

Senate Bill 40

By: Senators Seay of the 34th, Merritt of the 9th, Mallow of the 2nd, Butler of the 55th, Sims of the 12th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia
2 Annotated, relating to carrying and possession of firearms, so as to provide for unlawful
3 possession of firearm parts; to provide for definitions; to prohibit the carrying and possession
4 of firearm parts by certain persons and in certain locations; to provide for standards for
5 issuance of weapons carry licenses; to amend Chapter 2 of Title 20 of the Official Code of
6 Georgia Annotated, relating to elementary and secondary education, so as to revise and
7 provide for definitions; to provide for the development of expulsion and disciplinary policies
8 for students bringing firearm parts to school and on buses; to provide for reporting of
9 prohibited acts; to provide for related matters; to repeal conflicting laws; and for other
10 purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SECTION 1-1.

14 Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,
 15 relating to carrying and possession of firearms, is amended by revising Code Section
 16 16-11-125.1, relating to definitions, as follows:

17 "16-11-125.1.

18 As used in this part, the term:

19 (1) 'Firearm' means any device that is designed to or may knowingly and readily be
 20 converted or assembled to expel a projectile by the action of an explosive or electrical
 21 charge.

22 (2) 'Firearm part' means any instrument, device, or object which is exclusively designed
 23 to be used within a firearm and which the possessor of such part has actual or
 24 constructive knowledge of such.

25 ~~(1)~~(3) 'Handgun' means a firearm of any description, loaded or unloaded, from which any
 26 shot, bullet, or other missile can be discharged by an action of an explosive where the
 27 length of the barrel, not including any revolving, detachable, or magazine breech, does
 28 not exceed 12 inches; provided, however, that ~~the term 'handgun'~~ such term shall not
 29 include a ~~gun which~~ firearm that discharges a single shot of 0.46 centimeter or less in
 30 diameter.

31 ~~(2)~~(4) 'Knife' means a cutting instrument designed for the purpose of offense and defense
 32 consisting of a blade that is greater than 12 inches in length which is fastened to a handle.

33 ~~(2.1)~~(5) 'Lawful weapons carrier' means any person who is licensed or eligible for a
 34 license pursuant to Code Section 16-11-129 and who is not otherwise prohibited by law
 35 from possessing a weapon or long gun, any resident of any other state who would
 36 otherwise be eligible to obtain a license pursuant to such Code section but for the
 37 residency requirement, and any person licensed to carry a weapon in any other state.

38 ~~(3)~~(6) 'License holder' means a person who holds a valid weapons carry license.

39 ~~(4)~~(7) 'Long gun' means a firearm with a barrel length of at least 18 inches and overall
40 length of at least 26 inches designed or made and intended to be fired from the shoulder
41 and designed or made to use the energy of the explosive in a fixed:

42 (A) Shotgun shell to fire through a smooth bore either a number of ball shot or a single
43 projectile for each single pull of the trigger or from which any shot, bullet, or other
44 missile can be discharged; or

45 (B) Metallic cartridge to fire only a single projectile through a rifle bore for each single
46 pull of the trigger;

47 provided, however, that ~~the term "long gun"~~ such term shall not include a ~~gun~~ firearm
48 which discharges a single shot of 0.46 centimeter or less in diameter.

49 ~~(5)~~(8) 'Weapon' means a knife or handgun.

50 ~~(6)~~(9) 'Weapons carry license' or 'license' means a license issued pursuant to Code
51 Section 16-11-129."

52 **SECTION 1-2.**

53 Said part is further amended in Code Section 16-11-126, relating to having or carrying
54 handguns, long guns, or other weapons, exceptions for homes, motor vehicles, private
55 property, and other locations and conditions, and unlawful carrying of a weapon, by revising
56 subsections (g) and (h) as follows:

57 "(g)(1) Except as otherwise provided in subsections (a) through (f) of this Code section,
58 no person shall carry a weapon or firearm part unless he or she is a lawful weapons
59 carrier.

60 (2) A person commits the offense of unlawful carrying of a weapon or firearm part when
61 he or she violates the provisions of paragraph (1) of this subsection.

62 (h) Upon conviction of the offense of unlawful carrying of a weapon or firearm part, a
63 person shall be punished as follows:

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

70 **SECTION 1-3.**

71 Said part is further amended by revising Code Section 16-11-127, relating to carrying
72 weapons or long guns in unauthorized locations, as follows:

73 "16-11-127.

