

House Bill 186

By: Representatives Setzler of the 35th, Gravley of the 67th, and Dunahoo of the 30th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,
2 relating to dangerous instrumentalities and practices, so as to change provisions relating to
3 carrying weapons within certain school safety zones and at school functions; to provide for
4 and change definitions; to change provisions relating to exemptions for carrying weapons
5 within school safety zones; to harmonize provisions enacted by 2014 House Bills 60 and 826;
6 to amend Code Section 17-5-52.1 of the Official Code of Georgia Annotated, relating to
7 disposal of forfeited or abandoned firearms, so as to correct a cross-reference; to change
8 provisions relating to carrying weapons in unauthorized locations; to provide for related
9 matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to
13 dangerous instrumentalities and practices, is amended by revising Code Section 16-11-127.1,
14 relating to carrying weapons within school safety zones, at school functions, or on school
15 property, as follows:

16 "16-11-127.1.

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

18 (1) ~~'Bus or other transportation furnished by a school' means: a bus or other~~
19 ~~transportation furnished by a public or private elementary or secondary school.~~

20 (A) A motor vehicle operated for the transportation of children to and from school or
21 school activities. Such term shall not include a privately owned motor vehicle with a
22 capacity of 15 persons or less operated for the transportation of children to and from
23 school activities if such motor vehicle is not being operated by an employee or
24 independent contractor of a school; or

25 (B) A motor vehicle operated by a local transit system which meets the equipment and
26 identification requirements of Code Section 40-8-115; provided, however, that such

27 motor vehicle shall be a bus only while transporting children or children and employees
 28 or independent contractors of a school to or from school or school activities.

29 (2) 'Dangerous weapon' shall have the same meaning as set forth in Code Section
 30 16-11-121.

31 (3) 'Firearm' means a handgun, rifle, shotgun, or other weapon which will or can be
 32 converted to expel a projectile by the action of an explosive or electrical charge.

33 (4) 'Fireworks' shall have the same meaning as set forth in Code Section 25-10-1.

34 (5) 'Machine gun' shall have the same meaning as set forth in Code Section 16-11-121.

35 (6) 'Peace officer' shall have the same meaning as set forth in Code Section 35-8-2.

36 ~~(2)(7) 'School function' means a school function or related activity that occurs outside~~
 37 ~~of a school safety zone and is for a public or private elementary or secondary school~~
 38 ~~educational program or institution instructing children at any level, pre-kindergarten~~
 39 ~~through twelfth grade.~~

40 ~~(3)(8) 'School safety zone' means in or on any real property or building owned by or~~
 41 ~~leased to:~~

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

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

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

58 (b)(1) Except as otherwise provided in subsection (c) of this Code section, it shall be
 59 unlawful for any person to ~~carry to or to~~ possess or have under such person's control
 60 while within a school safety zone ~~or at a school function~~, or on a bus or other
 61 transportation furnished by a school any ~~weapon~~ firearm or explosive compound, other
 62 than fireworks ~~the possession of which is regulated by Chapter 10 of Title 25.~~

63 (2) Any license holder who violates this subsection shall be guilty of a misdemeanor.
 64 Any person who is not a license holder who violates this subsection shall be guilty of a
 65 felony and, upon conviction thereof, be punished by a fine of not more than \$10,000.00,
 66 by imprisonment for not less than two nor more than ten years, or both.

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

71 (4) A child who violates this subsection may be subject to the provisions of Code Section
 72 15-11-601.

73 (5) This subsection shall not apply to any firearm used for classroom work authorized
 74 by a teacher.

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

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

78 ~~(2)~~(1) Participants in organized sport shooting events or firearm training courses;

79 ~~(3)~~(2) Persons participating in military training programs conducted by or on behalf of
 80 the armed forces of the United States or the Georgia Department of Defense;

81 ~~(4)~~(3) Persons participating in law enforcement training conducted by a police academy
 82 certified by the Georgia Peace Officer Standards and Training Council or by a law
 83 enforcement agency of ~~the~~ this state or the United States or any political subdivision
 84 thereof;

85 ~~(5)~~(4) The following persons, when acting in the performance of their official duties or
 86 when en route to or from their official duties:

87 (A) A peace officer ~~as defined by Code Section 35-8-2~~;

88 (B) A law enforcement officer of the United States government;

89 (C) A prosecuting attorney of this state or of the United States;

90 (D) An employee of the Georgia Department of Corrections or a correctional facility
 91 operated by a political subdivision of this state or the United States who is authorized
 92 by the head of such correctional agency or facility to carry a firearm;

93 (E) A person employed as a campus police officer or school security officer who is
 94 authorized to carry a weapon in accordance with Chapter 8 of Title 20; and

95 (F) Medical examiners, coroners, and their investigators who are employed by ~~the~~ this
 96 state or any political subdivision thereof;

97 ~~(6)~~(5) A person who has been authorized in writing by a duly authorized official of a
 98 ~~public or private elementary or secondary school or a public or private technical school,~~
 99 ~~vocational school, college, university, or other institution of postsecondary education or~~

