

O.C.G.A. § 16-11-127.1

GEORGIA CODE
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*** Current through the 2017 Regular Session of the General Assembly. ***

TITLE 16. CRIMES AND OFFENSES
CHAPTER 11. OFFENSES AGAINST PUBLIC ORDER AND SAFETY
ARTICLE 4. DANGEROUS INSTRUMENTALITIES AND PRACTICES
PART 3. CARRYING AND POSSESSION OF FIREARMS

O.C.G.A. § 16-11-127.1 (2017)

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

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

(1) "Bus or other transportation furnished by a school" means a bus or other transportation furnished by a public or private elementary or secondary school.

(2) "School function" means a school function or related activity that occurs outside of a school safety zone and is for a public or private elementary or secondary school.

(3) "School safety zone" means in or on any real property or building owned by or leased to:

(A) Any public or private elementary school, secondary school, or local board of education and used for elementary or secondary education; and

(B) Any public or private technical school, vocational school, college, university, or other institution of postsecondary education.

(4) "Weapon" means and includes any pistol, revolver, or any weapon designed or intended to propel a missile of any kind, or any dirk, bowie knife, switchblade knife, ballistic knife, any other knife having a blade of two or more inches, straight-edge razor, razor blade, spring stick, knuckles, whether made from metal, thermoplastic, wood, or other similar material, blackjack, any bat, club, or other bludgeon-type weapon, or any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain, or any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart, or any weapon of like kind, and any stun gun or taser as defined in subsection (a) of Code Section 16-11-106. This paragraph excludes any of these instruments used for classroom work authorized by the

teacher.

(b) (1) Except as otherwise provided in subsection (c) of this Code section, it shall be unlawful for any person to carry to or to possess or have under such person's control while within a school safety zone, 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) Except as provided for in paragraph (20) of subsection (c) of this Code section, any license holder who violates this subsection shall be guilty of a misdemeanor. Any person who is not a license holder who violates this subsection shall be guilty of a felony and, upon conviction thereof, be punished by a fine of not more than \$10,000.00, by imprisonment for not less than two nor more than ten years, or both.

(3) Any person convicted of a violation of this subsection involving a dangerous weapon or machine gun, as such terms are defined in Code Section 16-11-121, shall be punished by a fine of not more than \$10,000.00 or by imprisonment for a period of not less than five nor more than ten years, or both.

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

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

(1) Baseball bats, hockey sticks, or other sports equipment possessed by competitors for legitimate athletic purposes;

(2) Participants in organized sport shooting events or firearm training courses;

(3) Persons participating in military training programs conducted by or on behalf of the armed forces of the United States or the Georgia Department of Defense;

(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 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 Section 16-11-130.1 to have in such person's possession or use within a school safety zone, at a school function, or on a bus or other transportation furnished by a school a weapon which would otherwise be prohibited by this Code section. Such authorization shall specify the weapon or weapons which have been authorized and the time period during which the authorization is valid;

(7) A person who is licensed in accordance with Code Section 16-11-129 or issued a permit pursuant to Code Section 43-38-10, when such person carries or picks up a student within a school safety zone, at a school function, or on a bus or other transportation furnished by a school or a person who is licensed in accordance with Code Section 16-11-129 or issued a permit pursuant to Code Section 43-38-10 when he or she has any weapon legally kept within a vehicle when such vehicle is parked within a school safety zone or is in transit through a designated school safety zone;

(8) A weapon possessed by a license holder which is under the possessor's control in a motor vehicle or which is in a locked compartment of a motor vehicle or one which is in a locked container in or a locked firearms rack which is on a motor vehicle which is being used by an adult over 21 years of age to bring to or pick up a student within a school safety zone, at a school function, or on a bus or other transportation furnished by a school, or when such vehicle is used to transport someone to an activity being conducted within a school safety zone which has been authorized by a duly authorized official or local board of education as provided by paragraph (6) of this subsection; provided, however, that this exception shall not apply to a student attending a public or private elementary or secondary school;

(9) Persons employed in fulfilling defense contracts with the government of the United States or agencies thereof when possession of the weapon is necessary for manufacture, transport, installation, and testing under the requirements of such contract;

(10) Those employees of the State Board of Pardons and Paroles when specifically designated and authorized in writing by the members of the State Board of Pardons and Paroles to carry a weapon;

(11) The Attorney General and those members of his or her staff whom he or she specifically authorizes in writing to carry a weapon;

(12) 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;

(19) Any person who is 18 years of age or older or currently enrolled in classes on the campus in question and carrying, possessing, or having under such person's control an electroshock weapon while in or on any building or real property owned by or leased to such public technical school, vocational school, college or university or other public institution of postsecondary education; provided, however, that, if such person makes use of such electroshock weapon, such use shall be in defense of self or others. The exemption under this paragraph shall apply only to such person in regard to such electroshock weapon. As used in this paragraph, the term "electroshock weapon" means any commercially available device that is powered by electrical charging units and designed exclusively to be capable of incapacitating a person by electrical charge, including, but not limited to, a stun gun or taser as defined in subsection (a) of Code Section 16-11-106; or

