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CRIMES AND OFFENSES Offenses Against Public Safety and Order

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CRIMES AND OFFENSES

Offenses Against Public Safety and Order: Amend Title 16 of the Official Code of Georgia Annotated, Relating to Crimes and Offenses, so as to Clarify and Change Provisions Regarding the Carrying and Possession of Weapons; Provide for Definitions; Provide for the Offense of Carrying a Weapon Without a License; Prohibit Carrying Weapons in Unauthorized Locations; Change Provisions Relating to Carrying Weapons Within School Safety Zones, at School Functions, or on School Property; Change Provisions Relating to Carrying a Pistol Without a License; Change Provisions Relating to the License to Carry a Pistol or Revolver and the Licensing Exceptions; Conform Cross-References with Definitions; Provide for a Weapons Carry License; Amend Various Titles of the Official Code of Georgia Annotated so as to Conform and Correct Cross-References; Provide for Effective Dates and Applicability; Provide for Related Matters; Repeal Conflicting Laws; and for Other Purposes.

CODE SECTIONS:	O.C.G.A. §§ 10-1-393.5 (amended); 12-3-10 (amended); 15-9-60 (amended); 16-10-51 (amended); 16-11-34.1, -101.1 (amended); 16-11-125.1 (new); 16-11-126, -127, -127.1, -127.2, -128, -129, -132, -135 (amended); 16-12-123, -127 (amended); 17-5-51 (amended); 17-7-23 (amended); 20-2-1184 (amended); 27-3-1.1, -6 (amended); 27-4-11.1 (amended); 40-6-228 (amended); 43-1-5 (amended); 43-34-6 (amended); 43-38-10 (amended); 49-4a-8 (amended); 50-18-72 (amended).
BILL NUMBER:	SB 308
ACT NUMBER:	643
GEORGIA LAWS:	2010 Ga. Laws 963
SUMMARY:	The Act clarifies current law relating to where weapons may be carried or

possessed. It defines the offense of carrying a weapon without a valid license. The Act changes provisions relating to the carrying of weapons onto private property, public property, and campus grounds. It also provides for uniform security features of weapons carry licenses issued on or after January 1, 2012.

EFFECTIVE DATE: June 8, 2010

History

Georgia has long prohibited carrying deadly weapons into public gatherings. The first enactment of the Public Gathering Law was an amendment to the 1870 Revised Code.[1] In 1879, the Georgia legislature criminalized the carrying of deadly weapons to "any court of justice . . . election ground or precinct . . . place of public worship, or any other public gathering in this state . . . ."[2] Unbeknownst to many, however, this law originally began as a Jim Crow law designed to disarm black protestors following the Camilla Massacre of 1868.[3]

Georgia continued to criminalize the licensed carry of weapons to public gatherings throughout the decades.[4] In authoring Senate Bill

1. *See generally* 1870 Ga. Laws 285, § 1, at 421 (formerly codified at O.C.G.A. § 16-11-127 (Supp. 2009)).

2. *Id.* at 64.

3. Lee Formwalt, *Camilla Massacre*, THE NEW GEORGIA ENCYCLOPEDIA, Oct. 23, 2009, http://www.georgiaencyclopedia.org/nge/Article.jsp?id=h-639 (last visited June 1, 2010). The Camilla Massacre occurred on September 19, 1868, after the Georgia legislature dismissed twenty-eight newly elected members because they had at least one-eighth percent black blood. *Id*. In response, protesters held a twenty-five mile march of hundreds of blacks from Albany to Camilla to attend a Republican rally, but these protesters were met with open fire. *Id*. The protestors assaulted many white shooters and the Public Gathering Law was enacted the next session. *Id*. *See also* 1870 Ga. Laws 285, § 1, at 421 (formerly codified at O.C.G.A. § 16-11-127 (Supp. 2009)). For more on the discussion of the racial roots of this law, see generally DISARM THE NEGROES: THE RACIST ROOTS OF GEORGIA'S GUN LAWS (Special Report for Georgiacarry.org) (Nov. 2007), www.georgiacarry.org, http://www.georgiacarry.org/cms/wp-content/uploads/2007/11/racist-roots-of-ga-gun-laws.pdf [hereinafter DISARM].

4. *See, e.g.*, 1870 Ga. Laws 285; 1879 Ga. Laws 266; 1909 Ga. Laws 117; 1968 Ga. Laws 1249; 1976 Ga. Laws 1367; 1986 Ga. Laws 1450; 1987 Ga. Laws 511; 1992 Ga. Laws 1005; 1996 Ga. Laws 841; 1997 Ga. Laws 101; 2003 Ga. Laws 179; 2008 Ga. Laws 802 (all formerly codified at O.C.G.A. § 16-11-127 (Supp. 2009)).

(SB) 308, lawmakers intended to limit some of the places prohibited as "public gatherings" and give citizens a clear understanding of where they can and cannot carry their licensed weapons.[5] Under the previous version of this Code section, licensed weapons owners could not carry their weapons to commonly recognized public places, such as publicly owned or operated buildings and political rallies.[6] Other prohibited places included establishments that served alcohol, churches, and athletic or sporting events.[7] These specific places were clearly defined in the Code, but the inclusion of the vague "a public gathering . . . shall include, but shall not be limited to" language in Code section 16-11-127 served as a legal point of contention.[8] The Public Gathering Law has been challenged twice as constitutionally vague, thus indicating the inherent ambiguity in the law.[9] Additionally, through the decades, both courts and attorneys general have had difficulty establishing where the line between public *place* and public *gathering* lies.[10]

In 1991, the Georgia Court of Appeals highlighted this fact when it concluded that a McDonald's restaurant, though being a public place, did not rise to the level of a public gathering.[11] The court noted that the focus of the inquiry into whether a place is a "public gathering" as contemplated by Code section 16-11-127 is "not on the 'place' but on the 'gathering' of people."[12] In that case, the appellee was arrested in a McDonald's restaurant and charged with violation of the Public

5. *See generally* Interview with John Monroe, Vice President of Georgia Carry (Mar. 30, 2010) [hereinafter Monroe Interview] (indicating that the main goal of SB 308 was to "address[] where you can and can't carry [firearms], and under what circumstances" and that "repeal[ing] the Public Gathering Law . . . is one of the central aspects of the bill . . . .").

6. 2008 Ga. Laws 802, § 4, at 1201 (formerly codified at O.C.G.A. § 16-11-127(b) (Supp. 2009)).

7. *Id*.

8. *Id*. ("'[P]ublic gathering shall' include, but shall not be limited to . . ."); *see infra* text accompanying notes 9–22.

9. *See* Byrdsong v. State, 245 Ga. 336, 336, 265 S.E.2d 15, 16 (1980) ("Defendant asserts that [Code section 16-11-127] is unconstitutionally vague in that it fails to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden . . . so that no one might easily understand what is meant by 'public gathering.'"); *see also* Jordan v. State, 166 Ga. App. 417, 419, 304 S.E.2d. 522, 525 (App. Ct. 1983) ("OCGA [sic] § 16-11-127 . . . is not unconstitutionally vague as contended by appellant.") (citing Byrdsong).