100 a local board of education as provided in Code Section 16-11-130.1 to have in such
 101 person's possession or use ~~within a school safety zone, at a school function, in or on any~~
 102 real property or building owned by or leased to any school or on a bus or other
 103 transportation furnished by a school a ~~weapon~~ firearm which would otherwise be
 104 prohibited by this Code section; or a person who has been authorized in writing by a duly
 105 authorized official of a postsecondary institution to have in such person's possession or
 106 use within a school safety zone a firearm which would otherwise be prohibited by this
 107 Code section. Such authorization shall specify the ~~weapon or weapons~~ type of firearms
 108 which have been authorized and the time period during which the authorization is valid;
 109 ~~(7)~~(6) A person who is licensed in accordance with Code Section 16-11-129 or issued
 110 a permit pursuant to Code Section 43-38-10, when such person carries or picks up a
 111 student ~~within a school safety zone, at a school function, in or on any real property or~~
 112 building owned by or leased to any school or on a bus or other transportation furnished
 113 by a school;

114 ~~(7)~~ A ~~or a~~ person who is licensed in accordance with Code Section 16-11-129 or issued
 115 a permit pursuant to Code Section 43-38-10 when he or she has any ~~weapon~~ firearm
 116 legally kept within a vehicle when such vehicle is parked ~~within a school safety zone on~~
 117 any real property owned by or leased to any school or is in transit through ~~a designated~~
 118 school safety zone any real property owned by or leased to any school;

119 (8) A ~~weapon~~ firearm possessed by a license holder which is under the possessor's
 120 control in a motor vehicle or which is in a locked compartment of a motor vehicle or one
 121 which is in a locked container in or a locked firearms rack which is on a motor vehicle
 122 which is being used by an adult over 21 years of age to bring to or pick up a student
 123 ~~within a school safety zone, at a school function, in or on any real property or building~~
 124 owned by or leased to any school or on a bus or other transportation furnished by a
 125 school, or when such vehicle is used to transport someone to an activity being conducted
 126 ~~within a school safety zone in or on any real property or building owned by or leased to~~
 127 any school which has been authorized by ~~a duly authorized official or local board of~~
 128 education as provided by paragraph ~~(6)~~ (5) of this subsection; provided, however, that
 129 this exception shall not apply to a student attending a ~~public or private elementary or~~
 130 secondary school;

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

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

- 137 (11) The Attorney General and those members of his or her staff whom he or she
 138 specifically authorizes in writing to carry a weapon firearm;
- 139 (12) Probation supervisors employed by and under the authority of the Department of
 140 Corrections pursuant to Article 2 of Chapter 8 of Title 42, known as the 'State-wide
 141 Probation Act,' when specifically designated and authorized in writing by the director of
 142 the Division of Probation;
- 143 (13) Public safety directors of municipal corporations;
- 144 (14) State and federal trial and appellate judges;
- 145 (15) United States attorneys and assistant United States attorneys;
- 146 (16) Clerks of the superior courts;
- 147 (17) Teachers and other personnel who are otherwise authorized to possess or carry
 148 ~~weapons~~ firearms, provided that any such weapon firearm is in a locked compartment of
 149 a motor vehicle or one which is in a locked container in or a locked firearms rack which
 150 is on a motor vehicle; or
- 151 (18) Constables of any county of this state.
- 152 (d)(1) This Code section shall not prohibit any person who resides or works in a business
 153 or is in the ordinary course transacting lawful business or any person who is a visitor of
 154 such resident located within a school safety zone from carrying, possessing, or having
 155 under such person's control a weapon firearm within a school safety zone; provided,
 156 however, that it shall be unlawful for any such person to carry, possess, or have under
 157 such person's control while ~~at a school building or school function or on school property~~
 158 in or on any real property or building owned by or leased to any school or on a bus or
 159 other transportation furnished by a school any weapon firearm or explosive compound,
 160 other than fireworks ~~the possession of which is regulated by Chapter 10 of Title 25.~~
- 161 (2) Any person who violates this subsection shall, upon conviction, be subject to the
 162 penalties specified in subsection (b) of this Code section.
- 163 (e) It shall be no defense to a prosecution for a violation of this Code section that:
- 164 (1) A school or postsecondary institution ~~School~~ was or was not in session at the time
 165 of the offense;
- 166 (2) The real property was being used for other purposes besides school or postsecondary
 167 institution purposes at the time of the offense; or
- 168 (3) The offense took place on a bus or other transportation furnished by a school.
- 169 (f) In a prosecution under this Code section, a map produced or reproduced by any
 170 municipal or county agency or department for the purpose of depicting the location and
 171 boundaries of the area of the real property of a school ~~board or a private or public~~
 172 ~~elementary or secondary school that is used for school purposes or the area of any public~~
 173 ~~or private technical school, vocational school, college, university, or other institution of~~

174 ~~postsecondary education or the area of any postsecondary institution~~, or a true copy of the
 175 map, shall, if certified as a true copy by the custodian of the record, be admissible and shall
 176 constitute prima-facie evidence of the location and boundaries of the area, if the governing
 177 body of the municipality or county has approved the map as an official record of the
 178 location and boundaries of the area. A map approved under this Code section may be
 179 revised from time to time by the governing body of the municipality or county. The
 180 original of every map approved or revised under this subsection or a true copy of such
 181 original map shall be filed with the municipality or county and shall be maintained as an
 182 official record of the municipality or county. This subsection shall not preclude the
 183 prosecution from introducing or relying upon any other evidence or testimony to establish
 184 any element of this offense. This subsection shall not preclude the use or admissibility of
 185 a map or diagram other than the one which has been approved by the municipality or
 186 county.

