History of Georgia Carry Laws

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Executive Summary

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1825	**1825 Vol. 1 -- Page:** 160 Short Title: To alter amend and consolidate the road laws so far as respects the county of Glynn. SEC. 5. *And be it further enacted,* That every male white inhabitant liable to work and appear as aforesaid, shall when summoned and appearing as aforesaid in his district or division, if required, carry with him one good and sufficient gun or pair of pistols and at least nine cartridges to fit the same, or twelve loads of powder and ball or buck-shot, under the penalty of seventy-five cents for every day he shall neglect so to do.
1833	**1833 Vol. 1 -- Page:** 226 – An Act concerning free persons of Colour, their Guardians, and Coloured Preachers. *Be it enacted by the Senate and House of Representatives of the state of Georgia, in General Assembly met, and it is hereby enacted by authority of the same,* ….. SEC. 7. *And be it enacted by the authority aforesaid,* That from and after the passage of this act, it shall not be lawful for any free person of colour in this state, to own, use, or carry fire arms of any description whatever.
1837	**1837 Vol. 1 -- Page:** 90 Full Title**:** AN ACT to guard and protect the citizens of this State, against the unwarrantable and too prevalent use of deadly weapons. Section 1. *Be it enacted by the Senate and House of Representatives of the State of Georgia, in General Assembly met, and it is hereby enacted by the authority of the same*, That from and after the passage of this act, it shall not be lawful for any merchant, or vender of wares or merchandize in this State, or any other person or persons whatsoever, to sell, or offer to sell, or to keep, or have about their person or elsewhere, any of the hereinafter described weapons, to wit: Bowie, or any other kind of knives, manufactured and sold for the purpose of wearing, or carrying the same as arms of offence or defence, pistols, dirks, sword canes, spears, &c., shall also be contemplated in this act, save such pistols as are known and used, as horseman's pistols, &c. Sec. 2. *And be it further enacted by the authority aforesaid*, That any person or persons within the limits of this State, violating the provisions of this act, except as hereafter excepted, shall, for each and every such offence, be deemed guilty of a high misdemeanor, and upon trial and conviction thereof, shall be fined, in a sum not exceeding five hundred dollars for the first offence, nor less than one hundred dollars at the direction of the Court; and upon a second conviction, and every after conviction of a like offence, in a sum not to exceed one thousand dollars, nor less than five hundred dollars, at the discretion of the Court. Sec. 3. *And be it further enacted by the authority aforesaid*, That it shall be the duty of all civil officers, to be vigilent in carrying the provisions of this act into full effect, as well also as Grand Jurors, to make presentments of each and every offence under this act, which shall come under their knowledge. Sec. 4. *And be it further enacted by the authority aforesaid*, That all fines and forfeitures arising under this act, shall be paid into the county Treasury, to be appropriated to county purposes: *Provided, nevertheless*, that the provisions of this act shall not extend to Sheriffs, Deputy Sheriffs, Marshals, Constables, Overseers or Patrols, in actual discharge of their respective duties, but not otherwise: *Provided, also*, that no person or persons, shall be found guilty of violating the before recited act, who shall openly wear, externally, Bowie Knives, Dirks, Tooth Picks, Spears, and which shall be exposed plainly to view: *And provided, nevertheless*, that the provisions of this act shall not extend to prevent venders, or any other persons who now own and have for sale, any of the aforesaid weapons, before the first day of March next.

1846

Nunn v. State, 1 Ga. 243, 250-51 (1846)

No. 36.--Hawkins H. Nunn vs. The State of Georgia.

An indictment, founded upon a presentment of the grand jury, need not be sent again before that body for its action thereon.

It is the duty of the clerk to spread out in full upon the minutes of the court, every presentment of the grand jury.

A law which merely inhibits the wearing of certain weapons in a concealed manner is valid. But so far as it cuts off the exercise of the right of the citizen altogether to bear arms, or, under the color of prescribing the mode, renders the right itself useless--it is in conflict with the Constitution, and void.

This was a bill of indictment, founded upon a presentment of a grand jury at Sumpter Superior Court, against he plaintiff in error, for a high misdemeanor, for having and keeping about his person, and elsewhere, a pistol, the same not being such a pistol as is known and used as a horseman's pistol, under an act of the General Assembly of the State of Georgia, entitled "An Act to guard and protect the citizens of this State against the unwarrantable and too prevalent use of deadly weapons," assented to on the 25th December, 1837; upon which bill was endorsed by the solicitor-general, that the same was "founded on the presentment of a grand jury."--The bill of indictment, so made out and endorsed, as founded upon presentment, &c, had not at any time been sent out to a grand jury, and found a true bill: that the only evidence of there having been a presentment made in said case was a paper, purporting to be a presentment of the grand jury for the November Term, 1844, of said court, and an entry made upon the minutes of the court for the said term, as follows, to wit:

"The State)
)
vs) High Misdemeanor."
)
"Hawkins H. Nunn)

And the names of the grand jurors inserted in the said paper, purporting to be the presentment, were the names of the grand jurors of said term.(p.244)

At May Term, 1846, of said Superior Court, the said bill of indictment came on to be tried before Judge Warren; when the plaintiff in error having been arraigned, and plead not guilty by his counsel, moved to quash the indictment on the following grounds:

1st. That the before-recited statute of the State of Georgia, assented to on the 25th of December, 1837, under which said indictment was found, is contrary to, and in violation of, the Constitution of the United States of America.

2d. That said statute is contrary to, and in violation of, the Constitution of the State of Georgia.

3d. That the indictment does not show and charge that the defendant below carried the pistol, with the having and keeping of which he is charged, secretly.

4th. That there is no sufficient legal evidence of record upon the minutes of the court, at the term at which the presentment, upon which said indictment is framed, purports to have been made, that said presentment ever was in fact made by the grand jury, or delivered into court.

5th. That the bill of indictment was never sent before any grand jury for action upon it.

6th. That said statute is void for uncertainty, and for the absurdity and contradiction in its different provisions.

All of which said grounds were overruled by the court below; and the plaintiff in error excepted. George Dykes, a witness for the State, was then introduced, and proved that on the 4th day of November, 1844, the plaintiff in error, in said county of Sumpter, had a pistol in his hand, which was not a horsemen's pistol, but a breast pistol. And thereupon, after argument, the judge of the court below charged the jury that the aforesaid statute was constitutional and of force, and if they believed that the defendant had the pistol, they should bring in a verdict of guilty. To which the plaintiff in error also excepted.

Dudley and Crawford and T.C. Sullivan, for the plaintiff in error,

Contended, 1st. That the act of 1837, under which the indictment in this case was framed, is contrary to the Constitution of the U.S.--Prin. Dig. 900, 2d Amendment; Patrol law Prin. Dig. 774; Militia Law U.S. Ing. Dig. 596; Ib. Georgia, Prin. Dig. 588; 4 Wheaton 2d Condensed Reps. Supreme Ct. 326; 9 Wheat. 562; 1 Ala. Rep. New Series 614; 2d Litt. 90; 3 Blackf'd 229.

2d. That said act is contrary to the Constitution of the State of Georgia.--Prin. Dig. 904; 17 sec. 1st art. Constitution.

3d. The indictment does not charge that the pistol was carried secretly.--Pamphlet Laws of 1837, p. 90; Prin. Dig. 774.

4th. That there was no sufficient legal evidence that the presentment had been made and delivered into court by the grand jury. Our statute requires the clerk to keep minutes of all the proceedings in the court, (Prin. Dig. 428,) and presentments should either be entered at full length on the minutes, or such an entry should be made as to show conclusively that the presentment had been made. Such an entry as made in this case, to wit: "The State vs. Hawkins H. Nunn, high misdemeanor," is insufficient.

5th. That the indictment was never acted on by the grand jury.--Prin. Dig. 659; 14 division 5th sec. 3 Blk. Com., 4 Com. Dig. 645, note u.; 1 Chit. Cr. Law 162-3; Stephen Crim. Law.

6th. Said statute is void for its absurdities and conflicting provisions.--Pamphlet Laws, 1837, page 90.(p.245)

Wm. J. Patterson, Sol. Gen. for the State.

Before the court will declare an act of the Legislature unconstitutional, a case must be presented in which there can be no rational doubt.--1 Ala. Rep. 612, New Series; 1 Cowen Rep. 550; 1 Com. Law Rep. 146. There was sufficient legal evidence of the presentment.--4 Phillips' Ev. 1068-1074; Roscoe's Crim. Ev. 186. It was not necessary for the grand jury to act upon the bill of indictment, predicated as it was on a special presentment.--1 Chit. Crim. Law, 162; 4 Blk. Com. 301.

By the Court.--Lumpkin, Judge.

This was an indictment for a high misdemeanor, founded upon the presentment of a grand jury in Sumpter Superior Court.

At May term, 1846, the defendant, being arraigned, pleaded not guilty, and moved to quash the proceeding on the following grounds, to wit: 1st and 2d. Because the act of 1837, under which he was prosecuted, was contrary to the Constitution of the United States and of the State of Georgia.

3d. Because the indictment does not show and charge that the defendant (below) carried the pistols secretly, with the having and keeping of which he is charged in the indictment.

4th. Because there is no sufficient evidence of record that said presentment ever was made by a grand jury, or delivered into court.

5th. Because the bill of indictment was never sent before any grand jury for action upon it.

6th. Because the act of 1837 is void for uncertainty, and the absurdity and contradictions in its different provisions.

All these objections being overruled by Judge Warren, they are now presented in the bill of exceptions for the determination of the Supreme Court.

The view taken by us of the first grounds submitted to our consideration, will dispose finally of this case: still, as there are several important points of practice contained in some of the other grounds, and which are properly before us, and have been fully discussed by counsel, we deem it advisable to express our opinion respecting them.

In the opinion of this court, it is not necessary that an indictment, founded upon presentments, should be referred to the grand jury for the further action of that body. A presentment is the notice taken already by the grand jury of any offence, from their own knowledge or observation, and into which it is their duty to inquire. And although the party cannot be put to answer it until it is delivered into court, and an indictment framed thereon by the proper officer, still, it is never sent back to the grand inquest to be acted on a second time.--Burn's J. Presentment; 1 Chitty's Crim. Law, 163. Neither is it indispensably necessary that the whole presentment be spread upon the minutes of the court, with the action of the jury thereon. The endorsement on the paper itself, of file in the office, or the signatures of the body, or of the foreman, in the name of himself and his fellows, aided by the testimony of the solicitor and clerk, would be sufficient. It is, however, a highly useful and safe

practice, and a duty required to be performed, no doubt, by the law, that the whole presentment be put upon the minutes.

It is always with unfeigned reluctance that we approach a question involving the constitutionality of a state law. It is made our duty, however, (p.246)in the present case, and we should be unworthy of the exalted station we occupy, if we were to shrink from its performance.

There are certain fundamental principles appertaining to questions of this character, which should never be overlooked. I will state a few of them, and then proceed to examine the statutes in controversy.

It ought seldom or ever to be decided, in a doubtful case, that a law is void for repugnance to the Constitution. And it is not on slight implications and vague conjectures that the Legislature is to be pronounced to have transcended its powers. On the contrary, the opposition between the law and the Constitution should be such, that the judges feel a clear and strong conviction of their incompatibility with each other. The presumption is in favor of every legislative act, and the whole burden of proof lies on him who denies its constitutionality. These doctrines have been repeatedly advanced by the highest judicatory in the nation.--See 6 Cranch, 128; 4 Wheaton, 625; 12 lb. 436.

The act of 1837 was passed to guard and protect the citizens of the State against the unwarrantable and too prevalent use of deadly weapons.