10. *See infra* text accompanying notes 15–22.

11. State v. Burns, 200 Ga. App. 16, 16, 406 S.E.2d 547, 548 (App. Ct. 1991) ("[M]ere presence in a public place did not constitute a violation of O.C.G.A. § 16-11-127.").

12. *Id*.

Gathering Law despite being licensed to carry a concealed weapon.[13] The trial court dismissed the case and the court of appeals upheld this decision, stating that "such a construction would render licensing statutes unnecessary because of the potential of violating the statutes by carrying a weapon outside one's household, in public, where the possibility exists that people *might* gather around someone carrying a weapon."[14]

This decision may give the impression that the line between public place and public gathering is an easily navigable one, but the courts are not clear on this distinction. For example, in 1983, the court of appeals held an automobile auction sufficient as a "public gathering" by noting that "many people were present in the parking lot when [the gun] was removed from his person."[15] Despite this holding by the court, the attorney general opined in 1984, just one year later, that a shopping mall was not a public gathering for purposes of the statute.[16] Likewise, two years after the court of appeals rejected the broad interpretation in *State v. Burns*,[17] it held that the parking lot of an Elk's Lodge was a public gathering.[18] Other examples of "public gatherings" according to Georgia case law include the following: a housing project,[19] a Veterans of Foreign Wars (VFW) club,[20] and a Fourth of July barbeque.[21] In 1996, the attorney general issued another 'clarification' on when the Public Gathering Law applies stating, "Code [section 16-11-127] applies when people are gathered or will gather for a particular function, but does not apply simply because a weapon is otherwise lawfully carried to a public place

13. *Id*. at 547–48.
14. *Id*. at 547.
15. *Jordan*, 166 Ga. App. at 419, 304 S.E.2d at 525.
16. 1984 Ga. Op. Att'y Gen. U84-37.
17. *Burns*, 406 S.E.2d at 547–48, 200 Ga. App. at 16 (holding a McDonald's restaurant was not a public gathering despite the presence of others).
18. Hubbard v. State, 210 Ga. App. 218, 435 S.E.2d 709 (App. Ct. 1993).
19. Jenga v. State, 166 Ga. App. 36, 303 S.E.2d 170 (Ct. App. 1983).
20. Farmer v. State, 112 Ga. App. 438, 145 S.E.2d 594 (Ct. App. 1965). The VFW is a private, fraternal organization and "includes 2.2 million members in approximately 8,100 Posts worldwide. Its mission is to 'honor the dead by helping the living' through veterans' service, community service, national security and a strong national defense." Veterans of Foreign Wars of the United States, *About the VFW*, http://www.vfw.org/index.cfm?fa=news.levelc&cid=223&cfid=29465548&cftoken=82450271 (last visited July 26, 2010). The organization has local Posts around the country to aid its members in social activities and the pursuit of its mission. *Id*.
21. Wynne v. State, 123 Ga. 566, 51 S.E. 636 (1905).

where people may be present."[22] Other than this attempt to draw a line for citizens, there have been no other judicial clarifications as to the difference between a place where people gather and a public place where people may merely be present. These scattered interpretations create "gotcha situations" for persons otherwise trying to obey the law by obtaining a weapons carry license.[23] Criminal statutes should be clear and give notice to those seeking to follow them.[24]

The purpose of SB 308 was to eliminate this erratic application of Code section 16-11-127 and to define a clear scope for those following and enforcing the law.[25] SB 308 was not the first attempt to amend Georgia's Public Gathering Law. In the 2008 legislative session, Representative Timothy Bearden (R-68th) attempted to repeal the Public Gathering Law, codified at Code section 16-11-127, by offering an amendment to House Bill (HB) 89.[26] The amendment replaced the "public gathering" language with "prohibited building" in an effort to clarify the law.[27] This amendment failed, though HB 89 passed and became effective July 1, 2008.[28] Thus, the confusing Public Gathering Law remained in effect.[29] Although HB 89 amended other Code sections pertaining to weapons carry and allowed lawfully licensed individuals to carry firearms into public parks, the Georgia Court of Appeals upheld two cities' ordinances restricting the carry of weapons into parks in 2009.[30] The court held that though HB 89 made it legal to carry firearms into parks, the

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22. *Compare* 1996 Ga. Op. Att'y Gen. U96-22, *with Burns*, 200 Ga. App. at 16, 406 S.E.2d at 548 ("[Code section 16-11-127 should apply] when people *are* gathered or will be gathered for a particular function and not when a weapon is carried lawfully to a public place, where people *may* gather.").

23. Telephone Interview with Sen. Mitch Seabaugh (R-28th) (July 27, 2010) [hereinafter Seabaugh Interview].

24. *See generally* Monroe Interview, *supra* note 5.

25. *See generally* Seabaugh Interview, *supra* note 23; *see also supra* text accompanying notes 15–24.

26. 2008 Ga. Laws 802, § 4, at 1201 (formerly codified at O.C.G.A. § 16-11-127 (Supp. 2009)) (prohibiting the carrying of "explosive[s], firearm[s], or kni[ves]" to a public gathering). *See generally* Chris Chitty et al., *Crimes and Offenses: Offenses Against Public Order and Safety*, 25 GA. ST. U. L. REV. 1, 3 (2008).

27. Chitty, *supra* note 26, at 17.

28. *See* 2008 Ga. Laws 802 (codified at O.C.G.A. § 16-11-127 (Supp. 2009)); *see generally* Chitty, *supra* note 26.

29. Chitty, *supra* note 26, at 28.

30. Georgiacarry.org, Inc. v. City of Roswell, 298 Ga. App. 686, 689, 680 S.E.2d 697, 700 (Ct. App. 2009).

ordinances were sound regulations because the Public Gathering Law was still in effect, and the cities had amended the ordinances with the verbiage, "[p]ursuant to [Code section] 16-11-127, it is unlawful to carry a firearm to a public gathering."[31] This decision highlights the problem with Georgia's Public Gathering Law.

In yet another attempt to clarify existing law, Senator Mitch Seabaugh (R-28th) authored SB 308 to revisit the issue in the 2009–10 legislative session.[32] The main goal of SB 308 was to clarify the law on where properly licensed individuals could carry, but it became evident that removal of the clause was necessary due to its vagueness. Other purposes included clarifying existing laws related to licensed carry and attempting to move rules related to licensed weapons carry to one "place" within the Code, though this proved difficult, if not impossible.[33] An additional goal of the legislation was to give private property owners the right to choose whether they wanted to allow or disallow licensed carry onto their property.[34]

Bill Tracking of SB 308

Consideration and Passage by the Senate

Senators Mitch Seabaugh (R-28th), Chip Rogers (R-21st), Preston Smith (R-52nd), Renee Unterman (R-45th), Senator John Wiles (R-37th), and Jeff Mullis (R-53rd) sponsored SB 308.[35] The Senate read the bill for the first time on January 13, 2010.[36] Senate President Pro Tempore Tommie Williams (R-19th) assigned it to the Senate Special Judiciary Committee.[37]

The bill, as originally introduced, clarified the law governing "the carrying and possession of firearms" by providing definitions and

31. *Id*. at 700 (citing Code of Ordinances of the City of Roswell, Section 14.2.4 (Ordinance Number 2008-02-02, Feb. 4, 2008) and Code of Ordinances of Sandy Springs, Section 42-41 (Ordinance Number 2008-02-06, Feb. 5, 2008)).

