

The Senate Judiciary Committee offered the following substitute to SB330:

A BILL TO BE ENTITLED
AN ACT

1 To provide a short title; to amend Article 2 of Chapter 3 of Title 6 of the Official Code of
2 Georgia Annotated, relating to powers of local governments as to air facilities, so as to
3 provide that law enforcement officers of counties or municipalities operating an airport or
4 landing field located in another political subdivision shall have jurisdiction within such
5 facility; to amend Title 16 of the Official Code of Georgia Annotated, relating to crimes and
6 offenses, so as to change the penalty for the offense of transmitting a false public alarm; to
7 provide for restitution for damages caused by such offense; to change the definition of the
8 offense of a terroristic threat; to change the penalty for making a terroristic threat; to amend
9 the "Bus and Rail Vehicle Passenger Act"; to change a short title; to define certain terms; to
10 provide that it shall be unlawful to enter an aircraft, a bus, or a rail vehicle with certain items;
11 to provide exceptions; to prohibit the secreting of certain items on the person or in the
12 baggage of another; to provide a penalty; to prohibit the removal of baggage and similar
13 items from certain public vehicles; to provide that it shall be unlawful to avoid or interfere
14 with a security control device; to provide for restitution; to provide that it shall be unlawful
15 to place an item on the person of or in the possession of any bus, rail, or air passenger; to
16 provide penalties; to provide for related matters; to provide for an effective date; to repeal
17 conflicting 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 Security 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 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
17 amended by striking subsection (b) of Code Section 16-10-28, relating to transmitting a false
18 public alarm, and inserting in lieu thereof the following:

19 "(b) A person who transmits in any manner a false alarm to the effect that a destructive
20 device or hazardous substance of any nature is concealed in such place that its explosion,
21 detonation, or release would endanger human life or cause injury or damage to property,
22 knowing at the time that there is no reasonable ground for believing that such a destructive
23 device or hazardous substance is concealed in such place, commits the offense of
24 transmitting a false public alarm and, upon conviction thereof, shall be punished by
25 imprisonment for not less than one nor more than five years or by a fine of not less than
26 \$1,000.00, or both.

27 (c) In addition to any other penalty imposed by law for a violation of this Code section,
28 the court may require the defendant to make restitution to any affected public or private
29 entity for the reasonable costs or damages associated with the offense including, without
30 limitation, the actual value of any goods, services, or income lost as a result of such
31 violation. Restitution made pursuant to this subsection shall not preclude any party from
32 obtaining any other civil or criminal remedy available under any other provision of law.
33 The restitution authorized by this subsection is supplemental and not exclusive."

SECTION 4.

Said title is further amended by striking in its entirety Code Section 16-11-37, relating to terroristic threats and acts and related penalties, and inserting in lieu thereof the following:

"16-11-37.

(a) A person commits the offense of a terroristic threat when he or she threatens to commit any crime of violence, to release any hazardous substance, as such term is defined in Code Section 12-8-92, or to burn or damage property with the purpose of terrorizing another or of causing the evacuation of a building, place of assembly, or facility of public transportation or otherwise causing serious public inconvenience; or in reckless disregard of the risk of causing such terror or inconvenience. No person shall be convicted under this subsection on the uncorroborated testimony of the party to whom the threat is communicated.

(b) A person commits the offense of a terroristic act when:

(1) He or she uses a burning or flaming cross or other burning or flaming symbol or flambeau with the intent to terrorize another or another's household; ~~or~~

(2) While not in the commission of a lawful act, he or she shoots at or throws an object at a conveyance which is being operated or which is occupied by passengers; or

(3) He or she releases any hazardous substance or any simulated hazardous substance under the guise of a hazardous substance for the purpose of terrorizing another or of causing the evacuation of a building, place of assembly, or facility of public transportation or otherwise causing serious public inconvenience or in reckless disregard of the risk of causing such terror or inconvenience.

(c) A person convicted of the offense of a terroristic threat ~~or act~~ shall be punished by a fine of not more than \$1,000.00 or by imprisonment for not less than one nor more than five years, or both. A person convicted of the offense of a terroristic act shall be punished by a fine of not more than \$5,000.00 or by imprisonment for not less than one nor more than ten years, or both; provided, however, that if any person suffers a serious physical injury as a direct result of an act giving rise to a conviction under this Code section, the person so convicted shall be punished by a fine of not more than \$250,000.00 or imprisonment for not less than five nor more than 40 years, or both.

