POSSESSION AND CARRY OF FIREARMS UNDER GEORGIA LAW

GEORGIA CODE SECTIONS
O.C.G.A. § 16-11-126
AND
O.C.G.A. § 16-11-127

DISCLAIMER:

This handout was created to assist you in starting your own research so that you can become familiar with Georgia’s firearms laws. It has been heavily edited for space and content. There are additional laws not covered in this outline which may govern the possession, carry and use of firearms. Laws frequently change and it is solely your responsibility to know the current law and how it applies to you in different locations and scenarios. Additionally, almost every law has exceptions which make interpretation and compliance more difficult. This outline does NOT cover laws of any other state. You should consult an attorney at law for answers to specific questions and situations. This information is presented to assist you in starting your own research and is NOT legal advice, a restatement of the law, nor endorsed by any law enforcement agency, officer, prosecutor, or judge. It is solely your responsibility to know and follow the law.
Possession & Carry of Firearms under Georgia Law
Revised: June 2016 (including changes by HB 60)
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Where can I obtain additional information?
Georgia laws are codified in the Official Code of Georgia Annotated (O.C.G.A.) and the numbers that follow refer to the Title, Chapter and Section (abbreviated as §). For example, O.C.G.A. § 16-11-1126 is the section which covers, in part, possession and carrying handguns. You may access the O.C.G.A. for free online at www.lexisnexis.com/hottopics/gacode/Default.asp or by visiting the law library in the courthouse. Additional information can be obtained at other sources, however, they are not official government sources and neither their currency nor correctness is guaranteed. As with any other information, it is your responsibility to know and follow the law.

www.georgiacarry.org www.georgiapacking.org

Southern Regional Technical College (Moultrie campus) periodically holds classes on Basic Firearms Safety for a nominal fee. The class covers Georgia law, possession, carrying, use of force, safety, selection of a handgun, and target practice with professional shooting instruction.

What laws govern the possession and carrying of firearms?
Federal: governs who can possess/own firearms and ammunition, the buying and selling, transportation across state lines, and possession and carry on federal property.

Georgia (O.C.G.A. § 16-11-173(b)(1)): governs and reserves to the State the sole authority to regulate guns shows, possession, transportation, carrying, transfer, sale, purchase, licensing or registration – expressly prohibits counties and municipalities from making additional laws, with very few exceptions.

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Possession: possession means that you have dominion and control over an item even if it is not in your immediate possession (example: you possess your TV/furniture in your house even when you are not at home, or when your gun is in your vehicle even if you are not in your vehicle)

Carry: carry(ing) means that you have present control/it is on your person (example: in your purse, briefcase, holster, or pocket)

**Who is prohibited from possessing a firearm?** Federal law codified at 18 U.S.C. 922(g) prohibits certain persons from owning, possessing, transporting or carrying any firearm or ammunition. Violation is a felony and punishable by stiff penalties including prison. Prohibited persons include, but are not limited to: convicted felons (and those with pending felony charges); fugitives from justice; unlawful user/addict of certain controlled substances; those illegally in US; Dishonorable Discharged from military service; adjudicated mentally defective; convicted of misdemeanor crime of domestic violence; under a restraining order for stalking or harassment; have renounced US citizenship. Generally, Georgia adheres to the same list.

**Do I have to “register” firearms?** Generally, registration of firearms is not required by either Georgia or Federal law. However, Federal law does require special registration/licenses/tax stamps for some types of weapons including fully automatic, short-barreled rifles, short-barreled shotguns, and suppressors/silencers.