32. Video Recording of Senate Proceedings, Mar. 24, 2010 at 3 hr., 21 min. (remarks by Sen. Seabaugh (R-28th)), http://mediam1.gpb.org/ga/leg/2010/ga-leg-senate_032410_PM.wmv [hereinafter Senate Video].

33. Seabaugh Interview, *supra* note 23.

34. *Id*.

35. SB 308, as introduced, 2010 Ga. Gen. Assem.

36. *Id*.; State of Georgia Final Composite Status Sheet, SB 308, Apr. 29, 2010.

37. State of Georgia Final Composite Status Sheet, SB 308, Apr. 29, 2010.

specifying where weapons may be carried.[38] Specifically, the bill clarified that people with weapons licenses can carry weapons, such as knives and handguns, in parks, historic sites, and recreational areas; it also allowed people with weapons licenses to carry weapons while fishing or hunting during archery or primitive hunting season.[39] The bill also moved the weapons licensing process from the Georgia probate courts to the Office of the Secretary of State.[40] An additional significant focus of the bill involved repealing the Public Gathering Law.[41] As part of the repeal of the Public Gathering Law, the bill allowed guns to be carried in churches.[42] Many churches pushed for such freedoms after finding that the Public Gathering Law limited a church's power to control its own private property.[43] The bill, as introduced, also repealed the language that prohibited the carrying of weapons at universities, colleges, technical schools, and other postsecondary institutions, while keeping the ban at K–12 schools.[44]

The Special Judiciary Committee offered a substitute to SB 308.[45] The substitute revised Code section 20-3-31 to give the Board of Regents of the University System of Georgia power to regulate the carrying of weapons on any property owned or leased by the Board of Regents.[46] This change was made to allow the Board of Regents a choice to prohibit guns if such weapons were unwelcome.[47] Thus, the Board of Regents would have the same rights that private property owners have concerning the prohibition or allowance of guns on their own property, which reflected the concerns of many legislators that

38. SB 308, as introduced, preamble, p. 1, ln. 2–14, 2010 Ga. Gen. Assem.
39. *Id*. at preamble, p. 1, ln. 15-16.
40. *Id*. at preamble, p. 1, ln. 56.
41. Monroe Interview, *supra* note 5.
42. SB 308, as introduced, § 2, p.3, ln. 70–71, 2010 Ga. Gen. Assem.
43. Monroe Interview, *supra* note 5.
44. SB 308, as introduced, § 3, p. 5, ln. 153–55, 2010 Ga. Gen. Assem.
45. SB 308 (SCS), 2010 Ga. Gen. Assem.
46. *Id.* § 3-1, p. 24, ln. 834–37; *see also id.* § 1-3, p. 6, ln. 194–99 (prohibiting the carry of licensed weapons onto campus athletic events only where the Board of Regents has "adopted a regulation" prohibiting it).
47. *Compare* SB 308 (SCS), § 1-3, p. 6, ln. 194–99, 2010 Ga. Gen. Assem. (prohibiting the carry of licensed weapons onto campus athletic events only where the Board of Regents has "adopted a regulation" prohibiting it), *with* SB 308, as introduced, § 2, p. 4, ln. 110–12, 117–20, 2010 Ga. Gen. Assem. (defining "school" as the property owned or used for "public or private elementary or secondary education" and prohibiting carrying onto campus housing unless the housing is considered "family housing," but not prohibiting carry at post-secondary schools or athletic events in any capacity).

weapons on campuses would create violence.[48] The Special Judiciary Committee substitute also granted private institutions, like bars and churches, similar discretionary power to prohibit guns.[49] This provision, like the provision giving the Board of Regents the option, was made to honor private property owners' rights to ban or allow weapons carry on their property as they wished.[50]

The Special Judiciary Committee favorably reported the Special Judiciary Committee substitute on March 9, 2010, and the bill was read for the second time on March 10, 2010.[51]

Senators Ross Tolleson (R-20th), John Bulloch (R-11th), George Hooks (R-14th), Johnny Grant (R-25th), and John Crosby (R-13th) offered an amendment that kept the licensing procedures in the probate court.[52] Senator Tolleson reported that the bill, as introduced, received significant criticism for removing the weapons licensing procedure from the probate court to the Secretary of State.[53] Recognizing the efficient system of the probate courts, the knowledge probate judges have of local applicants, and the saved costs, the Senate adopted this amendment without objection.[54]

Senator Seabaugh, the sponsor of the bill, offered an amendment prohibiting civil actions for damages arising from the violation of Code section 16-11-127(b), which proscribes the carrying of a weapon or long gun in unauthorized locations.[55] Senator Seabaugh explained that this amendment clarified that a violator of the law would only face criminal charges for the violation, alleviating the

48. Senate Video, *supra* note 32, at 3 hr., 45 min. (remarks by Sen. Seabaugh (R-28th)); *id*. at 4 hr., 45 min., 30 sec. (remarks by Sen. Fort (D-39th)).

49. *Id*. at 3 hr., 45 min. (remarks by Sen. Seabaugh (R-28th)); *see also* SB 308 (SCS), § 1-3, p. 6, ln. 200–01, 2008 Ga. Gen. Assem. (prohibiting the carrying of licensed weapons into a "place of worship, unless the presiding official . . . permits" it); *id*. § 1-3, p. 6, ln. 207–08, 2008 Ga. Gen. Assem. (prohibiting the carrying of licensed weapons into "a bar, unless the owner of the bar permits" it).

50. Seabaugh Interview, *supra* note 23; *see also* Senate Video, *supra* note 32, at 3 hr., 45 min. (remarks by Sen. Seabaugh (R-28th)).

51. *See* State of Georgia Final Composite Status Sheet, SB 308, Apr. 29, 2010.

52. *See* SB 308 (10 AM 29 0872), ln. 1–8, 2010 Ga. Gen. Assem.; *see also* Senate Video, *supra* note 32, at 4 hr., 39 min., 56 sec. (remarks by Sen. Tolleson (R-20th)).

53. *See* Senate Video, *supra* note 32, at 4 hr., 39 min., 56 sec. (remarks by Sen. Tolleson (R-20th)).

54. *Id*. at 4 hr., 39 min., 30 sec. (remarks by Sen. Tolleson (R-20th)); *id.* at 4 hr., 49 min., 27 sec. (remarks by Lt. Gov. Casey Cagle (R)).

