

House Bill 1060

By: Representatives Barnes of the 97th, Dodson of the 94th and Wix of the 33rd

A BILL TO BE ENTITLED
AN ACT

1 To enact the "Transportation Safety Act of 2002"; to amend Article 2 of Chapter 3 of Title
2 6 of the Official Code of Georgia Annotated, relating to the powers of local governments as
3 to airports, so as to provide for the powers of law enforcement officers at airports and landing
4 fields; to amend Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia
5 Annotated, relating to carrying and possessing firearms, so as to broaden the applicability to
6 transportation terminals; to provide for a prohibition of destructive and hoax devices and
7 hazardous substances at public gatherings; to provide for a duty on individuals to ensure the
8 security of their persons and baggage; to provide an affirmative defense for the unauthorized
9 possession of firearms at public gatherings; to amend Part 2 of Article 4 of Chapter 12 of
10 Title 16 of the Official Code of Georgia Annotated, known as the "Bus and Rail Passenger
11 Safety Act," so as to extend its provisions to air terminals and aviation transportation; to
12 provide for criminal sanctions for the avoidance of or interference with security measures
13 and devices; to provide for criminal sanctions for tampering with baggage or cargo; to
14 provide for criminal sanctions for the disabling or inhibiting of any safety device on certain
15 cargo or baggage; to provide a short title; to provide for definitions; to provide for penalties;
16 to provide for other related matters; to provide for an effective date; to repeal conflicting
17 laws; and for other purposes.

18 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

19 **SECTION 1.**

20 This Act shall be known and may be cited as the "Transportation Safety Act of 2002."

21 **SECTION 2.**

22 Article 2 of Chapter 3 of Title 6 of the Official Code of Georgia Annotated, relating to the
23 powers of local governments as to airports, is amended by striking Code Section 6-3-27 in
24 its entirety and inserting in lieu thereof the following:

1 "6-3-27.

2 (a) Counties, municipalities, or other political subdivisions acquiring, establishing,
 3 developing, operating, maintaining, or controlling airports or landing fields under this
 4 article without outside the geographical limits of such subdivisions are specifically granted
 5 the right to enforce police regulations on such airports or landing fields.

6 (b) A law enforcement officer of the county, municipality, or other political subdivision
 7 operating an airport or landing field outside the geographical limits of such political
 8 subdivision shall, when authorized by the county, municipality, or other political
 9 subdivision operating said airport or landing field, have the same law enforcement powers,
 10 including the powers of arrest, as a law enforcement officer of the political subdivision in
 11 which such airport or landing field is located.

12 (c) Nothing in this Code section shall be construed as limiting the authority of any law
 13 enforcement agency of the county, municipality, or other political subdivision in which
 14 such airport or landing field is located."

15 SECTION 3.

16 Part 3 of Article 4 of Chapter 11 of the Official Code of Georgia Annotated, relating to
 17 carrying and possession of firearms, is amended by striking Code Section 16-11-127 in its
 18 entirety and inserting in lieu thereof the following:

19 "16-11-127.

20 (a) Except as provided in Code Section 16-11-127.1, a person is guilty of a misdemeanor
 21 when he or she carries to or while at a public gathering, possesses, or has under his or her
 22 control any explosive compound, destructive device, or hoax device as defined in Code
 23 Section 16-7-80; firearm, or; knife; hazardous substance as defined by Code Section
 24 12-8-92; or other device designed or modified for the purpose of offense and defense.

25 (b) For the purpose of this Code section, 'public gathering' shall include, but shall not be
 26 limited to, athletic or sporting events, churches or church functions, political rallies or
 27 functions, publicly owned or operated buildings, terminals operated for public
 28 transportation as defined in Code Section 16-12-122, or establishments at which alcoholic
 29 beverages are sold for consumption on the premises. Nothing in this Code section shall
 30 otherwise prohibit the carrying of a firearm in any other public place by a person licensed
 31 or permitted to carry such firearm by this part.