Section 1st enacts, "that it shall not be lawful for any merchant or vendor of wares or merchandize in this State, or any other person or persons whatever, to sell, or to offer to sell, or to keep or to have about their persons, or elsewhere, any of the herein-after-described weapons, to wit: Bowie or any other kinds of knives, manufactured and sold for the purpose of wearing or carrying the same as arms of offence or defence; pistols, dirks, sword-canes, spears, &c., shall also be contemplated in this act, save such pistols as are known and used as horseman's pistols," &c.

Section 2d, prescribes the punishment.

Section 3d, makes it the duty of all civil officers to be vigilant in carrying the act into full effect, &c.

Section 4th, disposes of the fines arising under the act, and exempts sheriffs and other officers, therein named, from its provisions while in the actual discharge of their respective duties. It then declares, that no person or persons shall be found guilty of violating the before-recited act, who shall openly wear, externally, bowie-knives, dirks, tooth-picks, spears, and which shall be exposed plainly to view. It allows vendors or any other persons to sell any of the aforesaid weapons, which they then owned or had on hand, "till the first day of March next ensuing its date."

There is great vagueness in the wording of this statute. It would seem to have been the intention of the Legislature to make the proviso in the 4th section as broad as the enacting clause in the 1st. But such is not the fact. Pistols and sword-canes are inserted in the 1st, and omitted in the 4th section; and tooth-picks are mentioned for the first time in the proviso, in the 4th section. Were we disposed to criticise language, an ample field is here spread out before us. It might be insisted, and with much plausibility, that even sheriffs, and other officers therein enumerated, might be convicted for keeping, as well as carrying, any of the forbidden weapons, while not in the actual discharge of their respective duties. And yet it is hardly to be supposed, that it was expected of sheriffs, constables, marshals, overseers and patrols, to procure a new supply of arms for each successive service, and throw them away when it was accomplished: for they dare not sell or otherwise dispose of them after March, 1838. It is the plain and literal meaning of the act, too, (p.247)that no person should be found guilty of selling or offering to sell, or keeping or having about their persons, or elsewhere, bowie or any other kind of knives, pistols, dirks, sword-canes, or spears, who shall openly wear, externally, bowie-knives, dirks, tooth-picks, and spears, and which shall be exposed plainly to view. But this would be an absurdity too glaring to impute to the wisdom of that body.

What, then, is the obvious purpose of the Assembly, to be deduced from the whole act, deviating a little, as we are at liberty to do, from the literal meaning of its language, and looking to the subject matter, to which the words are always supposed to have regard, and the reason and spirit of the act? It prohibits bowie-knives, dirks, spears, (and it may be, tooth-picks,) from being sold, or secretly kept about the person, or elsewhere; and it forbids, altogether, the use, or sale, or keeping, of sword-canes, and pistols, save such pistols as are known and used as horseman's pistols, &c. Now, the defendant, Hawkins H. Nunn, was indicted and convicted of a high misdemeanor, "for having and keeping about his person, and elsewhere, a pistol, the same not being such a pistol as is known and used as a horseman's pistol."

It is not pretended that he carried his weapon secretly, but it is charged as a crime, that he had and kept it about his person, and elsewhere. And this presents for our decision the broad question, is it competent for the Legislature to deny to one of its citizens this privilege? We think not.

This question has occasionally come before the courts of the Union for adjudication. In Bliss vs. The Commonwealth, (2 Littell's Rep. 90,) the defendant was indicted, on the act of the Legislature "to prevent persons from wearing concealed arms." It provides that any person in the Commonwealth, who shall, after its passage, "wear a pocket-pistol, dirk, large knife, or sword in a cane, concealed

as a weapon, unless when traveling on a journey, shall be fined in any sum not less than one hundred dollars; which may be recovered in any court having jurisdiction of like sums, by action of debt, or on presentment of a grand jury."

The indictment, in the words of the act, charges Bliss with having worn, concealed as a weapon, a sword in a cane.

Bliss was found guilty of the charge, and a fine of one hundred dollars assessed by the jury, and judgment was thereon rendered by the court. To reverse that judgment, Bliss appealed to the Supreme Court, by a majority of which (Judge Mills dissenting) the judgment was reversed.

The argument in this case turned mainly on the 23d section of the 10th article of the Constitution of Kentucky, which provides "that the right of the citizens to bear arms in defence of themselves and the State, shall not be questioned."

The attorney-general did not contend that it would be competent for the Legislature, by the enactment of any law, to prevent the citizens from bearing arms; but a distinction was taken between a law prohibiting the exercise of the right, and a law merely regulating the manner of exercising that right. And while the former was admitted to be incompatible with the Constitution, it was insisted that the latter was not so. And under that distinction, and by assigning the act in question a place in the latter description of laws, its consistency with the Constitution was attempted to be maintained.(p.248)

But the court say, "that the provisions of the act in question do not import an entire destruction of the right, will not be controverted; for though the citizens are forbid wearing weapons, concealed in the manner described in the act, they may nevertheless bear arms in any admissible form. But to be in conflict with the Constitution, it is not essential that the act should contain a prohibition against bearing arms, in every possible form. It is the right to bear arms, that is secured by the Constitution, and whatever restrains the full and complete exercise of that right, though not an entire destruction of it, is forbidden by the explicit language of the Constitution."

"If, therefore, the act in question imposes any restraint on the right, immaterial what appellation may be given to the act, whether it be an act regulating the manner of bearing arms, or any other, the consequence in reference to the Constitution is precisely the same, and its collision with that instrument equally obvious."

"And can there be entertained a reasonable doubt, but the provisions of the act import a restraint on the right of the citizens to bear arms? The court apprehends not. The right has no limits, short of the moral power of the citizens to exercise it, and in fact consists of nothing else but the liberty. Diminish that liberty, therefore, and you necessarily restrain the right; and such is the diminution and restraint which the act in question most indisputably imports, by prohibiting the citizens bearing weapons. In truth, the right of the citizens to bear arms has been as directly assailed by the provisions of this act, as though they were forbid carrying guns on their shoulders, swords in scabbards, or when in conflict with an enemy, were not allowed the use of bayonets. And, if the act be consistent with the Constitution, it cannot be incompatible with that instrument for the Legislature by successive enactments to entirely cut off the exercise of the right of the citizens to bear arms. For in principle there is no difference between a law prohibiting the wearing concealed arms, and a law forbidding the wearing of such as are exposed; and, if the former be unconstitutional, the latter must be so likewise."

The conclusion at which the court arrived was, that an act to prevent persons from wearing even concealed weapons is unconstitutional and void.

In the State vs. Reid, (1 Ala. Rep. 612,) the same question came up, but was differently adjudged; thus verifying the old truth, "tot homines, quot sententiae,"--so many men, so many opinions!

By the first section of the act of Alabama (passed 1838-1839) it is declared, "that if any person shall carry concealed about his person any species of fire-arms, or any bowie knife, Arkansas tooth-pick, or any other knife of the like kind, dirk, or any other deadly weapon, the person so offending shall, on conviction thereof before any court having competent jurisdiction, pay a fine not less than fifty, nor more than five hundred dollars, to be assessed by the jury trying the case; and be imprisoned for a term not exceeding three months, at the discretion of the judge of said court."

Under this section, the defendant was indicted in the Circuit Court of Montgomery, for carrying concealed about his person a certain species of fire-arms, called a pistol, contrary to the form of the statute. The defendant pleaded not guilty, and insisted, that the law under which he was prosecuted, was contrary to the constitution of Alabama, which declares, "that every citizen has a right to bear arms in defence of himself and the State."--23d sect. 1st art. of the Constitution.(p.249)

Collier, Chief Justice, says: "The question recurs, does the act "to suppress the evil practice of carrying weapons secretly," trench upon the constitutional rights of the citizen? We think not.

"The Constitution, in declaring that every citizen has the right to bear arms, in defence of himself

and the State, has neither expressly nor by implication denied to the Legislature the right to enact laws in regard to the manner in which arms shall be borne.

"We do not desire to be understood as maintaining, that in regulating the manner of bearing arms, the authority of the Legislature has no other limit than its own discretion. A statute which, under the pretence of regulating, amounts to a destruction of the right, or which requires arms to be so borne as to render them wholly useless for the purpose of defence, would be clearly unconstitutional. But a law which is merely intended to promote personal security, and to put down lawless aggression and violence, and to this end prohibits the wearing of certain weapons in such a manner as is calculated to exert an unhappy influence upon the moral feelings of the wearer, by making him less regardful of the personal security of others, does not come in collision with the Constitution.

The same point arose in the case of The State vs. Mitchell.--3 Black. Rep. 229. There the defendant was indicted under a statute of Indiana, which is as follows: "Every person, not being a traveler, who shall wear or carry a dirk, pistol, sword in a cane, or other dangerous weapon, concealed, shall, upon conviction thereof, be fined in any sum not exceeding one hundred dollars."--Laws of Indiana, ed. of 1831, p.192.

The court decided that this act was not contrary to the Constitution of that State, which declares that "the people have a right to bear arms for the defence of themselves and the State."

It is true, that these adjudications are all made on clauses in the State Constitutions; but these instruments confer no new rights on the people which did not belong to them before. When, I would ask, did any legislative body in the Union have the right to deny to its citizens the privilege of keeping and bearing arms in defence of themselves and their country?

If this right, "inestimable to freemen," has been guarantied to British subjects, since the abdication and flight of the last of the Stuarts and the ascension of the Prince of Orange, did it not belong to our colonial ancestors in this western hemisphere? Has it been a part of the English Constitution ever since the bill of rights and act of settlement? and been forfeited here by the substitution and adoption of our own Constitution? No notion can be more fallacious than this! On the contrary, this is one of the fundamental principles, upon which rests the great fabric of civil liberty, reared by the fathers of the Revolution and of the country. And the Constitution of the United States, in declaring that the right of the people to keep and bear arms, should not be infringed, only reiterated a truth announced a century before, in the act of 1689, "to extend and secure the rights and liberties of English subjects"--whether living 3,000 or 300 miles from the royal palace. And it is worthy of observation, that both charters or compacts look to the same motive, for the irrespective enactments. The act of 1 William and Mary, declares that it is against law to raise or keep a standing army in the kingdom, in time of peace, without the consent of Parliament, and therefore places arms in (p.250)the hands of the people; and our Constitution assigns as a reason why this right shall not be interfered with, or in any manner abridged, that the free enjoyment of it will prepare and qualify a well-regulated militia, which are necessary to the security of a free State.

I am aware that it has been decided, that this, like other amendments adopted at the same time, is a restriction upon the government of the United States, and does not extend to the individual States. The court held otherwise, however, in the case of the People vs. Goodwin, (18 John. Rep. 200) and Chief Justice Spencer, who delivered its opinion, says: "The defendant's counsel rely principally on the fifth article of the amendments to the Constitution of the United States, which contains this provision: 'Nor, shall any person be subject, for the same offence, to be twice put in jeopardy of life or limb.' It has been urged by the prisoner's counsel, that this constitutional provision operates upon State courts--proprio vigore. This has been denied on the other side. I am inclined to the opinion, that the article in question does extend to all judicial tribunals, whether constituted by the Congress of the United States or the States individually. The provision is general in its nature and unrestricted in its terms; and the sixth article of the Constitution declares, that that Constitution shall be the supreme law of the land, and the judges in every State shall be bound thereby, any thing in the constitution or laws of any State to the contrary not withstanding. These general and comprehensive expressions extend the provisions of the Constitution of the United States, to every article which is not confined by the subject matter to the national government, and is equally applicable to the States. Be this as it may, the principle is undeniable, that no person can be twice put in jeopardy of life or limb for the same offence."

