

House Bill 679

By: Representatives Spencer of the 180<sup>th</sup>, Byrd of the 20<sup>th</sup>, Cooke of the 18<sup>th</sup>, and Braddock of the 19<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To provide a short title; to provide for legislative findings; to amend Article 1 of Chapter 3  
2 of Title 12 of the Official Code of Georgia Annotated, relating to general provisions  
3 regarding parks, historic areas, memorials, and recreation, so as to provide that it is unlawful  
4 for a person who is not a lawful weapons carrier to use or possess any handgun in a park,  
5 historic site, or recreational area; to amend Part 3 of Article 4 of Chapter 11 of Title 16 of the  
6 Official Code of Georgia Annotated, relating to carrying and possession of firearms, so as  
7 to provide a definition; to revise the provisions of law regarding the carrying of firearms; to  
8 amend Part 2 of Article 4 of Chapter 12 of Title 16 of the Official Code of Georgia  
9 Annotated, relating to transportation passenger safety, so as to revise the provisions of law  
10 regarding the carrying of firearms; to amend Title 27 of the Official Code of Georgia  
11 Annotated, relating to game and fish, so as to revise certain laws regarding the carrying of  
12 firearms; to amend Part 2 of Article 10 of Chapter 6 of Title 40 of the Official Code of  
13 Georgia Annotated, relating to parking for persons with disabilities, so as to revise certain  
14 laws regarding the carrying of firearms; to provide for related matters; to provide an effective  
15 date; to repeal conflicting laws; and for other purposes.

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

17 **SECTION 1.**

18 This Act shall be known and may be cited as the "Georgia Constitutional Carry Act of 2012."

19 **SECTION 2.**

20 The General Assembly finds that:

- 21 (1) Our founding fathers, in the unanimous Declaration of the 13 United States of  
22 America, acknowledged that the purpose of civil government is to secure God-given rights;  
23 (2) As such, civil governments are to punish the criminal acts that deprive their citizens  
24 of their God-given rights to life, liberty, and property;

- 25 (3) The mere potential to deprive someone of life, liberty, or property should never be  
 26 considered a crime in a free and just society;
- 27 (4) Evil resides in the heart of the individual, not in material objects; and
- 28 (5) Since objects or "instrumentalities" in and of themselves are not dangerous or evil, in  
 29 a free and just society, the civil government should not ban or restrict their possession or  
 30 use.

### 31 SECTION 3.

32 Article 1 of Chapter 3 of Title 12 of the Official Code of Georgia Annotated, relating to  
 33 general provisions regarding parks, historic areas, memorials, and recreation, is amended by  
 34 revising paragraph (3) of subsection (o) of Code Section 12-3-10, relating to directing  
 35 persons to leave parks, historic sites, or recreational areas upon their refusal to observe rules  
 36 and regulations and prohibited acts generally, as follows:

37 "(3) It shall be unlawful for any person who is not a lawful weapons carrier as defined  
 38 Code Section 16-11-125.1 to use or possess in any park, historic site, or recreational area  
 39 any handgun ~~without a valid weapons carry license issued pursuant to Code Section~~  
 40 ~~16-11-129.~~"

### 41 SECTION 4.

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

46 "16-11-125.1.

47 As used in this part, the term:

48 (1) 'Handgun' means a firearm of any description, loaded or unloaded, from which any  
 49 shot, bullet, or other missile can be discharged by an action of an explosive where the  
 50 length of the barrel, not including any revolving, detachable, or magazine breech, does  
 51 not exceed 12 inches; provided, however, that the term 'handgun' shall not include a gun  
 52 which discharges a single shot of .46 centimeters or less in diameter.

53 (2) 'Knife' means a cutting instrument designed for the purpose of offense and defense  
 54 consisting of a blade that is greater than five inches in length which is fastened to a  
 55 handle.

56 (2.1) 'Lawful weapons carrier' means any person who is not prohibited by law from  
 57 possessing a weapon or long gun, any person who is licensed pursuant to Code Section  
 58 16-11-129, or any person licensed to carry a handgun or weapon in any other state whose  
 59 laws recognize and give effect to a license issued pursuant to this part.

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

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

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

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

69 provided, however, that the term 'long gun' shall not include a gun which discharges a  
70 single shot of .46 centimeters or less in diameter.