32 (c) This Code section shall not apply to competitors participating in organized sport
 33 shooting events or military training or competitive programs conducted by or on behalf of
 34 the armed forces of the United States or the Georgia Department of Defense. Law
 35 enforcement officers, peace officers retired from state or federal law enforcement agencies,
 36 judges, magistrates, ~~solicitors-general, and district~~ and prosecuting attorneys as defined in

1 paragraphs (5), (6), (8), and (13) of subsection (a) of Code Section 16-11-130 may carry
 2 pistols in publicly owned or operated buildings.

3 (d) It shall be the duty of a person attending a public gathering to ensure that any garment,
 4 baggage, or container of any description that is in such person's actual or constructive
 5 possession shall not contain any item described in subsection (a) of this Code section.

6 (e) The provisions of this Code section shall not apply to any item prohibited by
 7 subsection (a) of this Code section which has been secured in a manner prescribed by state
 8 or federal law or regulation for the purpose of transportation or shipment or which is used
 9 in a manner prescribed by law or regulation with the approval of the governmental agency
 10 having jurisdiction over such public gathering.

11 (f) It is an affirmative defense to a violation of this Code section if a person notifies a law
 12 enforcement officer or other person employed to provide security for a public gathering of
 13 the presence of such item as soon as possible after learning of its presence and surrenders
 14 or secures such item as directed by the law enforcement officer or other person employed
 15 to provide security for a public gathering."

16 SECTION 4.

17 Part 2 of Article 4 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated,
 18 known as the "Bus and Rail Vehicle Passenger Safety Act," is amended by striking Part 2 in
 19 its entirety and inserting in lieu thereof the following:

20 "Part 2

21 16-12-121.

22 This part shall be known and may be cited as the '~~Bus and Rail Vehicle~~ Transportation
 23 Passenger Safety Act.'

24 16-12-122.

25 As used in this part, the term:

26 (1) 'Aircraft' means any machine, whether heavier or lighter than air, used or designed
 27 for navigation of or flight in the air.

28 (2) 'Avoid a security measure' means to take any action that is intended to result in any
 29 person, baggage, container, or item of any type being allowed into a secure area without
 30 being subjected to security measures or the assembly of items into an object or substance
 31 that is prohibited under the laws of this state or of the United States or any of their
 32 agencies, political subdivisions, or authorities after such items have passed through a
 33 security measure into a secure area.

1 ~~(1)~~(3) 'Bus' means any passenger bus or coach or other motor vehicle having a seating
 2 capacity of not less than 15 passengers operated by a transportation company for the
 3 purpose of carrying passengers or cargo for hire.

4 ~~(2)~~(4) 'Charter' means a group of persons, pursuant to a common purpose and under a
 5 single contract and at a fixed charge for the vehicle in accordance with a transportation
 6 company's tariff, who have acquired the exclusive use of a an aircraft, bus, or rail vehicle
 7 to travel together as a group to a specified destination.

8 (5) 'Interfere with a security measure' means to take any action that is intended to defeat,
 9 disable, or prevent the full operation of equipment or procedures designed or intended to
 10 detect any object or substance, including, but not limited to, disabling of any device so
 11 that it cannot fully function, creation of any diversion intended to defeat a security
 12 measure, or packaging of any item or substance so as to avoid detection by a security
 13 measure.

14 ~~(3)~~(6) 'Passenger' means any person served by the transportation company; and, in
 15 addition to the ordinary meaning of passenger, the term shall include any person
 16 accompanying or meeting another person who is transported by such company, any
 17 person shipping or receiving cargo, and any person purchasing a ticket or receiving a
 18 pass.

19 ~~(4)~~(7) 'Rail vehicle' means any railroad or rail transit car, carriage, coach, or other
 20 vehicle, whether self-propelled or pulled or pushed by a locomotive or other vehicle or
 21 vehicles, having a seating capacity of not less than 15 passengers, and operated upon a
 22 rail or rails or other fixed right of way by a transportation company for the purpose of
 23 carrying passengers or cargo for hire.