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

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

77 (2) 'Government building' means:

78 (A) The building in which a government entity is housed;

79 (B) The building where a government entity meets in its official capacity; provided,
80 however, that if such building is not a publicly owned building, such building shall be
81 considered a government building for the purposes of this Code section only during the
82 time such government entity is meeting at such building; or

83 (C) The portion of any building that is not a publicly owned building that is occupied
84 by a government entity.

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

88 (4) 'Parking facility' means real property owned or leased by a government entity,
89 courthouse, jail, prison, or place of worship that has been designated by such government

90 entity, courthouse, jail, prison, or place of worship for the parking of motor vehicles at
91 a government building or at such courthouse, jail, prison, or place of worship.

92 (b) Except as provided in Code Section 16-11-127.1 and subsection (d) or (e) of this Code
93 section, a person shall be guilty of carrying a weapon, ~~or long gun,~~ or firearm part in an
94 unauthorized location and punished as for a misdemeanor when he or she carries a weapon,
95 ~~or long gun,~~ or firearm part while:

96 (1) In a government building without being a lawful weapons carrier;

97 (2) In a courthouse;

98 (3) In a jail or prison;

99 (4) In a place of worship, unless the governing body or authority of the place of worship
100 permits the carrying of weapons or long guns by persons who are lawful weapons
101 carriers;

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

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

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

113 (c) Any lawful weapons carrier shall be authorized to carry a weapon, long gun, or firearm
114 part as provided in Code Section 16-11-135 and in every location in this state not listed in
115 subsection (b) or prohibited by subsection (e) of this Code section; provided, however, that
116 private property owners or persons in legal control of private property through a lease,

117 rental agreement, licensing agreement, contract, or any other agreement to control access
118 to such private property shall have the right to exclude or eject a person who is in
119 possession of a weapon, or long gun, or firearm part on his or her private property in
120 accordance with paragraph (3) of subsection (b) of Code Section 16-7-21, except as
121 provided in Code Section 16-11-135. A violation of subsection (b) of this Code section
122 shall not create or give rise to a civil action for damages.

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

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

128 (2) To a lawful weapons carrier who approaches security or management personnel upon
129 arrival at a location described in subsection (b) of this Code section and notifies such
130 security or management personnel of the presence of the weapon, or long gun, or firearm
131 part and explicitly follows the security or management personnel's direction for
132 removing, securing, storing, or temporarily surrendering such weapon, or long gun, or
133 firearm part; and

134 (3) To a weapon, or long gun, or firearm part possessed by a lawful weapons carrier
135 which is under the possessor's control in a motor vehicle or is in a locked compartment
136 of a motor vehicle or one which is in a locked container in or a locked firearms rack
137 which is on a motor vehicle and such vehicle is parked in a parking facility.

138 (e)(1) A lawful weapons carrier shall be authorized to carry a weapon, long gun, or
139 firearm part in a government building when the government building is open for business
140 and where ingress into such building is not restricted or screened by security personnel.
141 A lawful weapons carrier who enters or attempts to enter a government building carrying
142 a weapon, long gun, or firearm part where ingress is restricted or screened by security
143 personnel shall be guilty of a misdemeanor if at least one member of such security

144 personnel is certified as a peace officer pursuant to Chapter 8 of Title 35; provided,
 145 however, that a lawful weapons carrier who immediately exits such building or
 146 immediately leaves such location upon notification of his or her failure to clear security
 147 due to the carrying of a weapon, long gun, or firearm part shall not be guilty of violating
 148 this subsection or paragraph (1) of subsection (b) of this Code section. A person who is
 149 not a lawful weapons carrier and who attempts to enter a government building carrying
 150 a weapon, long gun, or firearm part shall be guilty of a misdemeanor.

151 (2) Any lawful weapons carrier who violates subsection (b) of this Code section in a
 152 place of worship shall not be arrested but shall be fined not more than \$100.00. Any
 153 person who is not a lawful weapons carrier who violates subsection (b) of this Code
 154 section in a place of worship shall be punished as for a misdemeanor.

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

157

SECTION 1-4.