The language of the second amendment is broad enough to embrace both Federal and State governments--nor is there anything in its terms which restricts its meaning. The preamble which was prefixed to these amendments shows, that they originated in the fear that the powers of the general government were not sufficiently limited. Several of the States, in their act of ratification, recommended that further restrictive clauses should be added. And in the first session of the first Congress, ten of these amendments having been agreed to by that body, and afterwards sanctioned by three-fourths of the States, became a part of the Constitution. But admitting all this, does it follow that because the people refused to delegate to the general government the power to take from them the right to keep and bear arms, that they designed to rest it in the State governments? Is this a right reserved to the States or to themselves? Is it not an inalienable right, which lies at the bottom of every free government? We do not believe that, because the people withheld this arbitrary power of disfranchisement from Congress, they ever intended to confer it on the local legislatures. This right is too dear to be confided to a republican legislature.

Questions under some of these amendments, it is true, can only arise under the laws and

	Constitution of the United States. But there are other provisions in them, which were never intended to be thus restricted, but were designed for the benefit of every citizen of the Union in all courts and in all places; and the people of the several States, in ratifying them in their respective State conventions, have virtually adopted them (p.251)as beacon-lights to guide and control the action of their own legislatures, as well as that of Congress. If a well-regulated militia is necessary to the security of the State of Georgia and of the United States, is it competent for the General Assembly to take away this security, by disarming the people? What advantage would it be to tie up the hands of the national legislature, if it were in the power of the States to destroy this bulwark of defence? In solemnly affirming that a well-regulated militia is necessary to the security of a free State, and that, in order to train properly that militia, the unlimited right of the people to keep and bear arms shall not be impaired, are not the sovereign people of the State committed by this pledge to preserve this right inviolate? Would they not be recreant to themselves, to free government, and false to their own vow, thus voluntarily taken, to suffer this right to be questioned? If they hesitate or falter, is it not to concede (themselves being judges) that the safety of the States is a matter of indifference? Such, I apprehend, was never the meaning of the venerated statesman who recommended, nor of the people who adopted, this amendment. The right of the people peaceably to assemble and petition the government for a redress of grievances; to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures; in all criminal prosecutions, to be confronted with the witness against them; to be publicly tried by an impartial jury; and to have the assistance of counsel for their defence, is as perfect under the State as the national legislature, and cannot be violated by either. Nor is the right involved in this discussion less comprehensive or valuable: "The right of the people to bear arms shall not be infringed." The right of the whole people, old and young, men, women and boys, and not militia only, to keep and bear arms of every description, not such merely as are used by the militia, shall not be infringed, curtailed, or broken in upon, in the smallest degree; and all this for the important end to be attained: the rearing up and qualifying a well-regulated militia, so vitally necessary to the security of a free State. Our opinion is, that any law, State or Federal, is repugnant to the Constitution, and void, which contravenes this right, originally belonging to our forefathers, trampled under foot by Charles I. and his two wicked sons and successors, reestablished by the revolution of 1688, conveyed to this land of liberty by the colonists, and finally incorporated conspicuously in our own Magna Charta! And Lexington, Concord, Camden, River Raisin, Sandusky, and the laurel-crowned field of New Orleans, plead eloquently for this interpretation! And the acquisition of Texas may be considered the full fruits of this great constitutional right. We are of the opinion, then, that so far as the act of 1837 seeks to suppress the practice of carrying certain weapons secretly, that it is valid, inasmuch as it does not deprive the citizen of his natural right of self-defence, or of his constitutional right to keep and bear arms. But that so much of it, as contains a prohibition against bearing arms openly, is in conflict with the Constitution, and void; and that, as the defendant has been indicted and convicted for carrying a pistol, without charging that it was done in a concealed manner, under that portion of the statute which entirely forbids its use, the judgment of the court below must be reversed, and the proceeding quashed.
1848	**<u>Cooper and Worsham v. Savannah</u>, 4 Ga. 68 (1848)** The State Supreme Court declared that this right, and all others, applied only to white citizens. “Free persons of color have never been recognized here as citizens; **they are not entitled to bear arms . . .”** Cooper and Worsham v. Savannah, 4 Ga. 68 (1848). Note: This decision regards "free persons of color" and to what extent they were possessed of rights in 1848. The court mentions the right to arms at page 72 which is in a seperate file.] No. 6--Samuel Cooper and Hamilton Worsham, by their next friend, &c., vs. The Mayor and Aldermen of the City of Savannah. [1.] Free persons of color are not citizens as contemplated by the Constitution and laws of this State. [2.] A tax imposed by the corporate authorities of the city of Savannah, of one hundred dollars on free persons of color, who may remove from any part of this State, to reside in the city--who have no visible property, must be collected by hiring out such free persons of color, as provided by the Act of 1815 and not by imprisonment of such free persons of color, as declared by the city ordinance. Such ordinance being repugnant to the laws of this State, is void. This was an application for discharge under a writ of habeas corpus, in Chatham county, before his Honor Judge Fleming. The fifth section of an ordinance passed by the Mayor and Aldermen of the city of Savannah on the 27th day of August, 1839, reads as follows: "Each free person of color who may remove to this city, to reside herein, from any other part of the State, shall pay to the Treasurer the sum of one hundred dollars, within thirty days from the date of his arrival as aforesaid, which said sum shall be in addition to any poll, or other tax, assessed by this ordinance upon free persons of color, and if the said sum be not paid as aforesaid, the Mayor upon information lodged with him of said default, shall and may issue his warrant, under his hand and seal, directed to the Marshall or any of the City Constables to execute, directing him, or any of

them to arrest and commit to the common jail, such free person of color, so in default, and the said free person of color shall be confined therein until the said sum of money is paid, or he or she shall be discharged by order of council, or due course of law."

It was agreed, between counsel, before his Honor Judge Fleming, upon the return of the habeas corpus, that the petitioners were arrested by the warrant of the Mayor of Savannah, by virtue of the above section of the ordinance of 1839, and comitted on proof of the facts of removal and residence; they appealed to the Mayor and Aldermen in council, who confirmed the action of the Mayor. And that for default of payment, the petitioners were committed to the common jail.(p.69)

After argument by counsel, his Honor decided--

"That the question does not arise as to the power of the Mayor and Aldermen under the ordinance, but whether as a corporation, they had a right to pass such an ordinance. For the powers of the Mayor and Aldermen, we must look to the Acts of the Legislature. The 17th Section of the Act of 1825, enacts that the said Mayor and Aldermen shall have power to pass all ordinances, rules, and regulations, necessary for the government of slaves and free persons of color, within the city of Savannah, and hamlets thereof. Does this 17th Sect. empower the Mayor and Aldermen to pass the ordinance under which these petitioners are confined? The argument of counsel is, that no power is given to the Mayor and Aldermen to imprison, except by the 12th Sect. for fines, forfeitures and penalties, and that even then the imprisonment is limited to ten days and nights. To this it has been answered, that the 12th Sect. applies only to white persons--that the power over slaves and free persons of color, conferred by the 17th Sect. is unlimited, with the single exception that no ordinance, rule or regulation can be passed, contravening the laws of the State, or the institutions thereof. This answer to my mind, is satisfactory, and the only question to be determined, is, whether this 17th Section conflicts with any law of the State, or with the Constitution. I have not been able to bring my mind to the belief that It does." After giving his reasons therefor, his honor says: "So far from the ordinance conflicting with the laws of the State, it has carried out the very letter and spirit of those laws." **** "An effort has been made to place these petitioners upon the footing of citizens of our State. I have not the patience to attempt an answer to this argument. I simply say, they are not citizens, and God forbid they ever should be. It is true they have right, and such rights as they have are protected by our laws; but it is not among those rights to force themselves upon a community, who regard them as equally dangerous to themselves, and destructive of the comfort and happiness of their slave population." *** "I conclude by saying, as an explanation of the fact that I have not noticed certain points in the argument of counsel, that I have not regarded this hundred dollars as a tax, nor as a forfeiture, but as a municipal regulation to prevent the increase of free persons of color in our city. As such I deem it equally wise and proper. It is ordered (p.70)that the petitioners be remanded to jail." To which decision, counsel for petitioners excepted, and have assigned the same as error.

John W. Owens and McQueen McIntosh for plaintiffs in error.

We hold that His Honor erred in determining that the 17th Section of the Act of 1825 empowered the Mayor and Aldermen to pass the ordinance under which the prisoners are confined.

That Section empowers the Defendants to pass Ordinances, Rules and Regulations for the government of free persons of color. See Laws of Georgia, Vol. IV, 465.

The prisoners are confined by virtue of a clause of the general tax ordinance of the city of Savannah, not framed for police regulation, but for the purpose of raising money.

This ordinance is made under the authority conferred by the 7th section of the Act of 1825. By that section, the defendants in error are authorized to raise money in two ways.

1st. By Poll Tax. 2d. By assessment on real and personal estate. See Vol. IV, 464.

The hundred dollars demanded from the prisoners, if a tax, is illegally required, as it is expressly declared to be "in addition to the Poll Tax," and is not assessed upon real or personal estate.

If it be a tax, legally imposed, the mode employed for its collection is illegal.

Taxes due to the city of Savannah shall be collected in the same way as those due to the State. Vol. IV, 465.

Taxes due to the State by free persons of color are not collected in the manner pointed out by the ordinance. Prince's Dig. 859.

But if passed by virtue of the 7th or 17th section, it is equally Illegal, because it contravenes the laws of the State of Georgia.--See. Vol. IV., 465.

By the Common Law, a corporate body cannot force obedience to its by-laws by the imprisonment of the offender, nor by forfeiture, unless the power be given expressly. Clarke's Case, 5 Coke, 64. Chamberlain of London's Case, Ibid, 63. Kirk vs. Norill, 1, T. Rep. 118.

And this power is expressly given by the 12th section of the Act of 1825 alone, and the Court below decides that section to (p.71)be wholly applicable to white persons. By that section, the imprisonment is limited to ten days and nights.

His Honor erred in determining that free persons of color are not so far citizens as to entitle them to a residence in the city of Savannah at their pleasure.

	In Georgia, free persons of color have constitutional rights.-- State vs. Philpot, Dudley's Rep. 46. Habeas corpus will lie in their behalf, Ibid. They may hold real estate, Prince's Dig. 797, 99. They are subject to taxation, Ibid, 859. They may sue and be sued, Ibid, 802. The ordinance is unreasonable, oppressive, and unequal, and void, and his Honor erred in determining otherwise. Angel and Ames on corporations, top page, 289. ch. X, Sec. 5. Commonwealth vs. Worcester, 3 Pick. 462. Magna Charta, ch. XIV. R. M. Charlton's Rep. 26. Prince's Dig. 810. If any one of the preceding points be sustained by this Court, his Honor erred in remanding the prisoners to jail. R. M. Charlton, for defendants in error. The points brought up may be classed under two heads. 1st. That the fifth section of the ordinance of the Corporation of Savannah is unconstitutional. 2d. That it is illegal--being in opposition to the laws of this State. 1st. Free persons of color are not citizens, but residents. A citizen is entitled to all the privileges of the State. These persons are not. Prince, 794. If citizens, they could represent us in the Legislature, for the constitution does not speak of free white citizens. Ib. 903. 2d. This is neither a tax nor a fine, but a municipal regulation intended to prevent these persons from accumulating in the City, passed under the 17th section of the Act of 1834, giving power "to pass all ordinances, &c., for the government of slaves and free persons of color." If a tax, by the Act of 1815, (Prince, 859,) the collector has a right to levy on and hire out free persons of color, failing or refusing to pay their taxes. Until hired, they must be committed. By the Court--Warner, J., delivering the opinion.