55. SB 308 (10 AM 29 0859), ln. 1–4, 2010 Ga. Gen. Assem.

fear of civil lawsuits by property owners.[56] This amendment was adopted without objection.[57]

Senator Seabaugh also offered an amendment to Code section 16-11-127(c).[58] This amendment stated that those in control of property may only prohibit weapons where the prohibition does not conflict with Code section 16-11-135, which changed the provision establishing that private property owners or those in legal control of property may prohibit weapons on their property.[59] This change was made to clarify that SB 308 did not affect Code section 16-11-135, which allowed guns to be kept in glove compartments of cars parked in parking lots.[60] This amendment was adopted without objection.[61]

Senator Seabaugh also offered an amendment to add the words "or long gun" after "weapon" in sections of the bill that described places where weapons are prohibited.[62] This change was made to prohibit long guns in the same locations where weapons are prohibited.[63] The amendment was passed without objection.[64]

Senator Seabaugh offered another amendment requested by the technical schools of Georgia, which granted the State Board of Technical and Adult Education the power to exercise discretion regarding the prohibition or allowance of guns on campuses.[65] This amendment was offered because the technical schools of Georgia wrote a letter stating that they would support the bill with the amendment.[66] Recognizing that the technical schools of Georgia

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56. Senate Video, *supra* note 32, at 3 hr., 46 min., 35 sec. (remarks by Sen. Seabaugh (R-28th)).

57. *Id*. at 4 hr., 49 min., 45 sec. (remarks by Lt. Gov. Casey Cagle (R)).

58. SB 308 (10 AM 29 0865), ln. 1–4, 2010 Ga. Gen. Assem.

59. *Id*.

60. Senate Video, *supra* note 32, at 3 hr., 48 min., 36 sec. (remarks by Sen. Seabaugh (R-28th)). The bill also clarified that those licensed to carry could do so in unrestricted areas of airports, as was allowed by HB 89 in 2008. Senator Orrock (D-36th), Senator Seay (D-34th), Senator Tate (D-38th), Senator Fort (D-39th), and Senator Ramsey Sr. (D-43rd) offered an amendment to strike this clarifying language, but the amendment failed. *See id.* at 4 hr., 53 min., 15 sec. (remarks Lt. Gov. Casey Cagle (R)); *see also* SB 308 (10 AM 29 4230S), ln. 1–2, 2010 Ga. Gen. Assem.

61. Senate Video, *supra* note 32, at 4 hr., 49 min., 53 sec. (remarks by Lt. Gov. Casey Cagle (R)).

62. *See* SB 308 (10 AM 29 0867), ln. 1–8, 2010 Ga. Gen. Assem.

63. Senate Video, *supra* note 32, at 3 hr., 46 min., 52 sec. (remarks by Sen. Seabaugh (R-28th)).

64. *Id*. at 4 hr., 50 min., 25 sec. (remarks by Lt. Gov. Casey Cagle (R)).

65. *See* SB 308 (10 AM 29 0866), ln. 1–20, 2010 Ga. Gen. Assem.; Senate Video, *supra* note 32, at 3 hr., 47 min., 1 sec. (remarks by Sen. Seabaugh (R-28th)).

66. Senate Video, *supra* note 32, at 3 hr., 47 min., 10 sec. (remarks by Sen. Seabaugh (R-28th)).

should have the same discretion allotted to the Board of Regents, the amendment was adopted without objection.[67]

Two other amendments were offered, but both lost. Both sought to strike language allowing licensed carry in those areas of airports not regulated by the federal government.[68] These provisions did not survive the legislative process.[69] The bill was read for the third time on March 24, 2010, and on the same day, the Senate passed SB 308 by a vote of 41 to 12.[70]

Consideration and Passage by the House

The bill was first introduced to the House on March 26, 2010.[71] Speaker of the House David Ralston (R-7th) assigned it to the House Committee on Judiciary Non-Civil,[72] which favorably reported a substitute on April 27, 2010.[73] The substitute made several incidental changes to the numbering of affected Code sections, and also made some major changes to the efficacy of the bill.[74]

In section 1-2, the Committee added a five year limitation on the otherwise indefinite term of years between the first and second offense of carrying a weapon without a weapons carry license—an offense that constitutes a felony.[75] This provision was changed to avoid the "draconian" happenstance where a person violates the bill

67. Senate Video, *supra* note 32, at 3 hr., 47 min., 13 sec. (remarks by Sen. Seabaugh (R-28th)); *id.* at 4 hr., 50 min., 35 sec. (remarks by Lt. Gov. Casey Cagle (R)).

68. *See* SB 308, (LC 29 4230S), ln. 1–2, 2010 Ga. Gen. Assem. (striking the language, "To a weapon when possessed by a license holder in an airport in any area in which weapon possession is not regulated by the federal government."). SB 308 (SCS), § 1-3, p. 7, ln. 236–37, 2010 Ga. Gen. Assem.; SB 308, (LC 29 4230S), ln. 1–8, 2010 Ga. Gen. Assem. (striking the language "[F]or which such person does not have on his or her person a valid weapons carry license . . . unless possessing such firearm is prohibited by federal law.") SB 308 (SCS), § 4-9, p. 30, ln. 1030–32, 2010 Ga. Gen. Assem.

69. *See* SB 308, as passed, 2010 Ga. Gen. Assem.; *see also infra* text accompanying notes 106–07.

70. Senate Video, *supra* note 32, at 4 hr., 57 min., 12 sec. (remarks by Lt. Gov. Casey Cagle (R)); s*ee* SB 308, (LC 29 4230S), ln. 1–8, Ga. Gen. Assem.

71. Senate Video, *supra* note 32, at 3 hr., 47 min., 10 sec. (remarks by Sen. Seabaugh (R-28th)); *see also* State of Georgia Final Composite Status Sheet, SB 308, Apr. 29, 2010.

72. *See* State of Georgia Final Composite Status Sheet, SB 308, Apr. 29, 2010.

73. *See id*.

74. *See id*.

75. *Compare* SB 308, as passed Senate, § 1-2, p. 4, ln. 121–26, 2010 Ga. Gen. Assem. (providing for no time limit on the first and subsequent offenses in violation of the bill before charging a violator with a felony), *with* SB 308 (SCS), § 1-2, p. 4, ln. 110–15, 2010 Ga. Gen. Assem. (providing for a five year time limit between the first and subsequent offenses in violation of the bill, thus relieving a violator of a felony if the second offense occurs outside the five year period).

as a "first offense . . . in 2011 and picks up another [offense] in 2031" and incurs a felony.[76] Other criminal violations, such as driving under the influence, have similar five year statutes.[77]

Section 1-3 again makes it a violation to carry onto places of worship and removes the discretion given to presiding officials of places of worship to permit carrying.[78] This provision was put back into the Code to reach a compromise between competing interests.[79] However, the Committee retained the provision allowing bar owners to authorize licensed carry in their establishments.[80] This provision got significant attention in the committee meeting. Many questioned the validity of the supporters' claim that SB 308 "clarifies" the law, because there were no signage requirements added to the bill that would serve to notify the public as to whether the bar had guns inside or not.[81] Supporters indicated that this provision respects the rights of property owners and also addresses concerns over advertising "[no] guns here" that may lead to increased crime in an establishment banning guns.[82] This section also deletes the exception of

76. Video Recording of House Special Committee on Judiciary Non-Civil, Apr. 22, 2010 at 1 hr., 8 min., 40 sec. (remarks by Rep. Kevin Levitas (D-82nd)), http://media.legis.ga.gov/hav/09_10/2010/committees/judiNon/judiNon042210EDITED.wmv [hereinafter House Judiciary Video].