158 Said part is further amended in Code Section 16-11-127.1, relating to carrying weapons
 159 within school safety zones, at school functions, or on a bus or other transportation furnished
 160 by a school, by revising paragraph (4) of subsection (a) as follows:

161 "(4) 'Weapon' means any firearm or firearm part and includes ~~any pistol, revolver, or any~~
 162 ~~weapon designed or intended to propel a missile of any kind,~~ or any dirk, Bowie
 163 knife, switchblade knife, ballistic knife, any other knife having a blade of two or more
 164 inches, straight-edge razor, razor blade, spring stick, knuckles, whether made from metal,
 165 thermoplastic, wood, or other similar material, blackjack, any bat, club, or other
 166 bludgeon-type weapon, or any flailing instrument consisting of two or more rigid parts
 167 connected in such a manner as to allow them to swing freely, which may be known as a
 168 nun chahka, nun chuck, nunchaku, shuriken, or fighting chain, or any disc, of whatever
 169 configuration, having at least two points or pointed blades which is designed to be thrown

170 or propelled and which may be known as a throwing star or oriental dart, or any weapon
 171 of like kind, and any stun gun or taser as defined in subsection (a) of Code
 172 Section 16-11-106. This paragraph excludes any of these instruments used for classroom
 173 work authorized by the teacher."

174 **SECTION 1-5.**

175 Said part is further amended in Code Section 16-11-127.2, relating to weapons on premises
 176 of nuclear power facility, by revising subsection (a) as follows:

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

181 **SECTION 1-6.**

182 Said part is further amended in Code Section 16-11-129, relating to weapons carry license,
 183 gun safety information, temporary renewal permit, mandamus, and verification of license,
 184 by revising paragraph (1) of subsection (a) and subparagraph (b)(2)(H) as follows:

185 "(1) The judge of the probate court of each county shall, on application under oath, on
 186 payment of a fee of \$30.00, and on investigation of the applicant pursuant to
 187 subsections (b) and (d) of this Code section, issue a weapons carry license or renewal
 188 license valid for a period of five years to any person whose domicile is in that county or
 189 who is on active duty with the United States armed forces and who is not a domiciliary
 190 of this state but who either resides in that county or on a military reservation located in
 191 whole or in part in that county at the time of such application. ~~Such license or renewal~~
 192 ~~license shall authorize that person to carry any weapon in any county of this state~~
 193 ~~notwithstanding any change in that person's county of residence or state of domicile."~~

194 "(H) Any person who has been convicted of carrying a weapon, ~~or long gun,~~ or firearm
195 part in an unauthorized location in violation of Code Section 16-11-127 and has not
196 been free of all restraint or supervision in connection therewith and free of any other
197 conviction for at least five years immediately preceding the date of the application;"

198 **SECTION 1-7.**

199 Said part is further amended in Code Section 16-11-130, relating to exemptions from Code
200 Sections 16-11-126 through 16-11-127.2, by revising paragraphs (4), (7), and (8) of
201 subsection (a) and subsection (c.1) as follows:

202 "(4) Persons employed in fulfilling defense contracts with the government of the United
203 States or agencies thereof when possession of the weapon, ~~or long gun,~~ or firearm part
204 is necessary for manufacture, transport, installation, and testing under the requirements
205 of such contract;"

206 "(7) Those employees of the State Board of Pardons and Paroles when specifically
207 designated and authorized in writing by the members of the State Board of Pardons and
208 Paroles to carry a weapon, ~~or long gun,~~ or firearm part;

209 (8) The Attorney General and those members of his or her staff whom he or she
210 specifically authorizes in writing to carry a weapon, ~~or long gun,~~ or firearm part;"

211 "(c.1)(1) As used in the subsection, the term:

212 (A) 'Active' means nonretired.

213 (B) 'Courthouse' means a building or annex occupied by judicial courts and containing
214 rooms in which judicial proceedings are held.

215 (C) 'Law enforcement agency' means sheriffs or any unit, organ, or department of this
216 state, or a subdivision or municipality thereof, whose functions by law include the
217 enforcement of criminal or traffic laws; the preservation of public order; the protection
218 of life and property; the prevention, detection, or investigation of crime; or court
219 security that is providing security for a courthouse.

220 (D) 'Law enforcement personnel' means sheriffs or deputy sheriffs or peace officers
221 employed by a law enforcement agency.

222 (2)(A) Pursuant to a security plan implemented by law enforcement personnel,
223 including as provided for under a comprehensive plan as provided for in subsection (a)
224 of Code Section 15-16-10, the law enforcement agency with jurisdiction over a
225 courthouse may provide for facilities or the means for the holding of weapons, long
226 guns, or firearm parts carried by persons enumerated under this Code section, except
227 as provided for in paragraph (3) of this subsection, provided that ingress to such
228 courthouse is actively restricted or screened by law enforcement personnel and such
229 facilities or means are located in the immediate proximity of the area which is restricted
230 or screened by such law enforcement personnel.