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

190

SECTION 2.

191 Said article is further amended by revising paragraph (4) of subsection (a) and the
 192 introductory language of subsection (b) of Code Section 16-11-130.1, relating to allowing
 193 personnel to carry weapons within certain school safety zones and at school functions, as
 194 follows:

195 ~~"(4) 'Weapon' shall have the same meaning as set forth in Code Section 16-11-127.1~~
 196 means a handgun, rifle, shotgun, or other weapon which will or can be converted to expel
 197 a projectile by the action of an explosive charge.

198 (b) This Code section shall not be construed to require or otherwise mandate that any local
 199 board of education or school administrator adopt or implement a practice or program for
 200 the approval of personnel to possess or carry weapons within a school safety zone, at a
 201 school function, or on a bus or other transportation furnished by a school nor shall this
 202 Code section create any liability for adopting or declining to adopt such practice or
 203 program. Such decision shall rest with each individual local board of education. If a local
 204 board of education adopts a policy to allow certain personnel to possess or carry weapons
 205 as provided in paragraph ~~(6)~~ (5) of subsection (c) of Code Section 16-11-127.1, such policy
 206 shall include approval of personnel to possess or carry weapons and provide for:"

207 **SECTION 3.**

208 Said article is further amended by revising paragraph (2) of Code Section 16-11-171, relating
209 to definitions for Brady Law Regulations, as follows:

210 "(2) 'Dealer' means any person licensed as a dealer pursuant to 18 U.S.C. Section 921,
211 et seq., ~~or Chapter 16 of Title 43.~~"

212 **SECTION 4.**

213 Said article is further amended by revising subsection (f) of Code Section 16-11-173, relating
214 to legislative findings and preemption of local regulation and lawsuits, as follows:

215 "(f) As used in this Code section, the term 'weapon' ~~shall have the same meaning as set~~
216 ~~forth in Code Section 16-11-127.1~~ means and includes any pistol, revolver, or any weapon
217 designed or intended to propel a missile of any kind, or any dirk, bowie knife, switchblade
218 knife, ballistic knife, any other knife having a blade of two or more inches, straight-edge
219 razor, razor blade, spring stick, knuckles, whether made from metal, thermoplastic, wood,
220 or other similar material, blackjack, any bat, club, or other bludgeon-type weapon, or any
221 flailing instrument consisting of two or more rigid parts connected in such a manner as to
222 allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku,
223 shuriken, or fighting chain, or any disc, of whatever configuration, having at least two
224 points or pointed blades which is designed to be thrown or propelled and which may be
225 known as a throwing star or oriental dart, or any weapon of like kind, and any stun gun or
226 taser as defined in subsection (a) of Code Section 16-11-106."

227 **SECTION 5.**

228 Code Section 17-5-52.1 of the Official Code of Georgia Annotated, relating to disposal of
229 forfeited or abandoned firearms, is amended by revising subsection (d) as follows:

230 "(d) If an innocent owner of a firearm cannot be located or after proper notification he or
231 she fails to pay for the return of his or her firearm, if the political subdivision is:

232 (1) A municipal corporation, it shall dispose of its firearms as provided for in Code
233 Section 36-37-6; provided, however, that municipal corporations shall not have the right
234 to reject any and all bids or to cancel any proposed sale of such firearms, and all sales
235 shall be to persons who are licensed as firearms collectors, dealers, importers, or
236 manufacturers under the provisions of 18 U.S.C. Section 921, et seq., ~~and Chapter 16 of~~
237 ~~Title 43~~ and who are authorized to receive such firearms under the terms of such license.

238 Any political subdivision which disposes of firearms shall use proceeds from the sale of
239 a firearm as are necessary to cover the costs of administering this Code section, with any
240 surplus to be transferred to the general fund of the political subdivision; or

241 (2) Not a municipal corporation, the state custodial agency or the political subdivision
242 shall dispose of its firearms by sale at public auction to persons who are licensed as
243 firearms collectors, dealers, importers, or manufacturers under the provisions of 18
244 U.S.C. Section 921, et seq., and Chapter 16 of Title 43 and who are authorized to receive
245 such firearms under the terms of such license. A state custodial agency shall retain only
246 such proceeds as are necessary to cover the costs of administering this Code section, with
247 any surplus to be transferred to the general fund of ~~the~~ this state, provided that a state
248 custodial agency may be reimbursed for any firearms formerly in use by the state
249 custodial agency that are sold under this Code section."

250 **SECTION 6.**

251 This Act shall become effective upon its approval by the Governor or upon its becoming law
252 without such approval.

253 **SECTION 7.**

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