71 (5) 'Weapon' means a knife or handgun.

72 (6) 'Weapons carry license' or 'license' means a license issued pursuant to Code  
73 Section 16-11-129."

74 **SECTION 5.**

75 Said part is further amended by revising Code Section 16-11-126, relating to having or  
76 carrying handguns, long guns, or other weapons; license requirements; exceptions for homes,  
77 motor vehicles, and other locations and conditions; and penalties for violations, as follows:  
78 "16-11-126.

79 ~~(a) Any person who is not prohibited by law from possessing a handgun or long gun~~ lawful  
80 weapons carrier may have or carry on his or her person a weapon ~~or long gun on his or her~~  
81 ~~property or inside his or her home, motor vehicle, or place of business without a valid~~  
82 ~~weapons carry license~~ in accordance with Code Section 16-11-127.

83 ~~(b) Any person who is not prohibited by law from possessing a handgun or long gun~~  
84 lawful weapons carrier may have or carry on his or her person a long gun ~~without a valid~~  
85 ~~weapons carry license~~ in accordance with Code Section 16-11-127, provided that if the  
86 long gun is loaded, it shall only be carried in an open and fully exposed manner.

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

89 ~~(d)~~(c) Any person who is not prohibited by law from possessing a handgun or long gun  
90 ~~who is eligible for a weapons carry license~~ lawful weapons carrier may transport a handgun  
91 weapon or long gun in any private passenger motor vehicle; provided, however, that private  
92 property owners or persons in legal control of property through a lease, rental agreement,  
93 licensing agreement, contract, or any other agreement to control access to such property  
94 shall have the right to forbid possession of a weapon or long gun on their property, except  
95 as provided in Code Section 16-11-135.

96 ~~(e)(d)~~ Any person licensed to carry a handgun or weapon in lawful weapons carrier who  
 97 is a resident of any other state whose laws recognize and give effect to a license issued  
 98 pursuant to this part shall be authorized to carry a weapon or long gun in this state, but only  
 99 while the licensee is not a resident of this state; provided, however, that such licensee  
 100 lawful weapons carrier shall carry the weapon or long gun in compliance with the laws of  
 101 this state.

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

108 ~~(g)(f)~~ Notwithstanding Code Sections 12-3-10, 27-3-1.1, 27-3-6, and 16-12-122 through  
 109 16-12-127, any person ~~with a valid weapons carry license~~ lawful weapons carrier may  
 110 carry a weapon or long gun in all parks, historic sites, or recreational areas, as such term  
 111 is defined in Code Section 12-3-10, including all publicly owned buildings located in such  
 112 parks, historic sites, and recreational areas, in wildlife management areas, and on public  
 113 transportation; provided, however, that a person shall not carry a handgun weapon or long  
 114 gun into a place where it is prohibited by federal law.

115 ~~(h)(g)~~(1) No person shall carry a weapon or long gun ~~without a valid weapons carry~~  
 116 ~~license~~ unless he or she meets ~~one of the exceptions to having such license~~ the definition  
 117 of a 'lawful weapons carrier' as provided in ~~subsections (a) through (g) of this Code~~  
 118 ~~section~~ Section 16-11-125.1.

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

121 ~~(i)(h)~~ Upon conviction of the offense of unlawful carrying of a weapon ~~without a valid~~  
 122 ~~weapons carry license~~ or long gun, a person shall be punished as follows:

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

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

## 129 SECTION 6.

130 Said part is further amended by revising Code Section 16-11-127, relating to carrying  
 131 weapons in unauthorized locations, as follows:

132 "16-11-127.

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

134 (1) 'Bar' means an establishment that is devoted to the serving of alcoholic beverages for  
 135 consumption by guests on the premises and in which the serving of food is only  
 136 incidental to the consumption of those beverages, including, but not limited to, taverns,  
 137 nightclubs, cocktail lounges, and cabarets.

138 (2) 'Courthouse' means a building occupied by judicial courts and containing rooms in  
 139 which judicial proceedings are held.

140 (3) 'Government building' means:

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

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

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

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

151 (5) 'Parking facility' means real property owned or leased by a government entity,  
 152 courthouse, jail, prison, place of worship, or bar that has been designated by such  
 153 government entity, courthouse, jail, prison, place of worship, or bar for the parking of  
 154 motor vehicles at a government building or at such courthouse, jail, prison, place of  
 155 worship, or bar.