77. *Id.*

78. *Compare* SB 308, as passed Senate, § 1-3, p. 5, ln. 135, 2010 Ga. Gen. Assem. (excluding the violation for carrying a licensed weapon while in a place of worship) *with* SB 308 (SCS), § 1-3, p. 6, ln. 176–81 2010 Ga. Gen. Assem. (making it a crime to carry a licensed weapon while "[i]n a place of worship").

79. House Judiciary Video, *supra* note 76, at 1 hr., 26 min., 45 sec. (remarks by Rep. Rich Golick (R-34th) ("We want to get something done . . . [s]o with that . . . more significant changes we made between the subcommittee meeting and this committee substitute [] having to do with maintaining our current policy as relates to . . . place of worship"). Sen. Seabaugh confirmed this reasoning by reiterating the underlying purpose of SB 308—to repeal the Public Gathering Law—and he stressed the importance of doing so. Seabaugh Interview, *supra* note 23 (indicating that Governor Sonny Perdue's office and many members of the House expressed concern over this provision, thus causing a challenging situation where supporters faced "picking a fight" or being "satisfied with repealing the Public Gathering Law" and not debating specific provisions that may defeat the progress this legislation makes toward clarifying the law).

80. *See* SB 308 (SCS), § 1-3, p. 6, ln. 187–88, 2010 Ga. Gen. Assem.

81. *See, e.g.*, House Judiciary Video, *supra* note 76, at 1 hr., 1 min., 18 sec. (remarks by Rep. Stephanie Benfield (D-85th) ("This seems to lead to confusion because now there will be some bars that allow, some bars that don't, so if you're a permit holder, you won't know whether or not they allow . . . ."); *id*. at 1 hr., 38 min., 52 sec. (remarks by Rep. Sharon Cooper (R-41st) (indicating that the legislature made signage requirements when banning smoking for those establishments that wanted to keep the right of its customers to smoke, and expressing concern that the lack of signage required for the allowance of weapons in bars does not "clarif[y]" the law).

82. *Id.* at 2 hr., 16 min., 8 sec. (remarks by Sen. Mitch Seabaugh (R-28th)).

applicability of Code section 16-11-127 to persons who approach security personnel at places where weapons are prohibited.[83] There was concern that this provision was making a change to the law, but in fact, this was merely an attempt to restructure and clarify existing Code.[84]

Section 1-4 of the Committee substitute removes the 1,000 foot "safety zone" around post-secondary campuses where weapons were previously prohibited, but re-establishes the prohibition of carrying weapons onto the grounds of post-secondary campuses and technical schools.[85] This, too, was a compromise to "get something done," similar to the return to banning licensed carry in places of worship.[86] This section retains the language allowing persons lawfully carrying a weapon in their car in accordance with SB 308 or Code section 43-38-10 to be exempted from the proscription against carrying on campuses.[87] This was an attempt to remove the "gotcha situation" where someone was within 1,000 feet of a school zone (without clear indications of where the footage began or ended) from being charged with a felony despite an otherwise lawful carry.[88] It also re-establishes the long-allowed rule that persons can lawfully carry to pick up or drop off students.[89] Senator Seabaugh explained that as long as the weapon remains in a locked car in a parking lot, or is in

83. *Compare* SB 308, as passed Senate, §1-3, p. 7, ln. 227–31, 2010 Ga. Gen. Assem. (allowing a licensed carrier to approach security personnel at places prohibiting weapons to determine the appropriate manner of storing or surrendering such weapon), *with* SB 308 (SCS), §1-3, p. 5, ln. 137–41, 2010 Ga. Gen. Assem. (removing the provision allowing a licensed carrier to approach security personnel at places prohibiting weapons to determine the appropriate manner of storing or surrendering such weapon).

84. *See* Seabaugh Interview, *supra* note 23 (indicating that the underlining of the section caused people to question if it was a new provision and what effect it may have on places such as courthouses, but that it was not in fact a substantive change in the law). This provision was later reinserted. SB 308, as passed, § 1-3, p. 7, ln. 217–21, 2010 Ga. Gen. Assem.

85. *Compare* SB 308, as passed Senate, §1-4, p. 8, ln. 243–45, 2010 Ga. Gen. Assem. (defining "school safety zone" as 1,000 feet within, on, or in the property owned or leased by any public or private elementary or secondary school), *with* SB 308 (SCS), §1-4, p. 7, ln. 218–22, 2010 Ga. Gen. Assem. ("'School safety zone' means in any real property owned or leased to any public or private . . . campus of any public or private technical school, vocational school, college, university, or institution of postsecondary education.").

86. House Judiciary Video, *supra* note 76, at 1 hr., 26 min., 45 sec. (remarks by Rep. Rich Golick (R-34th)); *see also* Seabaugh Interview, *supra* note 23.

87. SB 308 (SCS), § 1-4, p. 8, ln. 257–64, 2010 Ga. Gen. Assem.

88. House Judiciary Video, *supra* note 76, at 1 hr., 11 min., 10 sec. (remarks by Sen. Mitch Seabaugh (R-28th)); *id*. at 1 hr., 20 min. (remarks by Sen. Mitch Seabaugh (R-28th)).

89. SB 308 (SCS), § 1-4, p. 8, ln. 257–64, 2010 Ga. Gen. Assem.

the car and in the possession of the licensee, there is no illegality in the carrying of the weapon.[90] These provisions reinforce the idea that, although licensees have "privileges" with regard to their right to carry, they also have restrictions.[91]

Section 1-7 increases the prior $15.00 licensing fee to $30.00.[92] This section also deletes the availability of an enhanced weapons carry license found in the Senate version, which allowed a licensee to seek advance training, if so desired, in order to get an enhanced permit.[93] This provision was deleted because legislators could not reach a consensus on the appropriate standards of "safe handling" and "proficiency" to make an intelligible Code section.[94] Senator Seabaugh indicated that this provision would have caused confusion in a bill aimed at uniformity and clarification.[95] If the language had been retained, lawful carriers seeking an enhanced license would have been facing subjective application of the law at the probate court, because no two safety courses are alike.[96] This section also adds some specifications for revoking a license, including a provision allowing a judge to conduct a hearing upon notification that the person is in violation of the Code and, upon finding a violation, revoke the person's license.[97]

Section 1-7 also adds a provision modernizing the standards for the actual license itself, to conform to modern technological advances.[98] "[O]vert and covert security features" were added to aid law enforcement in determining the validity of the license, because

90. Seabaugh Interview, *supra* note 23.

91. *Id*.