1860	**1860 Vol. 1 -- Page:** 56 **Full Title:** *An Act to add an additional Section to the* 13*th Division of the Penal Code, making it penal to sell to or furnish slaves or free persons of color, with weapons of offence and defence; and for other purposes therein mentioned.* SECTION I. *The General Assembly of the State of Georgia do enact,* That from and after the passage of this Act, any person other than the owner, who shall sell or furnish to any slave or free person of color, any gun, pistol, bowie knife, slung shot, sword cane, or other weapon used for the purpose of offence or defence, shall, on indictment and conviction, be fined by the Court in a sum not exceeding five hundred dollars, and imprisoned in the common Jail of the county not exceeding six months, at.the discretion of the Court; *Provided,* That this Act shall not be so construed as to prevent owners or overseers from furnishing a slave with a gun for the purpose of killing birds, &c., about the plantation of such owner or overseer.
1861	**The Constitution of 1861**, for the first time, included: "6) The right of the people to keep and bear arms shall not be infringed." Patterned largely after the Confederate constitution, the Georgia Constitution of 1861 was the first state constitution to be submitted to the people for ratification. Though earlier constitutions had enumerated only four or five personal liberties, the Constitution of 1861 incorporated a lengthy bill of rights. Adopted as Article 1, much of this portion of the constitution remains a part of the state constitution today. Among other things, the concepts of due process and judicial review were included for the first time.
1864	**Cite as Cobb v. Stallings, 34 Ga. 73 (1864)** NOTE: This decision concerns the army and militia clauses of the Confederate Constitution which were identical to the Federal clauses. Confederate civil officers called into militia service by the state governor claimed they had been army soldiers placed in special service as civil officers and could not be called into militia service by the state due to their status as army soldiers. The court decided the case using the Confederate duplicate of the federal Supremacy clause. The Confederate duplicate of the Second Amendment was not mentioned. This decision was cited by the publisher of Georgia Reports in Jeffers v. Fair, 33 Ga. 347, n.1 (1862) which itself was cited in U.S. v. Miller, 307 U.S. 174 (1939)] THOMAS W. COBB, plaintiff in error, v. WM. B. STALLINGS, defendant in error. B. A. BALDWIN, plaintiff in error, v. JOHN WEST, defendant in error. (Milledgeville, Nov. Term, 1864.) ASSESSORS AND COLLECTORS OF CONFEDERATE TAX--EXEMPTION FROM SERVICE AS MILITIA-MEN.--Assessors and Collectors of the Confederate Tax, duly appointed under revenue laws passed by the Congress of the Confederate States, and actually employed in the duties of their respective offices, are not liable to be called by the Governor of the State of Georgia into active service as militia-men. If the militia laws of Georgia authorize such a call, they are in conflict with the revenue laws of the Confederate States, which are a part of the supreme law of the land, and must prevail over the former.(p.73) Decisions on habeas corpus, by Judge John T. Clarke, at Chambers, September, 1864. In the Supreme Court these two cases were argued together. They concerned the liability to militia service of the Assessors and Collectors of taxes for the Government of the Confederate States. The plaintiff, Cobb, aged 34 years, was duly appointed, in June, 1863, Tax Collector of the Confederate States, for the 24th district of Georgia, comprising the county of Webster; and since that period, he had been regularly engaged in the duties incident to his appointment. After the passage of the act of Congress, entitled, "An act to organize forces to serve during the war," approved February 17th, 1864, he was enrolled by the proper officer, under that act, and regularly detailed and assigned to the duties of his previous appointment. While engaged in their performance, he was arrested by the defendant Stallings, under an order emanating from His Excellency, the Governor, for the purpose of being placed, as a soldier, in the militia of the State, having prior to the 17th of February, 1864, (the date of the act of Congress,) been enrolled in the militia, under an act of the General Assembly, entitled, "An act to reorganize the militia of the State of Georgia, and for other purposes," approved December 14th, 1863. While held in custody by Stallings under the order of the Executive, he applied to Judge Clarke for a writ of habeas corpus, which was granted; and at the hearing, the Judge remanded him, holding him subject to militia duty. The other plaintiff in error, Baldwin, aged 44 years, was appointed Confederate States Tax Assessor, for Stewart county, in July, 1863, and from that date, up to the trial in the Court below, had been in the actual discharge of the duties of his office. He had never been enrolled in the militia of the State, but had been regularly enrolled and mustered into the service of the Confederate

States, and on the 16th July, 1864, was detailed by the enrolling (p.74)officer of the 3d Congressional district, for six months, as Confederate States War Tax Collector and Assessor for the county of Stewart. He was arrested by West, under the same authority, and for the same purpose as indicated above in the matter of Cobb, and on habeas corpus, at his instance, Judge Clarke rendered a similar judgment.

Hall, for plaintiffs in error.

Harrell, for defendants.

By the Court--JENKINS, J., delivering the opinion.

The question for consideration in this case, is whether or not Assessors and Collectors of the Confederate tax in the State of Georgia, actually engaged in their respective duties, are subject, under the laws of the State of Georgia, as a portion of the militia thereof, to be called by the Governor into actual service for the purpose of repelling invasion.

It is very clear that it is the duty of the Confederate Government to protect each and all of the Confederate States against invasion, and that the general conduct and management of the war now in progress, are committed, by the constitution, to that Government. But it is equally clear, that there are emergencies to meet which, the Government of the State pressed by them, may, proprio vigore, call out its militia not previously placed in the Confederate service. It is a subject of profound regret, that controversies should grow out of the co-operation of these two co-ordinate Governments in so sacred a cause.

In the argument, exemption from the call of the State Executive has been claimed for the relators on two grounds: 1st, that they had been enrolled as soldiers in the Confederate army, and then detailed for special service, in which they are now engaged, being subject, so soon as that shall have been performed, to be again placed in the ranks as other soldiers. 2d. That they are civil officers of that Government, (p.75)appointed and employed under an act of Congress, in the execution of a constitutional power, with which the service demanded by the Governor is incompatible.

My mind has not been seriously impressed by the first position, nor do I believe it influenced materially (if at all) the judgment of the Court. The Confederate Government is invested with both civil and military powers, imposing correlative duties, and although there may be between these, certain relations and dependencies, they are, in their natures, distinct. It is true, that revenue is necessary to the prosecution of war, but it is equally so to the maintenance of Government in peace; and in the classification of governmental agencies into civil and military, that for the collection of taxes, would seem to appertain to the former class. It is not questioned that an individual may be transferred from the military to the civil service; but when the transfer shall have been effected, is not the military status terminated, or at least, suspended? A satisfactory test may be found in the case before us, the transmutation of a soldier into a collector of taxes. Is he, thus transmuted, accountable to the department of the Treasury, or to that of War? Is he amenable for official malfeasance to a court martial or to a civil tribunal? Under existing laws, military service is compulsory; civil service however compensated, only voluntary. Can the Government compel a citizen, against his will, to fill a civil office by first enrolling him in the army, and then detailing him to the duties of that office? Should not military details have a palpable connection with military operations? In declining to place the judgment of the Court on this ground, it is only intended to intimate as the better and safer opinion, that the appointment of an enrolled soldier to a civil office, operates as a discharge from the army, or at least as a temporary exemption from military service, and consequently, whilst so invested with civil office, courts cannot recognise his military status.

Are the relators entitled to exemption from the call of the Governor, on the second ground, viz: that they are civil (p.76)officers of the Confederate Government, appointed and actually employed, under an act of Congress, in the execution of a constitutional power, with which the service demanded by the Governor is incompatible. The Confederate and State Governments are co-ordinate within the territorial limits of any State; they operate upon the same persons, and are intended, by their separate but harmonious action, to accomplish the grand results of security against wrongs, external and internal, and progress in civilization. The constitution of the Confederate States clearly defines the powers conferred upon the former, and as carefully and certainly secures the residuum to the latter. If that instrument be rightly understood and faithfully obeyed, conflict is impossible. If, in the unguarded exercise of power by either, conflict ensue, there can be no difficulty in determining which shall yield. If, as in the present case, these Governments, at the same time, exact of the same person incompatible services, the solution of the question, which is entitled, cannot be intrinsically difficult. In a former case (Jeffers v. Fair, yet unpublished) we held, that the Confederate Government cannot, in the exercise of the power "to raise armies," take from a State any civil officer actually employed in the functions of its government. We have as little difficulty in holding that no State Government can call into the field, for active service as a militia-man, an officer of the Confederate Government, duly appointed, and actually engaged in his official duties, under a constitutional act of the Confederate Congress. If, in virtue of her separate sovereignty, any state may rightfully claim of her confederates the unobstructed operation of the machinery of her established Government, so they, in virtue of the compact, may, with equal right, claim of her the like unobstructed operation of the machinery of their common Government, established by consent of all.

We pause not to inquire, whether the relators be or be not within the general terms of the act or acts of the Legislature of Georgia, under which this call has been made, nor yet, whether or not they be embraced within its exemptions; though we cheerfully bear witness to the manifest intent of (p. 77)the General Assembly to avoid conflict with Confederate authorities. If the relators be without the descriptive terms employed in those acts, to fix individual liability, or if they be within the clauses of

	exemption, all will agree, that they are entitled to the protection of the Courts. But suppose (to make the strongest case for the Appellees) they be, by a right construction of all the provisions of the militia laws of Georgia considered per se liable to the call, what then follows? A conflict exists between the law of the Confederate States providing for the collection of revenue, and the law of Georgia regulating the militia, and subjecting them to the call of the Governor; and one or the other must yield. The 3d Section and 4th Article of the Constitution C. S., is in these words: "This Constitution, and the laws of the Confederate States, made in pursuance thereof, and all treaties made, or which shall be made under the authority of the Confederate States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding." For construction of this clause of the Constitution, see McCullock v. The State of Maryland, 4th Wheaton, 316; Houston v. Moore, 5th Wheaton, 1; Osborne and others v. The U. S. Bank, 9th Wheaton, 738. In the case under consideration, it is not denied that the Congress of the Confederate States are empowered by the Constitution to lay and collect taxes; nor that they have passed laws for that purpose; nor, that the relators have been duly appointed under those laws, and are actually engaged in the duties of their respective offices; nor, that the call of the Executive of Georgia, if enforced against them, will interfere with the performance of their duties, and suspend the operation of the revenue laws in their districts. As between these conflicting laws, (if they be in conflict,) the law of the Confederate States is Supreme, and the law of Georgia must yield. So says the Constitution, and we cannot say otherwise. Judgments Reversed.
1865	**The Constitution of 1865** , modified the right to keep and bear arms (RKBA) to: “4. A well regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.” After the Civil War ended in 1865, Georgia's provisional governor, James Johnson, called for another constitutional convention. As in other seceded states, this convention was charged with framing a state constitution that would be acceptable to the federal government. The document had to include a repeal of the Ordinance of Secession, the abolition of slavery, and a repudiation of the war debt. The Constitution of 1865 was similar to the one of 1861. It continued the bill of rights and made no significant changes to the legislature. But it prohibited slavery and limited the governor to two terms. In a move to provide for further separation of the judicial and executive branches, the Constitution of 1865 provided that judges of all courts—except supreme court and superior court judges, who were selected by the legislature—would be elected by the people. The legislature was authorized to grant county and municipal authorities the power to tax, a change that enlarged home rule. In November 1866 the Georgia legislature refused to ratify the Fourteenth Amendment to the U.S. Constitution, a specific condition for readmission to the Union. The Constitution of 1865 was therefore rejected, and Georgia was placed under military control.
1868	**The Constitution of 1868**, modified RKBA to: **“Section 14.** A well-regulated militia being necessary to the security of a free people, the right of the people to keep and bear arms shall not be infringed; but the general assembly shall have power to prescribe by law the manner in which arms may be borne.” After the establishment of congressional Reconstruction and military rule in 1867, a group of elected delegates met in a new convention, which lasted from December 1867 to March 1868. The convention was dominated by northerners or northern sympathizers, but the principal leaders had resided in Georgia long enough to develop an interest in the state's welfare. The makeup of the convention, however, led some to label it the "unconstitutional convention." Major issues debated included the Fourteenth Amendment, qualifications of the electorate (particularly black suffrage), debts and the relief of debtors, and the separation of powers. The relief of debt occupied the most attention, with the final version of the constitution including the first prohibition against imprisonment for debt and amnesty from debts contracted before June 1865. But Congress rejected these clauses, except for debts regarding the price of slaves or assistance with the rebellion. The bill of rights was expanded, including the substance of the first paragraph of the Fourteenth Amendment. Suffrage was extended to all male citizens. The legislature remained essentially the same, with representation in the house changed to reflect population. The governor's term was increased to four years, with no prohibition against reelection, and the pardon power was moved from the General Assembly to the governor. The appointment power of the governor was expanded, the state judicial system was simplified, and the General Assembly was directed to provide a system of free general education to all children of the state. A newly elected Georgia General Assembly held its first meeting under the new Constitution of 1868; it included 186 white legislators and 36 black legislators - the first in Georgia history. They soon ratified the Fourteenth Amendment, one of the requirements for readmittance to the Union. Both the House of Representatives and Senate soon thereafter removed the black members from office, on the grounds that the state constitution did not recognize the right of black citizens to hold public office. Black leaders assembled in Macon to protest the ouster and decide what actions to take**. When a group of blacks and a few whites protested the action in Camilla, Georgia they were attacked, killing thirteen and wounding forty (Camilla Race Riots)** Congress opened hearings on the threats, intimidation, and even loss of life blacks faced when

