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CRIMES AND OFFENSES

Offenses Against Public Order and Safety: Provide for Specific Means of Carrying Concealed Weapons; Permit Holder of Valid License to Have Handgun in Any Location Within Motor Vehicle; Permit Persons Legally Entitled to Carry Handguns in Other States to Carry Handguns in Georgia

CODE SECTIONS:	O.C.G.A. §§ 16-11-126, -128 to -129, -174 (amended)
BILL NUMBER:	SB 678
ACT NUMBER:	520
GEORGIA LAWS:	1996 Ga. Laws 108
SUMMARY:	The Act permits a licensed person to conceal a firearm under his or her clothing if the firearm is carried in a holster or similar device. The Act allows those without licenses, but not ineligible for licenses, to have a loaded firearm in a passenger vehicle, as long as the firearm is in open view or in the glove compartment. Those with licenses may have a handgun in any location in a motor vehicle. The Act creates reciprocity between gun licensees in other states, giving permission to carry firearms in Georgia and requiring compliance with Georgia laws. The Act allows nonresident members of the armed forces living in any county in Georgia to apply for a license to carry a concealed weapon in Georgia. The Act extends the response time allowed for the Georgia Bureau of Investigation to conduct background checks in the event of electronic delays or other emergencies.
EFFECTIVE DATE:	July 1, 1996

History

Twenty-eight states have laws allowing "law-abiding citizens" to carry concealed weapons.[1] Proponents of relaxed gun control laws believe the Second Amendment, which permits peaceful citizens to carry

1. Bill Straub, *Dueling Data: Do Concealed-Gun Laws Help?*, CINCINNATI POST, Feb. 8, 1996, at 1A.

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weapons, is sufficient authorization.[2] Further, the gun lobby argues that in order to have a safer society, more guns are needed.[3] The growth of this pro-concealed-weapon movement might be attributed to the "Republican revolution" in the 1994 United States Congressional elections;[4] through the election of conservative, pro-gun candidates, voters have authorized such legislation.[5]

Georgia has allowed properly licensed gun owners to carry concealed weapons under certain conditions since the 1830s.[6] However, the limiting nature of the existing law led Senators Perdue, Marable, and Madden, with the support of the National Rifle Association (NRA) and other interest groups, to sponsor this legislation extending and clarifying current law.[7]

Georgia's statute allowing concealed weapons had been in place for about twenty years.[8] Most law enforcement authorities had interpreted the law to allow permit-carrying citizens to carry weapons under their clothing.[9] However, opponents had argued against carrying weapons concealed by clothing, claiming that the language of the law prevented such methods.[10] SB 678 was introduced to clarify and give effect to the intent of the existing law.[11]

SB 678

Evolution of the Act

SB 678 passed the Senate Committee on Public Safety and the full Senate with no amendments.[12] Two amendments, one concerning the carrying of concealed weapons by licensees from states that have

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2. *Id.*
3. *Id.*
4. *Id.*
5. *Id.*
6. Cynthia Tucker, *Concealed Weapons: Putting Police at Risk to Please Lobbyists*, ATLANTA J. & CONST., Mar. 20, 1996, at A16.
7. Telephone Interview with Sen. Sonny Perdue, Senate District No. 18 (June 4, 1996) [hereinafter Perdue Interview].
8. 1976 Ga. Laws 1430, § 1, at 1431-32 (formerly found at O.C.G.A. § 16-11-126 (1992)); Perdue Interview, *supra* note 7.
9. Perdue Interview, *supra* note 7.
10. *Id.*
11. *Id.*; SB 678, as introduced, 1996 Ga. Gen. Assem.; Telephone Interview with Rep. Curtis Jenkins, House District No. 110 (June 4, 1996) [hereinafter Jenkins Interview]. Representative Jenkins, who was influential in the passage of the Act, pointed out that the existing law allowed a person to carry a gun in a handbag or in a hipgrip (which is worn inside trousers), but prevented a person from carrying a gun in a holster underneath a jacket. *Id.* He stated that the existing law was ambiguous in this sense and that this Act was passed to clarify such ambiguities. *Id.*
12. Final Composite Status Sheet, Mar. 18, 1996.