24 (8) 'Secure area' means any enclosed or unenclosed area within a terminal whereby
 25 access is restricted in any manner or the possession of items subject to security measures
 26 is prohibited. Access to a secure area may be restricted to persons specifically authorized
 27 by law, regulation, or policy of the governing authority or transportation company
 28 operating said terminal, and such access into a secure area may be conditioned on passing
 29 through security measures, and possession of items may be restricted to designated
 30 persons who are acting in the course of their official duties.

31 (9) 'Security measure' means any process or procedure by which employees, agents,
 32 passengers, persons accompanying passengers, containers, baggage, or possessions of
 33 passengers or persons accompanying passengers are screened, inspected, or examined by
 34 any means for the purpose of ensuring the safety and welfare of aircraft, bus, or rail
 35 vehicles and the employees, agents, passengers, and cargo of any transportation company.
 36 The security measures may be operated by or under the authority of any governmental
 37 entity, transportation company, or any entity contracting therewith.

1 ~~(5)~~(10) 'Terminal' means a an aircraft, bus, or rail vehicle station, depot, or any such
 2 transportation facility operated by a transportation company or governmental entity or
 3 authority. This term includes a reasonable area immediately adjacent to any designated
 4 stop along the route traveled by any coach or rail vehicle operated by a transportation
 5 company or governmental entity operating aircraft, bus, or rail vehicle transportation
 6 facility and parking lots or parking areas adjacent to a terminal.

7 ~~(6)~~(11) 'Transportation company' or 'company' means any person, group of persons, or
 8 corporation providing for-hire transportation to passengers or cargo by aircraft, by bus
 9 upon the highways in this state, by rail vehicle upon any public or private right of way
 10 in this state, or by ~~both~~ all, including passengers and cargo in interstate or intrastate
 11 travel. This term shall also include transportation facilities owned or operated by local
 12 public bodies; by municipalities; and by public corporations, authorities, boards, and
 13 commissions established under the laws of ~~the~~ this state, any of the several states, the
 14 United States, or any foreign nation.

15 16-12-123.

16 (a) The offense of bus or rail vehicle hijacking is the seizure or exercise of control by force
 17 or violence or threat of force or violence of any bus or rail vehicle within the jurisdiction
 18 of this state. Any person committing the offense of bus or rail vehicle hijacking shall be
 19 guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for life
 20 or imprisonment for not less than one nor more than 20 years.

21 (b) Any person who boards or attempts to board a an aircraft, bus, or rail vehicle with a
 22 dangerous or deadly weapon prohibited item, as set forth in subsection (a) of Code Section
 23 16-11-127, concealed on or about his or her person or ~~his~~ property which is or would be
 24 accessible to such person while on the aircraft, bus, or rail vehicle shall be guilty of a
 25 felony and, upon conviction thereof, shall be sentenced to imprisonment for not less than
 26 one nor more than ten years. The prohibition of this subsection shall not apply to any
 27 person who is exempted under Code Section 16-11-130 or law enforcement officer, peace
 28 officer retired from a state or federal law enforcement agency, person in the military
 29 service of the state or of the United States, or commercial security personnel, employed by
 30 the transportation company, who are in possession of weapons used within the course and
 31 scope of their employment; ~~nor shall the prohibition apply to persons who are in the~~
 32 ~~possession of weapons with the consent of the owner of such bus or rail vehicle, his agent,~~
 33 ~~or the lessee or bailee of such bus or rail vehicle;~~ nor shall the prohibition apply to persons
 34 transporting weapons contained in baggage which is not accessible to passengers ~~on the bus~~
 35 ~~or rail vehicle~~ if the presence of such weapons has been declared to the transportation

1 company and such weapons have been secured in a manner prescribed by state or federal
 2 law or regulation for the purpose of transportation or shipment.