(20) (A) Any weapons carry license holder when he or she is in any building or on real property owned by or leased to any public technical school, vocational school, college, or university, or other public institution of postsecondary education; provided, however, that such exception shall:

(i) Not apply to buildings or property used for athletic sporting events or student housing, including, but not limited to, fraternity and sorority houses;

(ii) Not apply to any preschool or childcare space located within such buildings or real

property;

(iii) Not apply to any room or space being used for classes related to a college and career academy or other specialized school as provided for under Code Section 20-4-37;

(iv) Not apply to any room or space being used for classes in which high school students are enrolled through a dual enrollment program, including, but not limited to, classes related to the "Move on When Ready Act" as provided for under Code Section 20-2-161.3;

(v) Not apply to faculty, staff, or administrative offices or rooms where disciplinary proceedings are conducted;

(vi) Only apply to the carrying of handguns which a licensee is licensed to carry pursuant to subsection (e) of Code Section 16-11-126 and pursuant to Code Section 16-11-129; and

(vii) Only apply to the carrying of handguns which are concealed.

(B) Any weapons carry license holder who carries a handgun in a manner or in a building, property, room, or space in violation of this paragraph shall be guilty of a misdemeanor; provided, however, that for a conviction of a first offense, such weapons carry license holder shall be punished by a fine of \$25.00 and not be sentenced to serve any term of confinement.

(C) As used in this paragraph, the term:

(i) "Concealed" means carried in such a fashion that does not actively solicit the attention of others and is not prominently, openly, and intentionally displayed except for purposes of defense of self or others. Such term shall include, but not be limited to, carrying on one's person while such handgun is substantially, but not necessarily completely, covered by an article of clothing which is worn by such person, carrying within a bag of a nondescript nature which is being carried about by such person, or carrying in any other fashion as to not be clearly discernible by the passive observation of others.

(ii) "Preschool or childcare space" means any room or continuous collection of rooms or any enclosed outdoor facilities which are separated from other spaces by an electronic mechanism or human-staffed point of controlled access and designated for the provision of preschool or childcare services, including, but not limited to, preschool or childcare services licensed or regulated under Article 1 of Chapter 1A of Title 20.

(d) (1) This Code section shall not prohibit any person who resides or works in a business or is in the ordinary course transacting lawful business or any person who is a visitor of such resident located within a school safety zone from carrying, possessing, or having under such person's control a weapon within a school safety zone; provided, however, that it shall be unlawful for any such person to carry, possess, or have under such person's control while at a school building or school function or on school property or a bus or other transportation furnished by a school any weapon or explosive compound, other than fireworks the possession of which is regulated by Chapter 10 of Title 25.

(2) Any person who violates this subsection shall be subject to the penalties specified in subsection (b) of this Code section.

(e) It shall be no defense to a prosecution for a violation of this Code section that:

(1) School was or was not in session at the time of the offense;

(2) The real property was being used for other purposes besides school purposes at the time of the offense; or

(3) The offense took place on a bus or other transportation furnished by a school.

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

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

(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 Section 16-11-130.

HISTORY: Code 1981, § 16-11-127.1, enacted by Ga. L. 1992, p. 1315, § 2; Ga. L. 1994, p. 543, § 1; Ga. L. 1994, p. 547, § 1; Ga. L. 1994, p. 1012, § 4; Ga. L. 1995, p. 10, § 16; Ga. L. 1999, p. 362, § 1; Ga. L. 2000, p. 20, § 6; Ga. L. 2000, p. 1630, § 4; Ga. L. 2003, p. 140, § 16; Ga. L. 2008, p. 533, § 3/SB 366; Ga. L. 2008, p. 1199, § 5/HB 89; Ga. L. 2009, p. 8, § 16/SB 46; Ga. L. 2010, p. 463, § 2/SB 299; Ga. L. 2010, p. 963, § 1-4/SB 308; Ga. L. 2013, p. 294, § 4-10/HB 242; Ga. L. 2014, p. 432, § 1-1/HB 826; Ga. L. 2014, p. 599, § 1-6/HB 60; Ga. L. 2015, p. 5, § 16/HB 90; Ga. L. 2015, p. 274, § 1/HB 110; Ga. L. 2015, p. 422, § 5-27/HB 310; Ga. L. 2015, p. 805, § 4/HB 492; Ga. L. 2016, p. 848, § 1/HB 792; Ga. L. 2017, p. 341, § 1/HB 280; Ga. L. 2017, p. 555, § 5/HB 292.