**Where can I Carry a firearm?**

a. You **CANNOT** Carry a firearm in the following places **REGARDLESS** of whether you have a Georgia Weapons License (O.C.G.A. § 16-11-127):

1. Courthouse,
2. Jail/prison,
3. State mental hospital,
4. Nuclear power facility,
5. Within 150’ of polling place,
6. Places of worship (unless the church’s governing body has previously approved),
7. Where prohibited by Federal law (federal government buildings, etc.),
8. School building, function or property (However, IF you possess a Weapons Carry License, you may possess a weapon locked up in your vehicle when: passing through school zone, picking up/dropping off a student, parked on school property or at an event even though you cannot carry one on your person in/on/at school property or function).
9. Exception: does not prohibit law enforcement officers, judges, prosecutors, probation officers, and other specifically enumerated individuals

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b. **WITHOUT a Weapons Carry License**, you Can Possess or Carry (O.C.G.A. § 16-11-126)
   
   1. In YOUR OWN:
      
      i. Home or Property,
      
      ii. Motor Vehicle (including boat, plane),
      
      iii. Place of Business (if you own or control); however, your employer, or the business owner, can authorize or prohibit you from carrying a weapon in their business or on their property,
      
      iv. While actively engaged in hunting, fishing or sport shooting if have valid hunting/fishing license; can also carry a handgun during archery season if have a valid Weapons License.
   
   2. If you are not in your own home, vehicle or business you can carry a handgun in public ONLY IF it is in a closed case and unloaded, and if you are not otherwise prohibited from possessing a firearm in that location.
   
   3. Exception/clarification: Does not include your property which is leased/rented to another, therefore, even though you own the property, if another person leases the property and owns/operates a business or residence on your property, he can still prohibit you from carrying there.

c. **WITH a Weapons Carry License (WCL) in additional places** (O.C.G.A. § 16-11-126) - But must have WCL in immediate possession when carrying outside home, business, vehicle, property

   1. Can specifically carry in:
      
      i. Bars,
      
      ii. parks, historic sites, recreational areas, Wildlife Management Areas,
      
      iii. Government buildings (unless have a manned security screening station, but still not courthouses, jails),
      
      iv. Places of worship (but ONLY if approved by the church’s governing body),
      
      v. public transportation regulated by Georgia or local law (MARTA bus/taxi, but NOT on federally regulated airplanes[Delta], buses[Greyhound] or trains[Amtrak]),
      
      vi. non-secure areas of airports (generally means prior to the screening area),
   
   2. NOTE: Private property, business owners/lessees, employers may “exclude or eject” carrying in/on their property – just because you possess a WCL does not automatically entitle you to carry a weapon anywhere you want; but they cannot prohibit from possession in locked vehicle in parking area (with some exceptions – see O.C.G.A. § 16-11-135)

   3. NOTE: This is an ambiguous section because it provides some examples of where you can carry but does not list every permitted or excluded place.

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d. **School property** (O.C.G.A. § 16-11-127.1): IF you possess a Weapons License, you may possess a weapon locked up in your vehicle when: passing through school zone, picking up/dropping off a student, parked on school property or at school event, BUT CANNOT carry one on your person in/on/at school property or function. However, “authorized official” can now authorize in writing for a person to possess and/or carry on school property and within buildings (under very specific restrictions/requirements).

e. **Miscellaneous:**

1. “Declared State of Emergency”: State government/officials cannot suspend or prohibit possession or carry of weapons (if the person and act was legal prior to the declaration);

2. New requirements for reporting by courts and health care providers regarding people with mental health issues; additionally, a provision was added for lifting a prohibition based on mental health

3. No longer required to use a holster

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**Where is my Georgia Weapon Carry License valid? What are the benefits?**

a. WCL issued by your county of residence is valid **throughout the entire State of Georgia** (O.C.G.A. § 16-11-173).

b. Other states may recognize your Georgia WCL through “reciprocity”, but are not required to because there is no federally mandated reciprocity. IF the state recognizes/authorizes you to possess/carry certain weapons in their state, you must do so in accordance with that state’s laws (O.C.G.A. § 16-11-126(e)) Currently, the Georgia Attorney General has reciprocity agreements with the following states: AL, AK, AR, AZ, CO, FL, ID, IN, IA, KS, KY, LA, ME, MI, MS, MO, MT, NH, NC, ND, OH, OK, PA, SC, SD, TN, TX, UT, VA, WV, WI, WY [http://law.ga.gov/firearm-permit-reciprocity](http://law.ga.gov/firearm-permit-reciprocity)

c. **Benefits:** makes purchasing firearms more efficient because you do not have to wait for an additional background check; allows you to possess and carry a firearm, and other weapons/knives, in more places; notifies law enforcement officers that you are licensed and permitted to carry.