	trying to vote in Georgia.
1870	**1870 Vol. 1 -- Page:** 421 **Full Title:** *An Act to preserve the peace and harmony of the people of this State, and for other purposes*. Section 1. *Be it enacted, etc.*, That, from and immediately after the passage of this act, no person in said State of Georgia be permitted or allowed to carry about his or her person any dirk, bowieknife, pistol or revolver, or any kind of deadly weapon, to any court of justice, or any election ground or precinct, or any place of public worship, or any other public gathering in this State, except militia muster-grounds. Sec. 2. *Be it further enacted*, That if any person or persons shall violate any portion of the above recited section of this act, he, she or they shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty nor more than fifty dollars for each and every such offense, or imprisonment in the common jail of the county not less than ten nor more than twenty days, or both, at the discretion of the court. **[**Sidenote: Violation misdemeanor -- penalty**]**
1872	**Morton v. State, 46 Ga. 292 (1872).]** SAMUEL T. MORTON, plaintiff in error, v. THE STATE OF GEORGIA, defendant in error. (Atlanta, July Term, 1872.) 1. Criminal Law--Concealed Weapons--Opinion of Witness as to Motive.--Where a defendant is on trial for carrying concealed weapons, evidence as to his motive in placing the pistol in his pocket is inadmissible. (R.) 2. Same--Same--Charge of Court.--It was not error in the Court to charge "that the question for the jury to determine upon the evidence was, whether the defendant had or carried about his person a pistol, not being a horseman's pistol, and not being had or carried about his person in an open manner, and fully exposed to view, that if he so had, as charged in the indictment, the time that he so had it was not important; if he for any length of time, however short, for a moment so had it contrary to law, he was guilty of the offense, otherwise not." (R.) Criminal law. Concealed weapons. Opinion of witness. Before Judge Harrell. Miller Superior Court. April Term, 1872.(p.293) Samuel T. Morton was placed on trial for the offense of carrying "about his person a pistol and not in an open manner and freely exposed to view, (said pistol not being a horseman's pistol.") The defendant pleaded not guilty. The only witness sworn was F. M. Platt, who testified substantially as follows: That he saw defendant going across the public square in Calquitt, in said county, with a small-sized repeater pistol in his hand, firing the same off; that witness, as marshal of said town, followed to arrest him; that when he came up to him, defendant put the pistol in his pantaloons pocket so that it could not be seen; that defendant only kept the pistol in his pocket a half minute or a minute, but while it was so kept it was entirely concealed from view; that witness thinks defendant put the pistol in his pocket to keep witness from taking it; that afterwards defendant took the pistol out, and squatting down, unlatched the barrel and started to take the cylinder out, when witness seized the pistol and took it away from him. The defendant's counsel asked the witness "what was the reason that defendant put the pistol in his pocket?" Upon objection, the Court refused to allow said question to be asked. The jury found the defendant guilty; whereupon, he moved for a new trial upon the following grounds, to-wit: 1st. Because the Court erred in rejecting the evidence showing the motive of defendant in placing the pistol in his pocket. 2d. Because the Court erred in charging the jury as follows: "That the only question for the jury to decide was whether the defendant had for one moment on his person a pistol, not in an open manner and fully exposed to view, the same not being a horseman's pistol, and if they should find in the affirmative, they should find the defendant guilty," thereby leading the jury to believe that they could not consider the intention of the party defendant. 3d. Because the verdict is contrary to evidence and the weight of evidence.(p.294) The presiding Judge attached the following note to the second ground:

	"The Court charged that the question for the jury to determine upon the evidence was whether the defendant had or carried about his person a pistol, not being a horseman's pistol, and not being had or carried about his person in an open manner and fully exposed to view; that if he so had, as charged in the indictment, the time that he so had it was not important, if he for any length of time, however short, for a moment so had it contrary to law, he was guilty of the offense, otherwise not." The Court overruled the motion for a new trial and plaintiff in error excepted. W. P. Sims; John E. Donaldson; H. C. Sheffield; Isaac Bush; H. Fielder, for plaintiff in error. J. S. Flewellen, Solicitor General, represented by B. S. Worrill, for the State. WARNER, Chief Justice. The defendant was indicted for a misdemeanor in having and carrying about his person a pistol concealed, in violation of the 4454th section of the Code. On the trial of the case the jury found defendant guilty. A motion was made for new trial on the several grounds specified in the record, which was overruled by the Court and defendant excepted. There was no error in the refusal of the Court to allow the witness to testify as to the motive of the defendant, in putting his pistol in his pocket. The witness could legally only testify as to facts, and it was a question for the jury to determine what were the motives of the defendant, from the facts proved by the witness. In view of the evidence disclosed in the record, there was no error in the charge of the Court to the jury. In our judgment there is sufficient evidence in the record to sustain the verdict, and the motion for a new trial was properly overruled. The practice of carrying concealed weapons (p.295)is a great evil, which the law prohibits, and the Courts and juries should rigidly enforce the law against all who violate it. Let the judgment of the Court below be affirmed.
1874	**Hill v. State, 53 Ga. 472 (1874).]** Miles Hill, plaintiff in error, v. The State of Georgia, defendant in error. 1. Criminal Law--Carrying Concealed Weapons--Indictment.[*]--An indictment under section 4528 of the Code, prohibiting the carrying of pistols, etc., to any court of justice, etc., is sufficiently certain and full, which alleges that the carrying was "to and at a court of justice, then in session, in and for the four hundred and twenty-sixth district, Georgia Militia." 2. Same--Same--Constitutionality of Law.[+]--Article I., section 14, of the constitution of 1868, which is as follows: "A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed; but the general assembly shall have power to prescribe the manner in which arms may be borne," does not prohibit the general assembly from making it penal to keep and bear arms in the presence of courts of justice.(p.473) Criminal law. Constitutional law. Before Judge Rice. White Superior Court. May Term, 1874. It is unnecessary to an understanding of this decision, to report any facts additional to those stated in the above headnotes. C. H. Sutton; Underwood & Williams, for plaintiff in error. Emory Speer, solicitor general, by W. B. Thomas, for the state. McCay, Judge. 1. We think the description sufficient. Under our Code, if the offense is set out in the language of the Code, that is sufficient. The indictment alleges that the pistol was carried at, and in the presence of, a court of justice, then in session in the four hundred and twenty-sixth district, Georgia militia. This is in the very words of the act. What was the name and nature of the court is matter of description. It would have been well to state it. Though, as the justice's court is the only civil court that can meet at such a place, the words used do, in effect, describe the court in question as the justice court for that district. 2. The other question made in this record is a far graver one. It is insisted that the act describing the offense charged and fixing the penalty, is an infringement of the right of the citizens of this state as guaranteed by the constitution of the United States and of this state. It is now well settled that the amendments to the constitution of the United States of March 4th, 1789, are all restrictions, not upon the states, but upon the United States. And this would seem to be the inevitable conclusion from the history of these amendments as well as from their nature and even their terms. I do not myself assent to that other limitation of the legislative powers of our general assembly insisted upon in the argument, (p.474)and sometimes announced by courts, to-wit: the "higher law," which is appealed to as above even the constitution. At last, therefore, if this act be unconstitutional it must be because it is in conflict with our state constitution. Article I., section 14, of the constitution of 1868 is as follows: "A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed; but the general assembly shall have power to

prescribe by law the manner in which arms may be borne." The act of October, 1870, upon which this indictment is based, is in these words; "No person in said state shall be permitted or allowed to carry about his or her person any dirk, Bowie-knife, pistol or revolver, or any kind of deadly weapon, to any court of justice of any election ground or precinct, or any place of public worship, or any other public gathering in this state, except militia muster grounds."

Were this question entirely a new one, I should not myself hesitate to hold that the language of the constitution of this state, as well as that of the United States, guarantees only the right to keep and bear the "arms" necessary for a militiaman. It is to secure the existence of a well regulated militia; that, by the express words of the clause, was the object of it, and I have always been at a loss to follow the line of thought that extends the guarantee to the right to carry pistols, dirks, Bowie-knives, and those other weapons of like character, which, as all admit, are the greatest nuisances of our day. It is in my judgment a perversion of the meaning of the word arms, as used in the phrase "the right to keep and bear arms," to treat it as including weapons of this character. The preamble to the clause is the key to the meaning of it. The word "arms," evidently means the arms of a militiaman, the weapons ordinarily used in battle, to-wit: guns of every kind, swords, bayonets, horseman's pistols, etc. The very words, "bear arms," had then and now have, a technical meaning. The "arms bearing" part of a people, were its men fit for service on the field of battle. That country was "armed" that had an army ready for fight. (p.475)The call "to arms," was a call to put on the habiliments of battle, and I greatly doubt if in any good author of those days, a use of the word arms when applied to a people, can be found, which includes pocket-pistols, dirks, sword-canes, toothpicks, Bowie-knives, and a host of other relics of past barbarism, or inventions of modern savagery of like character. In what manner the right to keep and bear these pests of society, can encourage or secure the existence of a militia, and especially of a well regulated militia, I am not able to divine. But assuming that the guarantee of our state constitution was intended to include weapons of this character, (which, considering that it was made a part of the constitution after the decision of Nunn v. The State, in 1 Kelly, is not improbable,) we still are of the opinion that the act of October, 1870, is not unconstitutional. The practice of carrying arms at courts, elections and places of worship, etc, is a thing so improper in itself, so shocking to all sense of propriety, so wholly useless and full of evil, that it would be strange if the framers of the constitution have used words broad enough to give it a constitutional guarantee. Take the clause in its largest sense; let the word "arms" include weapons of every kind; we think its guarantee would not cover so absurd, useless, defiant, and disorderly a practice as this act of 1870 forbids. Upon its very front, as we have said, the object of the clause is declared to be to secure to the state a well regulated militia. Has this declaration no significance? Is the clause to be interpreted without reference to it? On the contrary, by the well settled rules for the interpretation of laws, as well as by the dictates of common sense, the object and intent of the law is the prime key to its meaning. A well regulated militia may fairly mean--"the arms-bearing population of the state, organized under the law, in possession of weapons for defending the state, and accustomed to their use." The constitution declares that as such a militia is necessary to the existence of a free state, the right of the people to keep and bear arms shall not be infringed. To effect this end, the right to have arms would (p.476)seem to be absolute, since without this right, it would not be possible to attain the end contemplated, to-wit: an armed militia, organized and ready for the public exigencies. But it is obvious that the right to bear or carry arms about the person at all times and places and under all circumstances, is not a necessity for the declared object of the guarantee; nay, that it does not even tend to secure the great purpose sought for, to-wit: that the people shall be familiar with the use of arms and capable from their habits of life, of becoming efficient militiamen. If the general right to carry and to use them exist; if they may at pleasure be borne and used in the fields, and in the woods, on the highways and byeways, at home and abroad, the whole declared purpose of the provision is fulfilled. The right to keep and to bear arms so that the state may be secured in the existence of a well regulated militia, is fully attained. The people have, or may have the arms the public exigencies require, and being unrestricted in the bearing and using of them, except under special and peculiar circumstances, there is no infringement of the constitutional guarantee. The right to bear arms in order that the state may, when its exigencies demand, have at call a body of men, having arms at their command, belonging to themselves and habituated to the use of them, is in no fair sense a guarantee that the owners of these arms may bear them at concerts, and prayer-meetings, and elections. At such places, the bearing of arms of any sort, is an eye-sore to good citizens, offensive to peaceable people, an indication of a want of a proper respect for the majesty of the laws, and a marked breach of good manners. If borne at all under the law, they must be borne openly and plainly exposed to view, and under the circumstances we allude to, the very act is not only a provocation to a breach of the peace, but dangerous to human life. The constitution is to be construed as a whole. One part of it is not to be understood in such a sense as will militate against another. It is as well the duty of the general assembly to pass laws for the protection of the person and property of the citizen as it is to abstain from any infringement (p.477)of the right to bear arms. The preservation of the public peace, and the protection of the people against violence, are constitutional duties of the legislature, and the guarantee of the right to keep and bear arms is to be understood and construed in connection and in harmony with these constitutional duties.