(d) A person who commits or attempts to commit a terroristic threat or act with the intent to retaliate against any person for:

(1) Attending a judicial or administrative proceeding as a witness, attorney, judge, or party or producing any record, document, or other object in a judicial or official proceeding; or

1 (2) Providing to a law enforcement officer, adult or juvenile probation officer,
 2 prosecuting attorney, or judge any information relating to the commission or possible
 3 commission of an offense under the laws of this state or of the United States or a
 4 violation of conditions of bail, pretrial release, probation, or parole
 5 shall be guilty of the offense of a terroristic threat or act and, upon conviction thereof, shall
 6 be punished, for a terroristic threat, by imprisonment for not less than five nor more than
 7 ten years or by a fine of not less than \$50,000.00, or both, and, for a terroristic act, by
 8 imprisonment for not less than five nor more than 20 years or by a fine of not less than
 9 \$100,000.00, or both."

10 SECTION 5.

11 Said title is further amended by striking Code Section 16-11-127, relating to carrying and
 12 possession of firearms, in its entirety and inserting in lieu thereof the following:

13 "16-11-127.

14 (a) Except as provided in Code Section 16-11-127.1, a person is guilty of a misdemeanor
 15 when he or she carries to or while at a public gathering, possesses, or has under his or her
 16 control any explosive ~~compound~~, destructive device, or hoax device as defined in Code
 17 Section 16-7-80; firearm, or knife; hazardous substance as defined by Code Section
 18 12-8-92; or knife or other device designed or modified for the purpose of offense and
 19 defense.

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

27 (c) This Code section shall not apply to competitors participating in organized sport
 28 shooting events or military training or competitive programs conducted by or on behalf of
 29 the armed forces of the United States or the Georgia Department of Defense. Law
 30 enforcement officers, peace officers retired from state or federal law enforcement agencies,
 31 judges, magistrates, ~~solicitors-general, and district~~ and prosecuting attorneys as defined in
 32 paragraphs (5), (6), (8), and (13) of subsection (a) of Code Section 16-11-130 may carry
 33 ~~pistols~~ firearms in publicly owned or operated buildings.

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

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

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

14 **SECTION 6.**

15 Said title is further amended in Part 2 of Article 4 of Chapter 12, known as the "Bus and Rail
 16 Vehicle Passenger Safety Act," by striking said Part 2 in its entirety and inserting in lieu
 17 thereof the following:

18 "Part 2

19 16-12-121.

20 This part shall be known and may be cited as the 'Bus and Rail Vehicle Transportation
 21 Passenger Safety Act.'

22 16-12-122.

23 As used in this part, the term:

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

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

19 ~~(4)~~(7) 'Rail vehicle' means any railroad or rail transit car, carriage, coach, or other
20 vehicle, whether self-propelled or not pulled or pushed by a locomotive or other vehicle
21 or vehicles, having a seating capacity of not less than 15 passengers, and designed to be
22 operated upon a rail or rails or other fixed right of way by a transportation company for
23 the purpose of carrying passengers or ~~cargo~~ freight or both 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, freight, or
33 possessions of passengers or persons accompanying passengers are screened, inspected,
34 or examined by any means for the purpose of ensuring the safety and welfare of aircraft,
35 bus, or rail vehicles and the employees, agents, passengers, and freight of any
36 transportation company. The security measures may be operated by or under the

1 authority of any governmental entity, transportation company, or any entity contracting
2 therewith.

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

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

18 16-12-123.

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

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

1 ~~(c) Any person who has on or about his or her person or who has placed, attempted to~~
 2 ~~place, or attempted to have placed aboard such bus or rail vehicle any destructive device,~~
 3 ~~as such term is defined by Code Section 16-7-80, shall be guilty of a felony and, upon~~
 4 ~~conviction thereof, shall be sentenced to imprisonment for not less than one nor more than~~
 5 ~~20 years.~~

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

13 ~~(e) The company may employ reasonable means, including mechanical, electronic, or~~
 14 ~~X-ray devices, to detect concealed weapons, explosives, or hazardous material in baggage~~
 15 ~~or upon the person of the passenger. Upon the discovery of any such item or material in the~~
 16 ~~possession of a person, unless the item is a weapon in the possession of a person exempted~~
 17 ~~under subsection (b) of this Code section from the prohibition of that subsection (b), the~~
 18 ~~company shall obtain possession and retain custody of such item or materials until they are~~
 19 ~~transferred to the custody of law enforcement officers.~~

20 (a)(1) A person commits the offense of bus or rail vehicle hijacking when he or she:

21 (A) Seizes or exercises control by force or violence or threat of force or violence of any
 22 bus or rail vehicle within the jurisdiction of this state;

23 (B) By force or violence or by threat of force or violence seizes or exercises control of
 24 any transportation company or all or any part of the transportation facilities owned or
 25 operated by any such company; or

26 (C) By force or violence or by threat of force or violence substantially obstructs,
 27 hinders, interferes with, or otherwise disrupts or disturbs the operation of any
 28 transportation company or all or any part of a transportation facility.