156 (b) A person shall be guilty of carrying a weapon or long gun in an unauthorized location  
 157 and punished as for a misdemeanor when he or she carries a weapon or long gun while:

158 (1) In a government building;

159 (2) In a courthouse;

160 (3) In a jail or prison;

161 (4) In a place of worship;

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

167 (6) In a bar, unless the owner of the bar permits the carrying of weapons or long guns by  
 168 ~~license holders~~ any lawful weapons carrier;

169 (7) On the premises of a nuclear power facility, except as provided in Code Section  
 170 16-11-127.2, and the punishment provisions of Code Section 16-11-127.2 shall supersede  
 171 the punishment provisions of this Code section; or

172 (8) Within 150 feet of any polling place, except as provided in subsection (i) of Code  
 173 Section 21-2-413.

174 (c) Except as provided in Code Section 16-11-127.1, ~~a license holder or person recognized~~  
 175 ~~under subsection (e) of Code Section 16-11-126~~ any lawful weapons carrier shall be  
 176 authorized to carry a weapon as provided in Code Section 16-11-135 and in every location  
 177 in this state not listed in subsection (b) of this Code section; provided, however, that private  
 178 property owners or persons in legal control of property through a lease, rental agreement,  
 179 licensing agreement, contract, or any other agreement to control access to such property  
 180 shall have the right to forbid possession of a weapon or long gun on their property, except  
 181 as provided in Code Section 16-11-135. A violation of subsection (b) of this Code section  
 182 shall not create or give rise to a civil action for damages.

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

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

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

193 (3) To a weapon or long gun possessed by ~~a license holder~~ any lawful weapons carrier  
 194 which is under the possessor's control in a motor vehicle or is in a locked compartment  
 195 of a motor vehicle or one which is in a locked container in or a locked firearms rack  
 196 which is on a motor vehicle and such vehicle is parked in a parking facility."

197 **SECTION 7.**

198 Said part is further amended by revising paragraph (2) of subsection (b) of Code  
 199 Section 16-11-127.1, relating to carrying weapons within school safety zones, at school  
 200 functions, or on school property, as follows:

201 "(2) Any ~~license holder~~ lawful weapons carrier who violates this subsection shall be  
 202 guilty of a misdemeanor. Any person who is not a ~~license holder~~ lawful weapons carrier  
 203 who violates this subsection shall be guilty of a felony and, upon conviction thereof, be

204 punished by a fine of not more than \$10,000.00, by imprisonment for not less than two  
205 nor more than ten years, or both."

206 **SECTION 8.**

207 Said part is further amended by revising paragraph (8) of subsection (c) of Code  
208 Section 16-11-127.1, relating to carrying weapons within school safety zones, at school  
209 functions, or on school property, as follows:

210 "(8) A weapon possessed by a ~~license holder~~ lawful weapons carrier which is under the  
211 possessor's control in a motor vehicle or which is in a locked compartment of a motor  
212 vehicle or one which is in a locked container in or a locked firearms rack which is on a  
213 motor vehicle which is being used by an adult over 21 years of age to bring to or pick up  
214 a student at a school building, school function, or school property or on a bus or other  
215 transportation furnished by the school, or when such vehicle is used to transport someone  
216 to an activity being conducted on school property which has been authorized by a duly  
217 authorized official of the school; provided, however, that this exception shall not apply  
218 to a student attending such school;".

219 **SECTION 9.**

220 Said part is further amended by revising subparagraph (b)(2)(H) of Code Section 16-11-129,  
221 relating to license to carry weapon, temporary renewal permit, and mandamus, as follows:

222 "(H) Any person who has been convicted of any of the following:  
223 (i) Pointing a gun or a pistol at another in violation of Code Section 16-11-102;  
224 (ii) ~~Carrying a weapon without a weapons carry license~~ Unlawful carrying of a  
225 weapon or long gun in violation of Code Section 16-11-126; or  
226 (iii) Carrying a weapon or long gun in an unauthorized location in violation of Code  
227 Section 16-11-127  
228 and has not been free of all restraint or supervision in connection therewith and free of  
229 any other conviction for at least five years immediately preceding the date of the  
230 application;".