92. *Compare* SB 308, as passed Senate, §1-7, p. 10, ln. 322–23, 2010 Ga. Gen. Assem., *with* SB 308 (SCS), § 1-7, p. 10, ln. 330–31, 2010 Ga. Gen. Assem.

93. *Compare* SB 308, as passed Senate, § 1-7, p. 12, ln. 398–92, 2010 Ga. Gen. Assem., *with* SB 308 (SCS), 2010 Ga. Gen. Assem. The Senate version allowed a license holder to apply for and receive an enhanced weapons carry license upon "sufficient evidence demonstrating completion of a handgun safety course, military or hunting course, or duty in the United States military services." SB 308, as passed Senate, § 1-7, p. 12, ln. 398–92, 2010 Ga. Gen. Assem.

94. Seabaugh Interview, *supra* note 23.

95. *Id*.

96. *Id*.

97. SB 308 (SCS), § 1-7, p. 14–15, ln. 492–515, 2010 Ga. Gen. Assem.

98. *Id.* §1-7, p. 15, ln. 516–46 (requiring all licenses issued on or after January 1, 2012 to include "overt and covert security features," including the use of certain colorations, photographs, the State seal, and alphanumeric serialization). The licenses will also be of "similar material, size, and thickness of a credit card and have a holographic laminate to secure and protect the license for the duration of the license period." *Id*. § 1-7, p. 16, ln. 540–42.

licenses issued out of various probate courts before this legislation varied greatly, making them hard to legitimize.[99]

Section 1-8 changes the definition of a "loaded carry" offense to "[whether] there is a cartridge in the chamber or the cylinder."[100] Presumably, this change was made to clarify the offense, because the previous language was awkward, making it an offense to carry a weapon "attached to [one's] clothing," if the gun and the ammunition were in "close proximity" to one another and the "person could readily gain access to the [gun]."[101] Section 1-10 was deleted so that failure to have one's license on one's person is no longer prima facie evidence of not being licensed.[102]

SB 308 was read on the House floor for the third time on April, 29, 2010. That same day, the House passed the Committee substitute by a vote of 118 to 48.[103]

Conference Committee Report

A Conference Committee was established in each house on April 29, 2010 to review the bill and come to a compromise.[104] Most significantly, the Conference Committee Report deleted the provision allowing licensed carry into areas of the airport not regulated by the federal government (i.e., anywhere before one gets to the security line).[105] This change was made not only to accommodate competing interests, as the church and school compromises had in earlier versions, but also because of the heightened "sensitivity" with airport security.[106] Opponents to the allowance of licensed carry into airports were concerned that even the smallest of disturbances in airports can

99. Seabaugh Interview, *supra* note 23.

100. *Compare* SB 308, as passed Senate, § 1-8, p. 17, ln. 574–82, 2010 Ga. Gen. Assem., *with* SB 308 (SCS), § 1-8, p. 17, ln. 601–04, 2010 Ga. Gen. Assem.

101. *See* SB 308, as passed Senate, § 1-8, p. 17, ln. 574–82, 2010 Ga. Gen. Assem.

102. SB 308 (SCS), 2010 Ga. Gen. Assem. (containing no provision regarding the evidentiary relevance of having one's license on one's person).

103. *See* State of Georgia Final Composite Status Sheet, SB 308, Apr. 29, 2010; *see also* House Judiciary Video, *supra* note 76, at 56 min., 29 sec. (remarks by Rep. David Ralston (R-7th)).

104. *See* State of Georgia Final Composite Sheet, SB 308, Apr. 29, 2010.

105. *See generally* SB 308 (CCR), §1-3, 2010 Ga. Gen. Assem. (containing no provision regarding the allowance of licensed weapons carriers to take weapons into the airport).

106. Seabaugh Interview *supra* note 23 (indicating many House members had a problem with the airport provisions and heightened "sensitivity" arose over government buildings); *see also* Senate Video *supra* note 32, at 3 hrs. 51 min. (remarks by Sen. Fort (D-39th)).

cause a "great deal of consternation, uproar, and [sic] can shut down [] the airport."[107] The Conference Committee Report also added a provision delegating to The Council of Probate Court Judges the task of creating "uniform" specifications for licenses, and granting the authority of the Council to seek equipment and supplies from the Department of Administrative Services to produce such licenses.[108]

Additionally, the Conference Committee Report reinserted the provision allowing a licensed carrier to approach security personnel in places where weapons carry is prohibited, because this was existing Code and made no substantive changes to the law.[109] The Conference Committee was adopted and passed in both houses on April 29, 2010.[110]

The Act

The Act amends Title 16 of the Official Code of Georgia Annotated with the purpose of clarifying where persons with a license to carry may carry a weapon.[111]

The Act defines handguns, license, other weapons, and places by amending Code section 16-11-125.1 in section 1-1.[112] This section defines a "knife," "weapon," "long gun," "weapons carry license," and "license holder."[113] Section 1-2 reorganizes and clarifies the language previously found in Code section 16-11-126 and allows licensed carriers to keep weapons in their cars, to carry long guns without a weapons carry license, to receive reciprocity in Georgia if they are licensed in another state, to carry weapons without a license if one is licensed as a hunter or fisherman while in the course of pursuing either sport, and allows licensed carry into parks and historic sites.[114] The section further clarifies that no person without a carry license may carry a weapon unless the person meets the

107. *E.g.*, Senate Video, *supra* note 32, at 3 hrs. 51 min. (remarks by Sen. Fort (D-39th)).
108. SB 308 (CCR), §17, p. 17, ln. 579–85, 2010 Ga. Gen. Assem.
109. *See supra* text accompanying notes 83–84; *see also* Seabaugh Interview, supra note 23.
110. *See* State of Georgia Final Composite Sheet, SB 308, Apr. 29, 2010.
111. Senate Video, *supra* note 32, at 3 hr., 23 min., 50 sec. (remarks by Sen. Seabaugh (R-28th)).
112. *Id.* at 3 hr., 29 min., 4 sec.; O.C.G.A. § 16-11-125.1 (Supp. 2010).
113. O.C.G.A § 16-11-125.1 (Supp. 2010).
114. *Id.* § 16-11-126(a)–(g).

aforementioned exceptions.[115] The section goes on to explain that carrying a weapon without a weapons carry license and without meeting an exception is a crime. First time offenders will be charged with a misdemeanor, and repeat offenses within five years will result in felony charges with an imprisonment term lasting two to five years.[116]