231 (B) If the requirements of this paragraph are met, the persons enumerated under this
232 Code section shall, except as provided for in paragraph (3) of this subsection, upon
233 request of law enforcement personnel place his or her weapons, long guns, or firearm
234 parts in such holding with law enforcement personnel while such persons are within the
235 restricted or screened area. Upon request of any person enumerated under this Code
236 section, in preparation for his or her exit from the restricted or screened area, law
237 enforcement personnel shall immediately provide for the return of the person's
238 weapons, long guns, or firearm parts which are in holding.

239 (3) Notwithstanding a security plan implemented by law enforcement personnel,
240 including as provided for under a comprehensive plan as provided for in subsection (a)
241 of Code Section 15-16-10, active law enforcement officers referred to in subsection (c)
242 of this Code section shall be authorized to carry their service ~~handguns~~ and weapons in
243 any courthouse if they are wearing the assigned uniform of their law enforcement office
244 or have the official badge and identification credentials issued to them by their law
245 enforcement office displayed and plainly visible on their person while in the performance
246 of their official duties."

247

SECTION 1-8.

248 Said part is further amended by revising Code Section 16-11-130.2, relating to carrying a
249 weapon or long gun at a commercial service airport, as follows:

250 "16-11-130.2.

251 (a) No person shall enter the restricted access area of a commercial service airport, in or
252 beyond the airport security screening checkpoint, knowingly possessing or knowingly
253 having under his or her control a weapon, ~~or long gun,~~ or firearm part. Such area shall not
254 include an airport drive, general parking area, walkway, or shops and areas of the terminal
255 that are outside the screening checkpoint and that are normally open to unscreened
256 passengers or visitors to the airport. Any restricted access area shall be clearly indicated
257 by prominent signs indicating that weapons are prohibited in such area.

258 (a.1) As used in this Code section, the term:

259 (1) 'Commercial service airport' means an airport that receives scheduled passenger
260 aircraft service from any major airline carrier.

261 (2) 'Major airline carrier' means an airline that has more than \$1 billion in annual
262 operating revenue during a fiscal year.

263 (b) A person who is not a license holder and who violates this Code section shall be guilty
264 of a misdemeanor. A license holder who violates this Code section shall be guilty of a
265 misdemeanor; provided, however, that a license holder who is notified at the screening
266 checkpoint for the restricted access area that he or she is in possession of a weapon, ~~or long~~
267 gun, or firearm part and who immediately leaves the restricted access area following such
268 notification and completion of federally required transportation security screening
269 procedures shall not be guilty of violating this Code section.

270 (c) Any person who violates this Code section with the intent to commit a separate felony
271 offense shall be guilty of a felony and, upon conviction thereof, shall be punished by a fine
272 of not less than \$1,000.00 nor more than \$15,000.00, imprisonment for not less than one
273 nor more than ten years, or both.

274 (d) Any ordinance, resolution, regulation, or policy of any county, municipality, or other
275 political subdivision of this state which is in conflict with this Code section shall be null,
276 void, and of no force and effect, and this Code section shall preempt any such ordinance,
277 resolution, regulation, or policy."

278 **SECTION 1-9.**

279 Said part is further amended in Code Section 16-11-131, relating to possession of firearms
280 by convicted felons and first offender probationers, by revising paragraph (2) of
281 subsection (a) as follows:

282 "(2) 'Firearm' includes any firearm part, handgun, rifle, shotgun, or other weapon which
283 will or can knowingly and readily be converted or assembled to expel a projectile by the
284 action of an explosive or electrical charge."

285 **SECTION 1-10.**

286 Said part is further amended in Code Section 16-11-132, relating to possession of handgun
287 by person under the age of 18 years, by revising subsection (b) as follows:

288 "(b) Notwithstanding any other provisions of this part and except as otherwise provided
289 in this Code section, it shall be unlawful for any person under the age of 18 years to possess
290 or have under such person's control a handgun or firearm part. A person convicted of a
291 first violation of this subsection shall be guilty of a misdemeanor and shall be punished by
292 a fine not to exceed \$1,000.00 or by imprisonment for not more than 12 months, or both.
293 A person convicted of a second or subsequent violation of this subsection shall be guilty
294 of a felony and shall be punished by a fine of \$5,000.00 or by imprisonment for a period
295 of three years, or both."