29 (2) Any person convicted of the offense of bus or rail hijacking shall be guilty of a felony
 30 and, upon conviction thereof, shall be punished by imprisonment for life or by
 31 imprisonment for not less than one nor more than 20 years.

32 (b) Any person who boards or attempts to board an aircraft, bus, or rail vehicle with any
 33 explosive, destructive device, or hoax device as such term is defined in Code Section
 34 16-7-80; firearm; hazardous substance as defined by Code Section 12-8-92; or knife or
 35 other device designed or modified for the purpose of offense and defense concealed on or
 36 about his or her person or property which is or would be accessible to such person while

1 on the aircraft, bus, or rail vehicle shall be guilty of a felony and, upon conviction thereof,
 2 shall be sentenced to imprisonment for not less than one nor more than ten years. The
 3 prohibition of this subsection shall not apply to any law enforcement officer, peace officer
 4 retired from a state or federal law enforcement agency, person in the military service of the
 5 state or of the United States, or commercial security personnel employed by the
 6 transportation company who is in possession of weapons used within the course and scope
 7 of their employment; nor shall the prohibition apply to persons transporting weapons
 8 contained in baggage which is not accessible to passengers if the presence of such weapons
 9 has been declared to the transportation company and such weapons have been secured in
 10 a manner prescribed by state or federal law or regulation for the purpose of transportation
 11 or shipment.

12 (c) The company may employ reasonable security measures, including any method or
 13 device, to detect concealed weapons, explosives, or hazardous material in baggage or
 14 freight or upon the person of the passenger. Upon the discovery of any such item or
 15 material in the possession of a person, unless the item is a weapon in the possession of a
 16 person exempted under subsection (b) of this Code section from the prohibition of that
 17 subsection (b), the company shall obtain possession and retain custody of such item or
 18 materials until they are transferred to the custody of law enforcement officers.

19 16-12-124.

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

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

27 16-12-125.

28 (a) It shall be unlawful for any person to avoid or interfere with a security measure. Any
 29 person convicted of a violation of this Code section shall be guilty of a misdemeanor of a
 30 high and aggravated nature; provided, however, that any person who violates this Code
 31 section with the intent to commit a felony within the terminal or with regard to any aircraft,
 32 bus, or rail vehicle shall be punished by imprisonment for not less than five nor more than
 33 25 years, a fine not to exceed \$100,000.00, or both.

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

16-12-126

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

(b) It shall be unlawful to intentionally render inoperable or partially inoperable for any period of time any device designed or operated for traffic control that is owned, operated, or maintained by or for the benefit of a transportation company.

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

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

16-12-127.

(a) It shall be unlawful for any person, with the intention of avoiding or interfering with a security measure or of introducing into a terminal any explosive, destructive device, or hoax device as defined in Code Section 16-7-80; firearm; hazardous substance as defined by Code Section 12-8-92; or knife or other device designed or modified for the purpose of offense and defense, to:

(1) Have any such item on or about his or her person, or

(2) Place or cause to be placed or attempt to place or cause to be placed any such item:

(A) In a container or freight of a transportation company;

(B) In the baggage or possessions of any person or any transportation company without the knowledge of the passenger or transportation company; or

(C) Aboard such aircraft, bus, or rail vehicle.

(b) A person violating the provisions of this Code section shall be guilty of a felony and shall, upon conviction, be sentenced to imprisonment for not less than one year nor more than 20 years, a fine not to exceed \$15,000.00, or both. A prosecution under this Code section shall not be barred by the imposition of a civil penalty imposed by any governmental entity.

~~16-12-125.~~16-12-128.

(a) This part shall be cumulative and supplemental to any other law of this state. A conviction or acquittal under any of the criminal provisions of Code Section 16-12-123, or 16-12-124, 16-12-125, or 16-12-126 shall not be a bar to any other civil or criminal proceeding.

1 (b) In addition to any other penalty imposed by law for a violation of this part, the court
2 may require the defendant to make restitution to any affected public or private entity for
3 the reasonable costs or damages associated with the offense. Restitution made pursuant to
4 this subsection shall not preclude any party from obtaining any other civil or criminal
5 remedy available under any other provision of law. The restitution authorized by this
6 subsection is supplemental and not exclusive."

7 **SECTION 7.**

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

10 **SECTION 8.**

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