money and property; and

(3) Any other relief which the court deems proper.

#### **Atlanta Code of Ordinances**

Current through Ordinance Number 2019-24(19-O-1149), approved April 24, 2019. (Supplement Number 81, Update 2)

#### **Chapter 122 – Secondhand Goods**

#### **Article II – Secondhand Dealers**

#### **Section 122-30. Acquiring articles with serial number mutilated or altered.**

It shall be unlawful for any secondhand dealer to purchase or acquire in trade any ... pistol, gun, ... or any other article commonly branded with a serial number, upon which the number has been mutilated or altered.