Section 1-3 of the Act strikes the language of the Public Gathering Law, found in Code section 16-11-127 that prohibited guns at public gatherings.[117] The section defines the terms "bar," "courthouse," "government building," "government entity," "parking facility," and "place of worship."[118] The section goes on to explain that guns may not be carried, regardless of a weapons carry license, in government buildings, courthouses, jails or prisons, mental health facilities, nuclear power facilities, or within 150 feet of a polling place.[119] The Act also establishes that guns may not be carried in places of worship, and may only be carried in bars where the bar owner allows guns to be present.[120] Under the Act, a person with a license to carry may carry a weapon in any place not listed in the Act as prohibited, though a property owner's right to prohibit guns from any property he or she owns or controls overrides a gun owner's right to carry on the property.[121]

Section 1-4 revises Code section 16-11-127.1, making it illegal to carry weapons onto school property or to school functions, as defined by the section, but removes the 1,000-foot safety zone previously enforced around the school.[122] Licensed individuals have also been granted the right to carry their weapons in their car onto school property, provided it stays locked safely in the car.[123]

Section 1-5 of the Act, which explains that the carrying of a weapon in a nuclear power facility is a misdemeanor, replaces the word "firearm" with word "weapon" as previously written in Code

115. *Id.* § 16-11-126(h).
116. *Id.*
117. *Id.*
118. *Id.* § 16-11-127.
119. O.C.G.A. § 16-11-127(b)(1)–(8) (Supp. 2010).
120. *Id.* § 16-11-127(b)(4), (6).
121. *Id.* § 16-11-127(b)(1-8).
122. *Id.* § 16-11-127.1(a)(1).
123. *Id.* § 16-11-127.1(b)(7).

section 16-11-127.2. Section 1-6 of the Act removes the language from Code section 16-11-128 that clarifies where unlicensed carriers may carry guns. Instead, section 1-2 of the Act includes this language.[124]

Section 1-7 of the Act amends Code section 16-11-129 and modifies the terms for licensure and renewal by changing the application fee to $30.00, up from $15.00.[125] This section also lists persons who are not eligible for weapons carry licenses.[126] The section specifies that the following individuals may not receive a license to carry weapons: persons under twenty one years of age; persons prohibited under 18 U.S.C. § 922 as unlicensed firearm importers or dealers; persons who have been convicted of the manufacture or distribution of a controlled substance; any person who has had their weapons carry license revoked; any person who has been an inpatient of a mental hospital or drug or alcohol treatment center; and, any person convicted of pointing a gun at another, of carrying a weapon without a carry license, or of carrying a weapon in an unauthorized location.[127] The section also includes requirements for "overt and covert security features" to be implemented in licenses issued after January 1, 2012.[128]

Section 1-8 of the Act changes the language of Code section 16-11-132 from "pistol or revolver" to "handgun."[129] This section relates to the carrying of weapons by persons under 18 years of age and prohibits such carry unless the person has attended a hunter education or firearms safety course, has engaged in target range practice as authorized by the local authorities, is a practicing or competing shooter under 26 U.S.C. 501(c), is hunting or fishing under licensure, or is traveling to and from any of these acceptable places with an unloaded firearm.[130] It also defines what a loaded handgun is by specifying that it is loaded "if there is a cartridge in the chamber or cylinder of the handgun."[131] Section 1-9 amends Code section 16-11-

124. O.C.G.A. § 16-11-126 (Supp. 2010).
125. *Id.* § 16-11-129(a).
126. *Id.* § 16-11-129(b).
127. *Id.* § 16-11-129(b)(1)–(3).
128. *Id.*
129. *Id.* § 16-11-132.
130. O.C.G.A. § 16-11-132 (Supp. 2010).
131. *Id.* § 16-11-132(a).

135 by prohibiting employers from banning weapons in the parking lots of its property as long as the weapon is kept in the employee or visitor's private vehicle.[132]

Analysis

Constitutional Considerations

The United States Supreme Court decision *District of Columbia v. Heller*, where the Court struck down a ban on possession of hand guns in the home, left unanswered the question of whether the Second Amendment would be incorporated against the states.[133] In July 2010, the Supreme Court answered this question in the landmark decision *McDonald v. City of Chicago*, and found that the Second Amendment right to keep and bear arms was incorporated and made applicable to the states through the Due Process Clause of the Fourteenth Amendment.[134] This decision did not make the parameters of a state's ability to regulate the right to bear arms clear. Indeed, the Court circumvented the invitation to do so by stating that "[n]o fundamental right . . . is absolute."[135]

The Act is already facing constitutional scrutiny over the inability of private churches to allow their congregation to carry licensed weapons onto church property. Georgiacarry.org, Inc., The Baptist Tabernacle of Thomaston, Georgia, Inc. (Tabernacle), and its pastor and members, filed suit on July 12, 2010 challenging the ban on carrying licensed weapons to the Tabernacle, a "place of worship" as defined by the Act.[136] The plaintiffs allege violations of the First and Second Amendments of the United States Constitution as well as state law, and seek declaratory and injunctive relief by requesting non-enforcement of the ban on lawful carry to places of worship.[137]

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132. *Id.* § 16-11-135.
133. *See generally* District of Columbia v. Heller, 128 S. Ct. 2783 (2008).
134. *See generally* McDonald v. Chicago, No. 08-1521, 2010 U.S. LEXIS 5523 (June 28, 2010).
135. *Id.* at *106.
136. *See generally* Verified Complaint, Georgiacarry.org, Inc. v. Georgia, 298 Ga. App. 686, 680 S.E.2d 697 (App. Ct. 2009) (No. 10v651); *see also* O.C.G.A. § 16-11-127(b)(4) (Supp. 2010).
137. *See generally* Verified Complaint, Georgiacarry.org, Inc. v. Georgia, 298 Ga. App. 686, 680 S.E.2d 697 (App. Ct. 2009) (No. 10v651).

Other Legal Considerations

Because the Act affects the criminal code, there will likely be litigation over the Act's applicability to certain circumstances.[138] These circumstances are hard to predict, as facts make the applicability of certain criminal codes moot or unjustified. The Act significantly reduces the ambiguities and vagueness inherent in the original Public Gathering Law pertaining to where a weapon may be carried, but what is not clear is how the terms pertaining to the method of storage of a weapon in one's car while on school grounds may be interpreted. Further, the ability to carry guns into bars may spur a host of new challenges, such as what types of warnings need to be present for consumers to be notified that they are in a place where guns are allowed.[139] These challenges will likely develop a myriad of cases that will lead to further codifications narrowing, or broadening, the Act's applicability.