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

(a) Any person who is not prohibited by law from possessing a handgun or long gun may have or carry on his or her person a weapon or long gun on his or her property or inside his or her home, motor vehicle, or place of business without a valid weapons carry license.

(b) Any person who is not prohibited by law from possessing a handgun or long gun may have or carry on his or her person a long gun without a valid weapons carry license, provided that if the long gun is loaded, it shall only be carried in an open and fully exposed manner.

(c) Any person who is not prohibited by law from possessing a handgun or long gun may have or carry any handgun provided that it is enclosed in a case and unloaded.

(d) Any person who is not prohibited by law from possessing a handgun or long gun who is eligible for a weapons carry license may transport a handgun or long gun in any private passenger motor vehicle; provided, however, that private property owners or persons in legal control of private property through a lease, rental agreement, licensing agreement, contract, or any other agreement to control access to such private property shall have the right to exclude or eject a person who is in possession of a weapon or long gun on their private property in accordance with paragraph (3) of subsection (b) of Code Section 16-7-21, except as provided in Code Section 16-11-135.

(e) Any person licensed to carry a handgun or weapon in any other state whose laws recognize and give effect to a license issued pursuant to this part shall be authorized to carry a weapon in this state, but only while the licensee is not a resident of this state; provided, however, that such licensee shall carry the weapon in compliance with the laws of this state.

(f) Any person with a valid hunting or fishing license on his or her person, or any person not required by law to have a hunting or fishing license, who is engaged in legal hunting, fishing, or sport shooting when the person has the permission of the owner of the land on which the activities are being conducted may have or carry on his or her person a handgun or long gun without a valid weapons carry license while hunting, fishing, or engaging in sport shooting.

(g) Notwithstanding Code Sections 12-3-10, 27-3-1.1, 27-3-6, and 16-12-122 through 16-12-127, any person with a valid weapons carry license may carry a weapon in all parks, historic sites, or recreational areas, as such term is defined in Code Section 12-3-10, including all publicly owned buildings located in such parks, historic sites, and recreational areas, in wildlife management areas, and on public transportation; provided, however, that a person shall not carry a handgun into a place where it is prohibited by federal law.

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(h) (1) No person shall carry a weapon without a valid weapons carry license unless he or she meets one of the exceptions to having such license as provided in subsections (a) through (g) of this Code section.

(2) A person commits the offense of carrying a weapon without a license when he or she violates the provisions of paragraph (1) of this subsection.

(i) Upon conviction of the offense of carrying a weapon without a valid weapons carry license, a person shall be punished as follows:

(1) For the first offense, he or she shall be guilty of a misdemeanor; and

(2) For the second offense within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, and for any subsequent offense, he or she shall be guilty of a felony and, upon conviction thereof, shall be imprisoned for not less than two years and not more than five years.

(j) 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.

31 STATES WHICH HAVE RECIPROCAL AGREEMENTS WITH GEORGIA:

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O.C.G.A. § 16-11-127

Carrying weapons in unauthorized locations
(a) As used in this Code section, the term:

(1) "Courthouse" means a building occupied by judicial courts and containing rooms in which judicial proceedings are held.

(2) "Government building" means:
(A) The building in which a government entity is housed;
(B) The building where a government entity meets in its official capacity; provided, however, that if such building is not a publicly owned building, such building shall be considered a government building for the purposes of this Code section only during the time such government entity is meeting at such building; or
(C) The portion of any building that is not a publicly owned building that is occupied by a government entity.