296

SECTION 1-11.

297 Said part is further amended in Code Section 16-11-133, relating to minimum periods of
 298 confinement for persons convicted who have prior convictions, by revising paragraph (2) of
 299 subsection (a) as follows:

300 "(2) 'Firearm' includes any firearm part, handgun, rifle, shotgun, stun gun, taser, or other
 301 weapon which will or can knowingly and readily be converted or assembled to expel a
 302 projectile by the action of an explosive or electrical charge."

303

PART II

304

SECTION 2-1.

305 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
 306 secondary education, is amended by revising Code Section 20-2-751, relating to definitions
 307 relative to public school disciplinary tribunals, as follows:

308 "20-2-751.

309 As used in this subpart, the term:

310 (1) 'Dangerous weapon' shall have the same meaning as set forth in Code
 311 Section 16-11-121.

312 (2) 'Expulsion' means expulsion of a student from a public school beyond the current
 313 school quarter or semester.

314 (3) 'Firearm' shall have the same meaning as set forth in Code Section ~~16-11-127.1~~
 315 16-11-125.1.

316 (4) 'Firearm part' shall have the same meaning as set forth in Code Section 16-11-125.1.

317 ~~(4)(5)~~ (5) 'Hazardous object' means any dirk, ~~bowie~~ Bowie knife, switchblade knife, ballistic
 318 knife, any other knife having a blade of two or more inches, straight-edge razor, razor
 319 blade, spring stick, knuckles, whether made from metal, thermoplastic, wood, or other
 320 similar material, blackjack, any bat, club, or other bludgeon-type weapon, or any flailing

321 instrument consisting of two or more rigid parts connected in such a manner as to allow
322 them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku,
323 shuriken, or fighting chain, or any disc, of whatever configuration, having at least two
324 points or pointed blades which is designed to be thrown or propelled and which may be
325 known as a throwing star or oriental dart, or any instrument of like kind, any nonlethal
326 air gun, and any stun gun or taser as defined in subsection (a) of Code Section 16-11-106.
327 Such term shall not include any of these instruments used for classroom work authorized
328 by the teacher.

329 ~~(5)~~(6) 'Long-term suspension' means the suspension of a student from a public school for
330 more than ten school days but not beyond the current school quarter or semester.

331 ~~(6)~~(7) 'Short-term suspension' means the suspension of a student from a public school
332 for not more than ten school days."

333

SECTION 2-2.

334 Said chapter is further amended by revising Code Section 20-2-751.1, relating to expulsion
335 and disciplinary policy for students bringing weapons to school, as follows:

336 "20-2-751.1.

337 (a) Each local board of education shall establish a policy, pursuant to this subpart,
338 regarding a student's possession of a firearm, firearm part, dangerous weapon, or hazardous
339 object at school. With respect to a student who is determined to have possessed a firearm
340 or dangerous weapon at school, such policy shall require expulsion from school for a
341 period of not less than one calendar year; provided, however, that a hearing officer,
342 tribunal, panel, administrator, superintendent, or local board of education shall have the
343 authority to modify such expulsion requirement on a case-by-case basis.

344 (b) A hearing officer, tribunal, panel, superintendent, or local board of education shall be
345 authorized to place a student determined to have brought a firearm, firearm part, dangerous
346 weapon, or hazardous object to school in an alternative educational setting.

347 (c) Nothing in this Code section shall infringe on any right provided to students with
348 Individualized Education Programs pursuant to the federal Individuals with Disabilities
349 Education Act, Section 504 of the federal Rehabilitation Act of 1973, or the federal
350 Americans with Disabilities Act."

351 **SECTION 2-3.**

352 Said chapter is further amended in Code Section 20-2-751.5, relating to student Code of
353 conduct, safety rules on school buses, and distribution, by revising paragraph (12) of
354 subsection (a) as follows:

355 "(12) Possession of a ~~firearm~~ weapon, as provided for in Code Section 16-11-127.1, and
356 possession of a dangerous weapon, ~~or hazardous object, or firearm part;~~"

357 **SECTION 2-4.**

358 Said chapter is further amended in Code Section 20-2-1184, relating to reporting of students
359 committing prohibited acts, by revising paragraph (1) of subsection (a) as follows:

360 "(1) Firearm ~~or firearm part~~, as defined in Code Section ~~16-11-131~~ 16-11-125.1;"

361 **PART III**

362 **SECTION 3-1.**

363 All laws and parts of laws in conflict with this Act are repealed.