Public Policy Concerns

As a general matter, Senator Donzella James (D-35th) expressed concern that the Act will result in an increase in the number of gun owners in Georgia.[140] She indicated a concern that when Georgia residents know that guns may be carried in certain public places, they will feel pressured to also carry a gun.[141] As a result of more guns present in society, Senator James explains that this change will lead to an increase in violence.[142] She mentions that tensions are particularly high in 2010, as the economy is not strong and many families are struggling with financial challenges.[143] Senator James is concerned that guns will be more accessible, and their increased accessibility will lead to more public and violent crimes.[144]

Senator Seabaugh repeatedly addressed these concerns, explaining that the Act does not affect who may or may not possess or carry a

138. Monroe Interview, *supra* note 5.
139. *See supra* note 79 and accompanying text.
140. Interview with Sen. Donzella James, (D-35th) (Mar. 29, 2010) [hereinafter James Interview].
141. *Id.*
142. *Id.*
143. *Id.*
144. *Id.*

gun.[145] The Act applies only to individuals who have been licensed to carry a firearm.[146] He explains, "[w]e are talking about . . . those individuals [who] have properly been licensed to carry a firearm. There are those who tried to make it more than that—saying that we are talking about giving guns to anybody to carry anywhere. We are not."[147]

The Act does not lessen the eligibility requirements associated with qualifying for a weapons carry license.[148] Instead, by repealing the Public Gathering Law, the Act allows those with a weapons carry license to carry weapons in public places where those in control of the location have not prohibited weapons from the premises.[149] The Act does not directly increase the accessibility of guns in Georgia, though it is possible that gun ownership could increase if residents feel pressure to own guns once licensed carriers are able to carry guns in public locations.[150]

Post-Secondary Schools

SB 308 faced significant criticism due to the original deletion of the prohibition of licensed carry onto post-secondary campuses.[151] Critics expressed concern over the presence of guns on campus, where tensions may be high, and also pointed to recent school shooting tragedies, such as the campus shooting at Virginia Tech in 2007.[152] Colleges generally continue to disallow licensed concealed carry by students, but many student protestors are pushing to lift campus gun bans.[153] Students argue that gun bans on campus amount to "disarm[ing] the victims," and they have had some victory in the courts.[154] In Colorado, an appellate court ruled in favor of students

145. Senate Video, *supra* note 33, at 3 hr., 28 min., 10 sec. (remarks by Sen. Seabaugh (R-28th)).
146. *Id.*
147. *Id.*
148. *Id*.
149. O.C.G.A § 16-11-129 (Supp. 2010).
150. James Interview, *supra* note 140.
151. *See generally* Senate Video, *supra* note 32.
152. Senate Video, *supra* note 32, at 4 hr., 45 min., 30 sec. (remarks by Sen. Fort (D-39th)).
153. Will Buchanan, *Three years after Virginia Tech shooting, college gun bans prevail*, CHRISTIAN SCIENCE MONITOR, Apr. 16, 2010, http://www.csmonitor.com/USA/Education/2010/0416/Three-years-after-Virginia-Tech-shooting-college-gun-bans-prevail (last visited Aug. 2, 2010).
154. *Id*.

pushing for concealed carry on campus, finding that the University of Colorado's rule prohibiting the carry of concealed weapons on campus violates the state's Concealed Carry Act of 2003.[155]

Currently, twenty-six states prohibit concealed carry on campuses, twenty-three states allow the schools to choose whether to ban guns or not, and only Utah requires universities funded with public monies to permit students to carry licensed concealed weapons on campus.[156] Georgia's continued gun ban on campuses may prove to be another way gun rights advocates, both on and off campus, push for judicial help. The state legislature and Governor Perdue have made it clear to the sponsors of SB 308 that guns on campus are not favored,[157] but given the recent fervor of Second Amendment protection from the United States Supreme Court, gun rights advocates may feel well-suited for their day in court.

Hartsfield-Jackson International Airport

Another public policy concern repeatedly discussed regarding SB 308 was the issue of guns in the airport. This provision remained until the Conference Committee issued its substitute, squashing the allowance of guns in places in the airport that are not federally regulated.[158] Hartsfield-Jackson International Airport is located in Fulton County and is owned by the City of Atlanta.[159] It has been ranked as the world's busiest airport for eleven consecutive years.[160] Following September 11, 2001, airport security has been a prime focus of Congress, state legislatures, and law enforcement officials.[161] It is unsurprising that SB 308 was criticized for allowing weapons into the airport.

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155. *Id.*

156. *Id.*

157. *See supra* note 79 and accompanying text.

158. *See* SB 308 (CCR), 2010 Ga. Gen. Assem. (containing no provision allowing weapons in the airport).

159. HARTSFIELD-JACKSON ATLANTA INTERNATIONAL AIRPORT, OWNERSHIP & MANAGEMENT, FISCAL YEAR-END: JUNE 30, 2009, http://www.atrsworld.org/docs/2010ATL.pdf.

160. *Id.*

161. *See generally* UNITED STATES GENERAL ACCOUNTING OFFICE, AVIATION SECURITY: PROGRESS SINCE SEPTEMBER 11, 2001, AND THE CHALLENGES AHEAD (2003), http://gao.gov/new.items/d031150t.pdf.

Opponents of the allowance of guns in airports argued that the presence of weapons could create significant security problems, because people are sensitive to weapons in the airport after the attacks on September 11, 2001.[162] Though these concerns are legitimate, supporters argued that weapons are currently checked in at the baggage claim area to be stored during flight, and that the federal government still regulates the security gates so that weapons do not enter the terminals or the aircrafts.[163] Despite this inconsistency, the Conference Committee struck this provision after its supporters were defeated in the compromise.[164] This ban remains in effect and may be challenged in the future should an unsuspecting licensed carrier be caught with a weapon on the airport premises.

Places of Worship

As noted above, one church is already challenging the ban of weapons on private church property.[165] This particular concern is legally significant because the complaint alleges violations of both the First and Second Amendment.[166] The plaintiffs believe that the First Amendment protects their right to freely exercise and establish their own rules for their religious gatherings without secular interference.[167] Because places of worship cannot be publicly owned, pursuant to the First Amendment, the plaintiffs may be victorious in their challenge. An included purpose of the Act was to give private property owners a choice of whether to allow licensed weapons carry onto their property, but the Act bans guns on private property recognized as "places of worship."[168] This inconsistency may prove fatal for that particular provision of the Act.

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162. *See generally* Senate Video, *supra* note 32; Video Recording of the House Proceedings, Apr. 29, 2010, at 35 min. (remarks by Rep. Stephanie Benfield (D-85th)), http://mediam1.gpb.org/ga/leg/2010/ga-leg-house-042910_AM.wmv; House Judiciary Video, *supra* note 76.

163. *See generally* Senate Video, *supra* note 32; House Judiciary Video, *supra* note 76.

164. SB 308 (CCR), 2010 Ga. Gen. Assem. (containing no provision allowing weapons in the airport); *see also supra* notes 102–06 and accompanying text.

165. Verified Complaint, Georgiacarry.org, Inc. v. Georgia, 298 Ga. App. 686, 680 S.E.2d 697 (App. Ct. 2009) (No. 10v651).

166. *Id*.

167. *Id.*; O.C.G.A. § 16-11-127(b)(4) (Supp. 2010).

168. O.C.G.A. § 16-11-127(b)(4) (Supp. 2010).

The underlying concern for balancing public safety with Second Amendment and property rights is inherent in the debate over where weapons should and should not be allowed. This debate is lively; however, a coherent and balanced criminal code that Georgia citizens will obey and respect will only be created if lawmakers, citizens, judges, and public interest groups continue to give this issue full attention.

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