Section 5 of the bill of rights is in these words: "The right of the people to appeal to the courts, to petition government in all matters and peaceably to assemble for the consideration of any matter, shall not be impaired." Is this section violated if the courts are not always in session? If the legislature restrict the appeal to certain times and places, and under certain reasonable conditions necessary for the public good; if it pass a statute of limitations, or regulate the rules of evidence or provide that one judgment of the court shall be conclusive, all these are limitations upon the right to appeal to the courts. But they are necessities of society, and are enacted because this guarantee of the right to appeal to the courts is not all of the constitution, and is to be construed in reference to the fact that there are other duties cast upon the legislature besides keeping this right of appeal to the courts unimpaired. So, too, of the right to petition government upon any matter. Has a witness upon the stand, or a juryman in the box, a right to quit his post of duty and obstruct the progress of

business by devoting himself to the preparation of a petition to the government for a redress of grievances? So, too, there is a guarantee of the right of the people peaceably to assemble for the consideration of any matter. May they assemble any where, on any land, in any house, and that against the consent of the owner? Obviously, all these provisions and guarantees are to be construed in reference to their nature, and to other clauses and other duties of the constitution. One guarantee is not to swallow up all others, but each is to be construed reasonably in reference to its plain intent, and in reference to other duties cast upon the legislature, and other rights guaranteed to the people. The right to go into a court-house and peacefully (p.478)and safely seek its privileges, is just as sacred as the right to carry arms, and if the temple of justice is turned into a barracks, and a visitor to it is compelled to mingle in a crowd of men loaded down with pistols and Bowie-knives, or bristling with guns and bayonets, his right of free access to the courts is just as much restricted as is the right to bear arms infringed by prohibiting the practice before courts of justice.

The right peaceably to meet and worship God, or to vote for public officers, or to do any other public duty, are rights just as sacred, just as solemnly guaranteed, and just as necessary for the existence of a free state as the right to bear arms, and either of them is seriously interfered with if it is the right and the custom of "people" to attend such meetings armed as though for battle. Under such circumstances those assembled are under the protection of the law. They are met at the command or under the permission of the law, and it is a high constitutional duty of the state to protect them, to see that good order is preserved, and that they may perform the purpose of their assembling unmolested by terror, or danger, or insult. To suppose that the framers of the constitution ever dreamed, that in their anxiety to secure to the state a well regulated militia, they were sacrificing the dignity of their courts of justice, the sanctity of their houses of worship, and the peacefulness and good order of their other necessary public assemblies, is absurd. To do so, is to assume that they took it for granted that their whole scheme of law and order, and government and protection, would be a failure, and that the people, instead of depending upon the laws and the public authorities for protection, were each man to take care of himself, and to be always ready to resist to the death, then and there, all opposers. We do not so believe, and we are not ready so to suppose. On the contrary, we take it for granted that they meant what they have said, and that in guaranteeing the right to keep and bear arms, they never dreamed they were authorizing practices, common enough, it is true, among savages, and not unusual even in the olden (p.479)time, when every man was at war with his neighbor, but utterly useless and disgraceful in a well ordered and civilized community. We suppose that in view of what they deemed a necessity of a free state, to-wit: the existence of a well regulated militia, they guaranteed to the people, not only the right to have and keep arms, but the right so to use them as to become familiar with that use, so that when an exigency of the state arose, they would be ready and capable for its defense. And we are driven, for these reasons, to the conclusion, that the right to keep and bear arms is not infringed if the exercise of it be by law prohibited at places and times when a proper respect for the majesty of the law, a sense of decency and propriety, or the danger of a breach of the peace, forbid it.

We have thus far considered the question as though the provision referred to had no other limitations than those deduced from the preamble, from the nature of the right and from the other duties cast by the constitution upon the legislature. But it must be remembered that as a qualification to the very guarantee itself, it is expressly and in terms provided, that "the general assembly may prescribe the manner in which arms may be borne." It is contended that this is only a permission to the legislature to prohibit the carrying of arms secretly upon the person. But it seems a very unfair criticism upon the language used so to confine it. One cannot help inquiring why, if this alone was the intent, apt and proper words expressing it, were not used. It would have been more simple and more apt to say "but the legislature may prohibit, by law, the carrying of arms secretly upon the person." Instead of this, the words used are "the legislature may prescribe the manner in which arms may be borne," implying more than one prohibition, and conveying the idea of various restrictions upon the general guarantee. If the words "manner of bearing arms" covers only the particular way in which they may be carried upon the person, as openly or secretly, on the shoulder or in the hand, etc., it would be illegal for the legislature to prohibit one from going into a crowd (p. 480)with a loaded pistol cocked and capped and set with a hair trigger, since this would not be a restriction on the mode of carrying, but upon the kind of pistol carried, and yet we doubt if any court would hesitate to say that such an act might not be prohibited, nay, it would, under the general rules of law, be a piece of criminal negligence, that in case of an accident, causing death, would go far to make the offender guilty of murder. We do not think the words "manner of bearing arms," have any such confined and limited signification. The words are used in their ordinary signification, and were intended to limit the broad words of the previous guarantee. Those words had granted the right "to keep and to bear arms." As we have seen, the object of the provision was to secure to the state a well regulated militia. The simple right to carry arms upon the person, either openly or secretly, would not answer the declared purpose in view. Skill and familiarity in the use of arms was the thing sought for. The right to "tote" them, as our colored people say, would be a bootless privilege, fitting one, perhaps, for playing soldier upon a drill ground, but offering no aid in that knowledge which makes an effective, to-wit: a shooting soldier. To acquire this skill and this familiarity, the words "bear arms" must include the right to load them and shoot them and use them as such things are ordinarily used, so that the "people" will be fitted for defending the state when its needs demand; and when the constitution grants to the general assembly the right to prescribe the manner in which arms may be borne, it grants the power to regulate the whole subject of using arms, provided the regulation does not infringe that use of them which is necessary to fit the owner of them for a ready and skillful use of them as a militiaman. Any restriction which interferes with this is void, whether it relates to the carrying them about the person, or to the place or time of bearing them.

The manner of bearing arms includes not only the particular way they may be carried upon the person, that is openly or secretly, on the shoulder or in the hand, loaded or (p.481)unloaded, cocked or uncocked, capped or uncapped, but it includes, also, the time when, and the place where, they may be borne. It is no reply to this view of the subject to say that if the legislature may do this, they

	may, in effect, prohibit the carrying them altogether. The same reply may be made to the admitted right to prescribe the manner of carrying arms upon the person. If the legislature were to say arms shall not be borne on the shoulder, nor in the hands, or on the arms, but they shall only be borne strapped or fastened upon the back, this would be prescribing only the manner, and yet, it would, in effect, be a denial of the right to bear arms altogether. The main clause and the limitation to it are both to be construed reasonably, and in view of the declared object of the provision. Any act would violate it that militated against the purpose, and no act is in violation of it that leaves the citizen the right to keep arms, and so to carry and use them as will render him familiar with their use, so as that he will be prepared for public service as a militiaman when needed. Within their limits, the legislature may prescribe the manner of bearing arms, including in this manner the mode in which they shall be carried upon the person, and the time, place and circumstances in which they may be borne. Nor is this an unfair or unusual sense of the word manner. In that "well of English undefiled," the common version of the Bible, from whence, without question, the great mass of our people get the use and meaning of words, more than from any other example, the word manner is often used in this signification. In Numbers, 9th chapter, 14 verse, it is commanded that a stranger shall keep the passover according to the manner thereof, to-wit: as described in the 11th verse of the same chapter; and in Exodus, 12th chapter, 3-11: "On the 14th of the second month, at even, in a house, with the loins girded, the shoes on the feet, a staff in hand and in haste." So in the 4th chapter of Ruth, Boaz had, with his kinsman, gone to the gate of the city into the presence of the elders, and there, his kinsman, had pulled off his shoe to Boaz, in order to release (p.482)his claim upon certain land which had belonged to the family of Ruth's husband; and the 7th verse says: "Now this was the manner in former times in Israel concerning redeeming and changing, and confirming all things." In Deuteronomy 25th chapter, 7th and 9th verses: This "manner" is prescribed in detail, and includes the place, the persons present and the special act to be done, to-wit: pulling off the shoe, and passing it. So in 1st Samuel 8th and 9th verses, Samuel undertakes to tell the Jews "the manner of the king" they were longing for, and he proceeds to present him as a tyrant who would do as he pleased with their sons and daughters, their servants and their lands and themselves. So Christ was buried as the manner of the Jews was to bury, including the time and place, the spices and the tomb: John 19th chapter and 40th verse. So the water-pots, the contents of which were turned into wine, were after the "manner of purifying of the Jews:" John 2d chapter and 6th verse. So it is said in Hebrew, 1st chapter and 1st verse: "God who, at sundry times and in divers manners, hath spoke to your fathers by the prophets." This, without doubt, includes not only when he spoke to Moses, "mouth to mouth apparently, and not in dark speeches," but when he revealed himself by dreams or visions, by his finger on the tables of stone on the mount, or by Urim and Thummin, in the holy place. And it will be found that the "manner" of doing a thing often, both in looks and in speech, includes the time and place as well as the precise detail of the special act itself. If I were to ask an old farmer his manner of sowing turnips, is it supposable that he would leave out the time, the dark nights in August, or the character of the land, and the mode of preparing it? We think, therefore, that under the power expressly granted to prescribe the manner in which arms may be borne, the legislature may prescribe, not only that they shall be borne openly and plainly exposed to view, but that it may prohibit the bearing at such times and places, and under such circumstances, as is necessary for the preservation of the peace, the protection of the person and property of the (p. 483)citizens, and the fulfillment of the other constitutional duties of the legislature, provided the restriction does not interfere with the ordinary bearing and using arms, so that the "people" shall become familiar with the use of them. Judgment affirmed.
1875	**1875 Vol. 1 -- Page:** 151 **Full Title:** *An Act to authorize the Mayor of the city of Americus, Sumter county, to try certain offenders against the laws of this State herein mentioned, when the offense is committed within the limits of said city.* SECTION I. *Be it enacted by the General Assembly of the State of Georgia,* That from and after the passage of this Act it shall, and may be lawful for the Mayor of the city of Americus, Sumter county, in this State, to try all offenders for offenses hereinafter [Illegible Text], committed against the laws of this State, when the offenses are committed within the limits of said city. The jurisdiction under this Act, of said court, shall extend to the trial of the following offenses against the criminal laws of this State, viz: [Illegible Text] of property, not more than twenty dollars in value, assaults and batteries, vagrancy, and **carrying concealed weapons.** * This is an example of the delegation of the powers to punish carriers of concealed weapons by the State to the local cities that was very common.
1876	**1876 Vol. 1 -- Page:** 112