231 **SECTION 10.**

232 Said part is further amended by revising subsection (b) of Code Section 16-11-135, relating  
233 to public or private employer's parking lots, right of privacy in vehicles in employer's parking  
234 lot or invited guests on lot, severability, and rights of action, as follows:

235 "(b) Except as provided in this Code section, no private or public employer, including the  
236 state and its political subdivisions, shall condition employment upon any agreement by a  
237 prospective employee that prohibits an employee from entering the parking lot and access

238 thereto when the employee's privately owned motor vehicle contains a firearm that is  
 239 locked out of sight within the trunk, glove box, or other enclosed compartment or area  
 240 within such privately owned motor vehicle, provided that any applicable employees  
 241 ~~possess a Georgia weapons carry license~~ are lawful weapons carriers."

242 **SECTION 11.**

243 Part 2 of Article 4 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated,  
 244 relating to transportation passenger safety, is amended by revising subsection (b) of Code  
 245 Section 16-12-123, relating to bus or rail vehicle hijacking, boarding with concealed weapon,  
 246 and company use of reasonable security measures, as follows:

247 "(b) Any person who boards or attempts to board an aircraft, bus, or rail vehicle with any  
 248 explosive, destructive device, or hoax device as such term is defined in Code  
 249 Section 16-7-80; ~~firearm for which~~ weapon as defined in Code Section 16-11-125.1 if such  
 250 person ~~does is~~ is not have on his or her person a valid weapons carry license issued pursuant  
 251 to ~~Code Section 16-11-129~~ a lawful weapons carrier as defined in Code Section  
 252 16-11-125.1 unless possessing such ~~firearm~~ weapon is prohibited by federal law; hazardous  
 253 substance as defined by Code Section 12-8-92; ~~or knife~~ or other device designed or  
 254 modified for the purpose of offense and defense concealed on or about his or her person  
 255 or property which is or would be accessible to such person while on the aircraft, bus, or rail  
 256 vehicle shall be guilty of a felony and, upon conviction thereof, shall be sentenced to  
 257 imprisonment for not less than one nor more than ten years. The prohibition of this  
 258 subsection shall not apply to any law enforcement officer, peace officer retired from a state  
 259 or federal law enforcement agency, person in the military service of the state or of the  
 260 United States, or commercial security personnel employed by the transportation company  
 261 who is in possession of weapons used within the course and scope of employment; nor  
 262 shall the prohibition apply to persons transporting weapons contained in baggage which is  
 263 not accessible to passengers if the presence of such weapons has been declared to the  
 264 transportation company and such weapons have been secured in a manner prescribed by  
 265 state or federal law or regulation for the purpose of transportation or shipment. The  
 266 provisions of this subsection shall not apply to any privately owned aircraft, bus, or rail  
 267 vehicle if the owner of such aircraft or vehicle has given his or her express permission to  
 268 board the aircraft or vehicle with the item."

269 **SECTION 12.**

270 Said part is further amended by revising subsection (a) of Code Section 16-12-127, relating  
 271 to prohibition on firearms, hazardous substances, knives, or other devices; penalty; and  
 272 affirmative defenses, as follows:

273 "(a) It shall be unlawful for any person, with the intention of avoiding or interfering with  
 274 a security measure or of introducing into a terminal any explosive, destructive device, or  
 275 hoax device as defined in Code Section 16-7-80; ~~firearm for which such person does not~~  
 276 ~~have on his or her person a valid weapons carry license issued pursuant to Code~~  
 277 ~~Section 16-11-129~~ weapon as defined in Code Section 16-11-125.1 if such person is not  
 278 a lawful weapons carrier as defined in Code Section 16-11-125.1 unless possessing such  
 279 ~~firearm~~ weapon is prohibited by federal law; hazardous substance as defined by Code  
 280 Section 12-8-92; ~~or knife~~ or other device designed or modified for the purpose of offense  
 281 and defense, to:

- 282 (1) Have any such item on or about his or her person, or  
 283 (2) Place or cause to be placed or attempt to place or cause to be placed any such item:  
 284 (A) In a container or freight of a transportation company;  
 285 (B) In the baggage or possessions of any person or any transportation company without  
 286 the knowledge of the passenger or transportation company; or  
 287 (C) Aboard such aircraft, bus, or rail vehicle."