3 (c) Any person who has on or about his or her person or who has placed, attempted to
 4 place, or attempted to have placed in a container or cargo of a transportation company or
 5 in the baggage or possessions of any passenger of any transportation company or aboard
 6 such aircraft, bus, or rail vehicle any destructive device, as such term is defined by Code
 7 Section 16-7-80 prohibited item, as set forth in subsection (a) of Code Section 16-11-127,
 8 without the knowledge of the passenger or transportation company with the intention of
 9 avoiding or interfering with a security measure or introducing said item into a terminal,
 10 shall be guilty of a felony and, upon conviction thereof, shall be sentenced to punished by
 11 imprisonment for not less than one nor more than 20 years, a fine not to exceed \$15,000.00,
 12 or both. It shall be an affirmative defense to a prosecution under this Code section that the
 13 act was performed with the intention of restoring lost, stolen, or mislaid property to its
 14 lawful owner or proper container.

15 (d) Any person who by force or violence or by threat of force or violence seizes or
 16 exercises control of any transportation company, or of the transportation facilities owned
 17 or operated by any such company, or of any part thereof, or who by force or violence or by
 18 threat of force or violence obstructs, hinders, interferes with, or otherwise disrupts or
 19 disturbs the operation of any such company or facility, or of any part thereof, shall be
 20 guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for life
 21 or by imprisonment for not less than one nor more than 20 years.

22 (e) The company may employ reasonable ~~means~~ security measures, including mechanical,
 23 electronic, or X-ray devices, to detect concealed weapons, explosives, or hazardous
 24 material in baggage or cargo or upon the person of the passenger. Upon the discovery of
 25 any such item or material in the possession of a person, unless the item is a weapon in the
 26 possession of a person exempted under subsection (b) of this Code section from the
 27 prohibition of that subsection (b), the company shall obtain possession and retain custody
 28 of such item or materials until they are transferred to the custody of law enforcement
 29 officers.

30 16-12-124.

31 (a) It shall be unlawful to remove any baggage, cargo, container, or other item transported
 32 upon a an aircraft, bus, or rail vehicle or stored in a terminal without consent of the owner
 33 of such property or the company or its duly authorized representative. Any person violating
 34 this Code section shall be guilty of a felony and, upon conviction thereof, shall be punished
 35 by imprisonment for not less than one nor more than five years.

1 (b) The actual value of an item removed in violation of this Code section shall not be
2 material to the crime herein defined.

3 16-12-124.1.

4 (a) It shall be unlawful for any person to avoid or interfere with a security measure. Any
5 person convicted of a violation of this Code section shall be guilty of a misdemeanor of a
6 high and aggravated nature; provided, however, that any person who violates this Code
7 section with the intent to commit a felony within the terminal or with regard to any aircraft,
8 bus, or rail vehicle shall be punished by imprisonment for not less than five nor more than
9 25 years, a fine not to exceed \$100,000.00, or both.

10 (b) Any violation of this Code section shall be considered a separate offense.

11 16-12-124.2.

12 (a) It shall be unlawful to intentionally disable or inhibit the operation or effectiveness of
13 any safety device of any description or to render any item or substance less safe when said
14 item or substance is in cargo of a transportation company, in baggage or possessions of a
15 passenger, or in a terminal.

16 (b) Any violation of this Code section shall be punished by imprisonment for not less than
17 five nor more than 20 years, a fine not to exceed \$100,000.00, or both.

18 (c) Any violation of this Code section shall be considered a separate offense.

19 16-12-125.

20 This part shall be cumulative and supplemental to any other law of this state. A conviction
21 or acquittal under any of the criminal provisions of Code Section 16-12-123, or 16-12-124,
22 16-12-124.1, or 16-12-124.2 shall not be a bar to any other civil or criminal proceeding."

23 **SECTION 5.**

24 This Act shall become effective on the first day of the month following the month in which
25 it is approved by the Governor or in which it becomes law without such approval.

26 **SECTION 6.**

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