	Full Title: *An Act to punish any person or persons who shall sell, give, lend [Illegible Text] furnish any minor or minors with deadly weapons herein mentioned, and for other purposes.* SECTION I. *Be it enacted, etc.,* That from and after the passage of this Act it shall not be lawful for any person or persons knowingly to sell, give, lend or furnish any minor or minors any pistol dirk, bowie knife or sword cane. Any person found guilty of a violation of this Act shall be guilty of a misdemeanor, and punished as prescribed in section 4310 of the Code of 1873: *Provided,* that nothing herein contained shall be construed as forbidding the furnishing of such weapons under circumstances justifying [Illegible Text] use in defending life, limb or property.
1877	**Constitution of 1877**, modified RKBA to: **"Par. XXII.** The right of the people to keep and bear arms, shall not be infringed, but the General Assembly shall have power to prescribe the manner in which arms may be borne." The 1877 Constitution imbued the practice of segregation with the power of law. Article 8 provided for a free education system for Georgians but stipulated separate primary education for whites and blacks, as well as the establishment of a separate university to educate African Americans. In addition, a poll tax was included. Other notable provisions of the Constitution of 1877 include more stringent residency requirements to vote and to hold public office (in an effort to decrease the power of new Northern residents), the popular election of the secretary of state and state treasurer, and easier procedures for amending the constitution. Under the 1868 Constitution, two-thirds of each legislative body needed to approve an amendment in two successive legislative sessions before it was put to a popular vote. The new constitution required the approval of only two-thirds of each house in one legislative session before a popular vote. The debate concerning Paragraph XXII was summarized in the dissent of Strickland v. State, 137 Ga. 1 (1911) as follows: *. . . Mr. Toombs moved "to strike out all after the word 'infringe,' and strike out 'but the General Assembly shall have the power to prescribe the manner in which arms may be borne,' insisting that 'the Legislature has no power to prescribe how the people shall bear arms; that they shall not carry them in their boots, or anywhere else that they want to. I think the people have the right to keep and bear arms as they choose for their protection.'"* *On the other hand, Mr. Warren urged: "I hope the gentleman's motion will not prevail. The experience of all of us is that the General Assembly should have the right to regulate the manner of keeping and bearing arms. There is nothing which provokes bloodshed so much as the indiscriminate bearing of concealed weapons." The motion to amend was lost.* *Other amendments which were offered, but not adopted, were: (a) By inserting the word "place" after the word "manner," so as to give the Legislature the power to prescribe where a man shall carry arms and where not; . . .*

1878	**Williams v. State, 61 Ga. 417 (**1878) Williams v. The State of Georgia. (August Term, 1878.) [Warner, Chief Justice, was providentially prevented from presiding in this case.] Criminal Law--Carrying Concealed Weapons.--Section 4527 of the Code makes it penal to carry about the person, unless in an open manner and fully exposed to view, any pistol except a horseman's pistol. The main-spring being disabled so as to render a discharge of the weapon impossible in the ordinary mode of using fire-arms, is no excuse or justification. Criminal law. Carrying concealed weapons. Before Judge Rice. Clarke County. At Chambers. December 12, 1877. Williams was convicted in the county court of Clarke county of carrying a pistol concealed about his person. It was not disputed that he had a pistol concealed about him at the time charged, but it was shown that the main-spring of the lock was broken, rendering a discharge in the ordinary manner of firing a pistol impossible. Relying upon this defense, he applied for the writ of certiorari. Judge Rice refused to sanction the petition, and he excepted. P. G. Thompson, for plaintiff in error. L. W. Thomas, county solicitor, by T. W. Rucker, for the state, cited Bishop on Stat. Crimes, § 791; 46 Ala., 88.(p.418) Bleckley, Justice. Section 4527 of the Code reads as follows: "Any person having or carrying about his person, unless in an open manner and fully exposed to view, any pistol, (except horseman's pistols,) dirk, sword in a case, spear, bowie-knife, or any other kind of knives manufactured and sold for the purpose of offense and defense, shall be guilty of misdemeanor, etc." What is the meaning of "any pistol?" This is the sole question. "The ordinary signification shall be applied to all words, except words of art, or connected with a peculiar trade or subject-matter, when they shall have the signification attached to them by experts in such trade, or with reference to such subject matter." Code, § 4. Pistol is a word in general use by the whole population, and is consequently to be understood in its ordinary signification. With this as a standard, any object which would usually be called a pistol in speaking of it, is a pistol. An object once a pistol does not cease to be by becoming temporarily inefficient. Its order and condition may vary from time to time, without changing its essential nature or character. Its machinery may be more or less perfect; at one time it may be loaded, at another empty; it may be capped or uncapped; it may be easy to discharge or difficult to discharge, or not capable, for the time, of being discharged at all; still, while it retains the general characteristics and appearance of a pistol, it is a pistol, and so in common speech would it be denominated. If a pistol in the ordinary sense of the term, and not of that class known as horseman's pistols, it cannot lawfully be carried about the person, unless in an open manner and fully exposed to view. The main-spring being disabled, so as to render a discharge of the weapon impossible in the ordinary mode of using firearms, is no excuse or justification, concealment in carrying being interdicted by the statute whether the machinery of the lock be sound or unsound. In this ruling we decide differently from what was held by the supreme court of Alabama on a similar point, (p.419)in Evans v. The State, 46 Ala., 88; but, while we regret to have so respectable a precedent against us, we have convictions both as to the meaning and policy of our statute which, for us, are decisive.
1879	**1878 Vol. 1 -- Page:** 64 **Full Title:** *An Act to alter and amend section* 4528 *of the Revised Code of Georgia of* 1873. *in reference to carrying deadly weapons about the person to public places in this State, by adding a proviso thereto so that said section shall not apply to any Sheriff, deputy Sheriff, Coroner, Constable, Marshal, Policeman, or other arresting officer or officers of this State or their posses, acting in the discharge of their official duties.* SECTION I. *Be it enacted by the General Assembly of the State of Georgia,* That from and after the passage of this Act, section 4528 of the Revised Code of Georgia of 1873 be, and the same is hereby, altered and amended so that when said section is amended it will read as follows, to-wit: "**No person in this State is permitted or allowed to carry about his or her person, any dirk, bowie knife, pistol or revolver, or any kind of deadly weapon to any court of justice, or any election ground or precinct, or any place of public worship, or any other public gathering in this State except Militia muster grounds**; and if any person or persons shall violate any portion of this section, he, she or they shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty nor more than fifty dollars for each and every such offense, or

	imprisonment in the common jail of the county not less than ten nor more than twenty days, or both, at the discretion of the court; *provided* that this section shall not apply to any Sheriff, deputy Sheriff, Coroner, Constable, Marshal, Policeman, or other arresting officer or officers in this State or their posses, acting in the discharge of their official duties.
1880	**1880 Vol. 1 -- Page:** 375 **Full Title:** An Act to amend the charter of the city of Griffin, so as to authorize the establishment of a City Court in said city, to define the jurisdiction of the same, and for other purposes. Sec. VII. *Be it further enacted*, That said City Court shall have jurisdiction for the trial of the following cases: Offenses against the criminal laws of this State, when the offenses are committed within the limits of said city; simple larceny and larceny from the house, where the property does not exceed fifty dollars in value; assault and battery, vagrancy, riots, and carrying **concealed weapons**; and, upon conviction, the Judge of said court shall have jurisdiction to fine and imprison, as prescribed in section 4310 of the Code of this State.
1883	**1882 Vol. 1 -- Page:** 48 **Full Title:** An Act to amend section 4527 of the Code of 1882 in reference to carrying concealed weapons by striking out certain words in the third line of said section. Section I. *Be it enacted by the General Assembly of the State of Georgia*, That from and after the passage of this Act, section 4527 of the Code of 1882 be, and the same is hereby amended, by striking out the words "except horseman's pistol" in the third line of said section,so that said section, as amended, shall read as follows, to-wit: Any person having or carrying about his person, unless in an open manner and fully exposed to view, any pistol, dirk, sword in a cane, spear, Bowie-knife, or any other kind of knives manufactured and sold for the purpose of offense and defense, shall be guilty of a misdemeanor, and on conviction shall be punished as prescribed in section 4310 of this Code.
1886	**Brinson v. State, 75 Ga. 882 (1886)** NOTE: The decision as reported in Georgia Reports contains only a syllabus and bracketed depiction of events in court below.] Brinson vs. The State of Georgia. 1. The evidence was conflicting, and there was enough to support the verdict. 2. If a pistol be carried concealed but for a moment, it is a violation of the law. 46 Ga., 292. Judgment affirmed. February 17, 1886 Blandford, Justice. [Brinson was indicted for having and carrying about his person a pistol concealed. The evidence was conflicting. The court charged that if the pistol was concealed but for a moment, it was a violation of the law. The defendant was found guilty. He moved for a new trial, which was refused, and he excepted.]

1894

Crawford v. State, 94 Ga. 772 (1894)

Crawford *v.* The State.

1. The written request to charge the jury not being in its terms adapted to the facts in evidence or even to the statement of the accused, but being more comprehensive than either, there was no error in denying the same.

2. Under the statute prohibiting the carrying of a pistol concealed about the person (*Code, § 4527*), so carrying a broken and inefficient pistol, even though it be carried for the purpose and with the intent of having it repaired, is an offense; certainly so if, while on his way to or from the shop, the individual superadds to his original purpose and intention a resolution to produce the pistol suddenly and use it in making a hostile demonstration (p.773)against one whom he happens to encounter whilst he has the pistol concealed.
October 15, 1894.

Indictment for carrying concealed weapons. Before Judge Ross. City court of Macon. September term, 1894.

J. W. Preston, for plaintiff in error. W. H. Felton, Jr., solicitor-general, by Harrison, & Peeples, *contra*.

Lumpkin, Justice.

1. The court was requested to charge the jury as follows: "Every carrying of concealed weapons by a person is not a crime. There are certain exceptions which excuse one having a weapon concealed upon his person. One is, when an officer is in discharge of his duty. Another is, in time of war, and when martial law has been declared. Another is, when a person carries a broken pistol to a shop to have it repaired; and one who carries a pistol simply for transportation. These, and such like, is not carrying concealed weapons, and is not a criminal violation of the statute." There was nothing either in the evidence or in the statement of the accused, to the effect that he was an officer in the discharge of his duty, or that a war was in progress, or that martial law had been declared. We therefore would not feel authorized to reverse the trial judge for refusing to give in charge a request referring to such irrelevant matters, even if the request was, in other respects, legal and pertinent. Besides, even by his own statement, the accused made a very weak case of carrying a broken pistol to a shop to have it repaired, or of carrying it simply for transportation. The court, therefore, had abundant reason for refusing the request, in any view of the matter.