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reciprocity with Georgia, and one concerning the lifting of restrictions regarding the transport of concealed weapons in motor vehicles, were added on the House floor.[13] The bill was also amended in the House Public Safety Committee.[14] During the final days of the Legislative session, SB 678 went to conference committee where Senate conferees proposed combining it with SB 624.[15] This proposal was not agreed upon, and SB 678 emerged with slight changes.[16]

Carrying a Concealed Weapon

The Act amends Code section 16-11-126 in two ways. First, language was added to provide that if a properly licensed person carries a firearm in a shoulder holster, waist belt holster, or any other holster, hipgrip, or similar device, that weapon may be concealed by the person's clothing.[17] Some law enforcement authorities have expressed concern that the Act will endanger their lives.[18] Supporters of the Act respond that it has not actually changed anything, but merely clarifies what the law has been for some time.[19]

Second, the Act allows any eligible, unlicensed person to transport a loaded firearm in any private passenger motor vehicle, as long as it is fully in view or in the vehicle's glove compartment.[20] A person who is licensed may now carry a handgun in any location in a motor vehicle.[21]

Reciprocity

The Act provides that beginning October 1, 1996, a person licensed to carry a handgun in another state is authorized to carry a handgun in Georgia, as long as that person complies with Georgia laws in the carrying of the handgun and is not a resident of Georgia.[22] This

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13. *Id.*; Letter from Rep. Curtis Jenkins, House District No. 110, to Governor Zell Miller (Mar. 19, 1996) [hereinafter Jenkins Letter] (available in Georgia State University College of Law Library).

14. Final Composite Status Sheet, Mar. 18, 1996.

15. *Id.*; Jenkins Letter, *supra* note 14. SB 624 added certain retired law enforcement personnel to those individuals exempted from concealed firearm restrictions. Jenkins Letter, *supra* note 14. Representative Jenkins opposed this proposal because he believed SB 624 was problematic. *Id.* SB 624 was later vetoed by Governor Miller. Jenkins Interview, *supra* note 12.

16. Jenkins Letter, *supra* note 14.

17. *Compare* 1976 Ga. Laws 1430, § 1, at 1431 (formerly found at O.C.G.A. § 16-11-126(c) (1992)) *with* O.C.G.A. § 16-11-126(c) (1996).

18. Perdue Interview, *supra* note 7.

19. *Id.*

20. O.C.G.A. § 16-11-126(d) (1996).

21. *Compare* 1976 Ga. Laws 1430, § 1, at 1431-32 (formerly found at O.C.G.A. § 16-11-126(d) (1992)) *with* O.C.G.A. § 16-11-126(d) (1996).

22. O.C.G.A. §§ 16-11-126(e), -128(c) (1996).

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provision was made in response to inquiries from citizens of other states regarding the guidelines for carrying a concealed weapon in a car.[23]

Originally, the Act did not require compliance with Georgia law, but allowed the carrying of a handgun under the terms of the licensing state.[24] The provision was added in conference committee.[25]

Military Personnel

Prior to the Act, the judge of the probate court in each county was authorized to issue a license to those domiciled in that county.[26] The Act now provides for the licensing of a person who is on active duty with the United States armed forces and resides in the county of application, but who is not a domiciliary of Georgia.[27] This provision was added to the original bill by the House Committee on Public Safety to address those who "fell through the cracks" under the previous statutory language and were not eligible for a license.[28]

Background Checks

Prior to the Act, if a background check on a person purchasing a firearm could not be completed due to a system failure or other emergency by the close of business on the day the request was made, the firearm dealer was authorized to complete the transaction immediately.[29] The Act extends the response time allowed, by providing that the Georgia Bureau of Investigation (GBI) has until noon on the next business day to inform the dealer whether the buyer is prohibited from purchasing a firearm.[30] If the dealer is not notified by the morning of the next business day after the request is made, then the transaction may be completed.[31] This provision was requested by the GBI and added in conference committee.[32]

Rachelle Renfro Green

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23. Perdue Interview, *supra* note 7.
24. SB 678, as introduced, 1996 Ga. Gen. Assem.
25. *See* SB 678 (CCS), 1996 Ga. Gen. Assem.
26. 1986 Ga. Laws 481, § 1, at 481-82 (formerly found at O.C.G.A. § 16-11-129 (1992)).
27. O.C.G.A. § 16-11-129 (1996).
28. *See* SB 678 (HCS), 1996 Ga. Gen. Assem.; Perdue Interview, *supra* note 7.
29. 1995 Ga. Laws 139, § 2, at 143-44 (formerly found at O.C.G.A. § 16-11-174(a) (Supp. 1995)).
30. O.C.G.A. § 16-11-174(a) (1996).
31. *Id.*
32. *See* SB 678 (CCS), 1996 Ga. Gen. Assem.; Perdue Interview, *supra* note 7.

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