(3) "Government entity" means an office, agency, authority, department, commission, board, body, division, instrumentality, or institution of the state or any county, municipal corporation, consolidated government, or local board of education within the state

(4) Parking facility means real property owned or leased by a government entity, courthouse, jail, prison, or place of worship that has been designated by such government entity, courthouse, jail, prison, or place of worship for the parking of motor vehicles at a government building or at such courthouse, jail, prison, place of worship.

(b) Except as provided in Code Section 16-11-127.1 and subsection (d) or (e) of this Code section, a person shall be guilty of carrying a weapon or long gun in an unauthorized location and punished as for a misdemeanor when he or she carries a weapon or long gun while:
(1) In a government building as a non-license holder;
(2) In a courthouse;
(3) In a jail or prison;
(4) In a place of worship, unless the governing body or authority of the place of worship permits the carrying of weapons or long guns by license holders;

(5) In a state mental health facility as defined in Code Section 37-1-1 which admits individuals on an involuntary basis for treatment of mental illness, developmental disability, or addictive disease; provided, however, that carrying a weapon or long gun in such location in a manner in compliance with paragraph (3) of subsection (d) of this Code section shall not constitute a violation of this subsection;

(6) On the premises of a nuclear power facility, except as provided in Code Section 16-11-127.2, and the punishment provisions of Code Section 16-11-127.2 shall supersede the punishment provisions of this Code section; or

(7) Within 150 feet of any polling place when elections are being conducted and such polling place is being used as a polling place as provided for in paragraph (27) of Code Section 21-2-2, except as provided in subsection (i) of Code Section 21-2-413.

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shall be authorized to carry a weapon as provided in Code Section 16-11-135 and in every location in this state not listed in subsection (b) or prohibited by subsection (e) of this Code section; provided, however, that private property owners or persons in legal control of private property through a lease, rental agreement, licensing agreement, contract, or any other agreement to control access to such private property shall have the right to exclude or eject a person who is in possession of a weapon or long gun on their private property, in accordance with paragraph (3) or subsection (b) of Code section 16-7-21, except as provided in Code Section 16-11-135. A violation of subsection (b) of this Code section shall not create or give rise to a civil action for damages.

(d) Subsection (b) of this Code section shall not apply:

(1) To the use of weapons or long guns as exhibits in a legal proceeding, provided such weapons or long guns are secured and handled as directed by the personnel providing courtroom security or the judge hearing the case;

(2) To a license holder who approaches security or management personnel upon arrival at a location described in subsection (b) of this Code section and notifies such security or management personnel of the presence of the weapon or long gun and explicitly follows the security or management personnel's direction for removing, securing, storing, or temporarily surrendering such weapon or long gun; and

(3) To a weapon or long gun possessed by a license holder which is under the possessor's control in a motor vehicle or is in a locked compartment of a motor vehicle or one which is in a locked container in or a locked firearms rack which is on a motor vehicle and such vehicle is parked in a parking facility.

(e) (1) A license holder shall be authorized to carry a weapon in a government building when the government building is open for business and where the ingress into such building is not restricted or screened by security personnel. A license holder who enters or attempts to enter a government building carrying a weapon where ingress is restricted or screened by security personnel shall be guilty of a misdemeanor if at least one member of such security personnel is certified as a peace officer pursuant to Chapter 8 of Title 35; provided, however, that a license holder who immediately exits such building or immediately leaves such location upon notification of his or her failure to clear security due to carrying a weapon shall not be guilty of violating this subsection or paragraph (1) of subsection (b) of this Code section. A person who is not a license holder and who attempts to enter a government building carrying a weapon shall be guilty of a misdemeanor.

(2) Any license holder who violates subsection (b) of this Code section in a place of worship shall not be arrested but shall be fined not more than $100.00. Any person who is not a license holder who violates subsection (b) of this Code section in a place of worship shall be punished as for a misdemeanor.

(f) 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.

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