288 **SECTION 13.**

289 Title 27 of the Official Code of Georgia Annotated, relating to game and fish, is amended by  
 290 revising paragraphs (1) and (2) of Code Section 27-3-1.1, relating to acts prohibited on  
 291 wildlife management areas, as follows:

292 "(1) To possess a firearm other than a handgun, as such term is defined in Code  
 293 Section 16-11-125.1, during a closed hunting season for that area unless such firearm is  
 294 unloaded and stored in a motor vehicle so as not to be readily accessible or to possess a  
 295 handgun during a closed hunting season for that area unless such person ~~possesses a valid~~  
 296 ~~weapons carry license issued pursuant to Code Section 16-11-129~~ is a lawful weapons  
 297 carrier as defined in Code Section 16-11-125.1;

298 (2) To possess a loaded firearm other than a handgun, as such term is defined in Code  
 299 Section 16-11-125.1, in a motor vehicle during a legal open hunting season for that area  
 300 or to possess a loaded handgun in a motor vehicle during a legal open hunting season for  
 301 that area unless such person ~~possesses a valid weapons carry license issued pursuant to~~  
 302 ~~Code Section 16-11-129~~ is a lawful weapons carrier as defined in Code Section  
 303 16-11-125.1;".

304 **SECTION 14.**

305 Said title is further amended by revising Code Section 27-3-6, relating to possession of  
 306 firearm while hunting with bow and arrow, as follows:

307 "27-3-6.

308 It shall be unlawful for any person to possess any center-fire or rimfire firearm other than  
 309 a handgun, as such term is defined in Code Section 16-11-125.1, while hunting with a bow  
 310 and arrow during archery or primitive weapons season for deer or while hunting with a  
 311 muzzleloading firearm during a primitive weapons season for deer or to possess a loaded  
 312 handgun while hunting with a bow and arrow during archery or primitive weapons season  
 313 for deer or while hunting with a muzzleloading firearm during primitive weapons season  
 314 for deer unless such person ~~possesses a valid weapons carry license issued pursuant to~~  
 315 ~~Code Section 16-11-129~~ is a lawful weapons carrier as defined in Code Section  
 316 16-11-125.1."

317 **SECTION 15.**

318 Said title is further amended by revising paragraphs (1) and (2) of subsection (a) of Code  
 319 Section 27-4-11.1, relating to possession of firearms and intoxication on public fishing areas,  
 320 fishing in closed fishing areas, and other restrictions in public fishing areas, as follows:

321 "(1) To possess a firearm other than a handgun, as such term is defined in Code  
 322 Section 16-11-125.1, during a closed hunting season for that area unless such firearm is  
 323 unloaded and stored in a motor vehicle so as not to be readily accessible or to possess a  
 324 handgun during a closed hunting season for that area unless such person ~~possesses a valid~~  
 325 ~~weapons carry license issued pursuant to Code Section 16-11-129~~ is a lawful weapons  
 326 carrier as defined in Code Section 16-11-125.1;

327 (2) To possess a loaded firearm other than a handgun, as such term is defined in Code  
 328 Section 16-11-125.1, in a motor vehicle during a legal open hunting season for that area  
 329 or to possess a loaded handgun in a motor vehicle during a legal open hunting season for  
 330 that area unless such person ~~possesses a valid weapons carry license issued pursuant to~~  
 331 ~~Code Section 16-11-129~~ is a lawful weapons carrier as defined in Code  
 332 Section 16-11-125.1; or"

333 **SECTION 16.**

334 Part 2 of Article 10 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated,  
 335 relating to parking for persons with disabilities, is amended by revising paragraph (4) of  
 336 subsection (b) of Code Section 40-6-228, relating to enforcement of parking for persons with  
 337 disabilities, as follows:

338 "(4) Have the power to possess and carry firearms and other weapons for the purpose of  
 339 enforcing the parking laws for persons with disabilities; provided, however, that a person  
 340 who ~~possesses a valid weapons carry license issued under Code Section 16-11-129~~ is a  
 341 lawful weapons carrier as defined in Code Section 16-11-125.1 and who carries such

342 weapon in a manner permitted under Code Section 16-11-126 shall not be in violation of  
343 this paragraph; or".

344 **SECTION 17.**

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

347 **SECTION 18.**

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