2. Instead of giving the charge requested, the court charged: "That a person might carry a pistol in a (p.774)basket or bucket or wagon, or wrapped up in a paper so as to be hid from view, if he carry it simply for transportation or to a shop to have it repaired. But if he carry it about his person concealed, the fact that it is a broken pistol would make no difference; and if he carries such a pistol, though simply to have it repaired, concealed in his pocket or under his coat, he is guilty under the statute." Under the facts of this case, there was no error, as against the accused, in so charging. In *Boles v. The State, 86 Ga. 255*, this court held that a violation of *section 4527 of the code*, which prohibits the carrying of a concealed weapon about the person, might consist in carrying a pistol in a basket or bag upon the arm, "and not for transportation alone." Even if, by the use of the words just quoted, it was intimated that carrying a pistol in a basket or bag for transportation only would not be a criminal offense, there certainly was no intimation that carrying a pistol concealed upon the person, for any purpose, would fall short of being a violation of the section in question. Granting, however, for argument's sake (though we do not, by any means, wish to be understood as so holding), that one might lawfully carry concealed upon his person a broken and inefficient pistol for the purpose of taking it to a shop and having it repaired, we are quite certain the individual so doing criminally violates the law if he superadds to his original purpose a resolution to suddenly produce and use it in making a hostile demonstration against one whom he happens to encounter while he has the pistol so concealed. It appeared in this case, that while the accused was proceeding along the street with a pistol in his pocket, he became engaged in a quarrel and difficulty with other persons, in the course of which he suddenly pulled the pistol from his pocket and pointed it at one of them. Under these circumstances, we have no hesitation in (p.775)holding that the accused was guilty of the charge made against him, and that the jury were right in so finding.

Judgment affirmed.

1890	**Boles v. State, 86 Ga. 255 (1890)** Boles v. The State. To violate the statute (Code §4527) forbidding the carrying of a pistol concealed on the person, it is not necessary for the weapon to be concealed in the clothing of the person; but the same result is accomplished by carrying it in a basket or bag upon the arm and not for transportation alone. November 26, 1890.(p.256) Carrying concealed weapons. Criminal law. Before Judge Harden. City court of Savannah. July term, 1890. Reported in the decision. Geo. W. Owens, by J. R. Saussy, for plaintiff in error. W. W. Fraser, solicitor-general, by S. B. Adams, contra. Simmons, Justice. Boles was indicted and tried for the offence of carrying concealed weapons, and was convicted. The proof was, in substance, that the constable heard a pistol fire, and went to see who had shot it. He met the defendant and asked who had shot the pistol; the defendant denied having done so, and said it was shot by parties further down the road. The witness searched for the parties down the road and could not find them. He then charged the defendant with having fired the pistol. He again denied it and said the witness might search him. The witness did so, and found cartridges in his pocket, but did not find any pistol on his person. He had a basket on his arm, and on opening it Green found the pistol in it. The basket was about a foot wide and two feet long, and had a cover to it. Another witness swore he was present when the constable arrested the defendant, and found the pistol. It was in his basket and the basket was on his arm. The only question to be decided in this case is whether, under the facts above given, the defendant was guilty of violating section 4527 of the code, which is as follows: "Any person having or carrying about his person, unless in an open manner and fully exposed to view, any pistol (except horseman's pistol), ... shall be guilty of a misdemeanor," etc. The defendant, among other things, requested the court to charge that "unless the jury found that the defendant had the pistol (p. 257)concealed on his person, he was not guilty of the offence charged"; and that "carrying a pistol in a basket on one's arm is not carrying a concealed weapon about one's person within the meaning of the statute." These requests the court refused to give, and in lieu thereof charged as follows: "If the jury believe that the pistol was carried in the basket by the defendant for convenience of use and access, and to evade the law, he would be guilty as charged. The question for the jury to determine is, whether the pistol was carried in the basket for the purpose of transportation or not: if it was carried for transportation, the defendant is not guilty as charged; if not carried for transportation, he is guilty." This charge, and the refusal to charge as requested to, is excepted to by the defendant. We do not think the court erred in his refusal to give in charge the defendant's request, nor in charging as complained of. The charge given was as favorable to the defendant as he had any right to demand. We do not think that, in order to violate the above section of the code, it is necessary for the weapon to be concealed in the clothing of the person; if carried in a basket or bag upon his arm, not for the purpose of transportation alone, it would be a violation of the statute. See State v. McManus, 89 N.C. 555; 3 Am. & Eng. Enc. of L. 410; 2 Whart. Crim. L. §1557. Judgment affirmed.
1898	Law Number: No. 106. Modifies section 341 of the Penal Code of Georgia, by inserting immediately after the word "any" in the third line and before the word "pistol" the following words: "kind of metal knucks." So the new section reads: Any person having or carrying about his person, unless in an open manner and fully exposed to view, any kind of metal knucks, pistol, dirk, sword in a cane, spear, bowie knife, or any other kind of knives, manufactured and sold for the purpose of offense and defense, shall be guilty of a misdemeanor."
1901	***Brown v. State, 114 Ga. 60, 39 S.E. 873 (1901)***

	BROWN v. STATE. (Supreme Court of Georgia. Nov. 6, 1901.) CARRYING WEAPONS--EVIDENCE--CONSTITUTIONALITY OF ACT. 1. The provisions of *Pen. Code, § 341*, which prohibits the carrying of concealed weapons, are sufficiently broad to embrace the carrying of such weapons by a person within the limits of his own home. 2. This court will never pass upon the constitutionality of an act of the general assembly unless it clearly appears in the record that the point was directly and properly made in the court below, and distinctly passed on by the trial judge. 3. The evidence authorized the verdict, and there was no error in refusing to grant a new trial. (Syllabus by the Court.) Error from city court of Elberton; P. P. Proffitt, Judge. Joe Brown was convicted of carrying concealed weapons, and brings error. Affirmed. I. Van Duzer, for plaintiff in error. Thos. J. Brown, for the State. COBB, J. The accused was tried upon an accusation charging him with having and carrying about his person a concealed pistol. It appears from the evidence that at the time the pistol was carried in the manner just referred to the accused was in his own home. The court charged the jury "that a man has no right to carry a pistol in the manner prohibited by law (that is, concealed on his person), even though he might be carrying the same for the purpose of defending and protecting his own home, his person, or his property, and might be at the time he so carried it in his own house or home." Upon this charge there is a general assignment of error, and it was argued here by counsel for plaintiff in error that the charge was erroneous for two reasons: First, because the statute prohibiting the carrying of concealed weapons did not apply when a man was in his own home; and, second, that, if the statute could be properly so construed, it was to that extent unconstitutional. The statute declares that "any person having or carrying about his person, unless in an open manner and fully exposed to view, any pistol * * * shall be guilty of a misdemeanor." *Pen. Code, § 341*. The statute is broad enough to embrace any and all places, and there is nothing in it to indicate a legislative intent that the statute should not apply when the person carrying the concealed pistol was at the time within the confines of his own home. But it is claimed that the general assembly had no authority, under the constitution, to pass an act so broad in its terms. There is nothing in the record to indicate that such a question was ever passed upon by the presiding judge. The motion for a new trial contains only the general grounds and an assignment of error (p.874)upon the charge complained of, which is quoted above; and this assignment is merely a general one, without specifying any reason why the charge is erroneous. It is well settled now that, before this court will undertake to pass upon the constitutionality of an act of the general assembly, it must clearly appear from the record not only what clause or paragraph of the constitution the statute is claimed to be in violation of, but it must also in like manner appear that the question so made was actually presented to the presiding judge, and distinctly passed upon by him. See *Railway Co. v. Hardin, 110 Ga. 433, 437, 35 S.E. 681*. The evidence authorized the verdict, and the rulings complained of were not erroneous for any reason appearing in the record. Judgment affirmed. All the Justices concurring.
1906	Atlanta Race Riots - During the summer of 1906, white fears of African Americans' increasing economic and social power, sensationalized rhetoric from white politicians, and unsubstantiated news stories about a black crime wave created a powder keg of racial tension in Atlanta. The powder keg exploded on the night of September 22nd in what became known as the Atlanta Race Riot. By the time the riot ended on September 25th, at least 25 blacks and two whites lay dead.

1908	In 1906, Hoke Smith campaigned for governor on a progressive platform -- but one that championed disfranchisement of Georgia's black voters. To accomplish this, Smith supported a constitutional amendment that provided that any male at least 21 years of age wanting to register to vote must also: (a) be of good character and able to pass a test on citizenship, (b) be able to read and write provisions of the U.S. or Georgia constitutions, or (c) own at least 40 acres of land or $500 in property. However, any Georgian who had fought in any war from the American Revolution through the Spanish-American War was exempted from these additional qualifications. More importantly, any Georgian descended from a veteran of any of these war also was exempted. Because by 1908, most white Georgia males were grandsons of Confederate veterans, this exemption became known as the "grandfather clause." Essentially, the qualifications of good character, citizenship knowledge, literacy, and property ownership applied only to blacks wanting to register to vote. Smith's constitutional amendment was proposed by the General Assembly on Aug. 21, 1907 and ratified by voters of the state on Oct. 7, 1908.
1909	**1909 Vol. 1 -- Page:** 90 **Full Title:** An Act to amend Section 342 of the Penal Code of Georgia by inserting after the word "to" and before the word "a" in the third line of said Section 342 the following words: "or while at." SECTION 1. Be it enacted by the General Assembly of Georgia, and it is hereby enacted by the authority of the same, That Section 342 of the Penal Code of Georgia be, and the same is, hereby amended by inserting in said Section 342 which provides for punishment for carrying deadly weapons, bowie knives, pistols, etc., to public gatherings or places of worship, after the word "to" and and before the word "a" in the third line of said Section the following words: "or while at" so that said Section will read as follows: "Whoever shall carry about his person any dirk, bowie knife, pistol or revolver, or any kind of deadly weapon, to or while at a court of justice or an election ground or precinct, or any place of public worship, or any other public gathering in this State, except militia muster grounds, shall be punished as for a misdemeanor. This Section shall not apply to any sheriff, deputy sheriff, coroner, constable, marshal, policeman or other arresting officers or their posse acting in the discharge of their official duties.
1910	**<Editor Note : A $100 bond is over $2,000 in 2005 money>** **1910 Vol. 1 -- Page:** 134 - Approved August 12, 1910. **Full Title:** An Act to prohibit any person from having or carrying about his person, in any county in the State of Georgia, any pistol or revolver without first having obtained a license from the Ordinary of the county of said State, in which the party resides, and to provide how said license may be obtained and a penalty prescribed for a violation of the same, and for other purposes. SECTION 1. Be it enacted by the General Assembly of Georgia, and it is hereby enacted by authority of the same, That from and after passage of this Act it shall be unlawful for any person to have or carry about his person, in any county in the State of Georgia, any pistol or revolver without first taking out a license from the Ordinary of the respective counties in which the party resides, before such person shall be at liberty to carry around with him on his person, or to have in his manual possession outside of his own home or place of business, *provided* that nothing in this Act shall be construed to alter, affect or amend any laws now in force in this State relative to the carrying of concealed weapons on or about one's person, and *provided further,* that this shall not apply to sheriffs, deputy sheriffs, marshals, or other arresting officers of this State or United States, who are now allowed, by law, to carry revolvers; nor to any of the militia of said State while in service or upon duty; nor to any students of military colleges or schools when they are in the discharge of their duty at such colleges. SEC. 2. Be it further enacted, That the Ordinary of the respective counties of this State in which the applicant resides may grant such license, either in term time or during vacation, upon the application of party or person desiring to apply for such license; *provided* applicant shall be at least eighteen years old or over, and shall give a bond payable to the Governor of the State in the sum of one hundred dollars, conditioned upon the proper and legitimate use of said weapon with a surety approved by the Ordinary of said county, and the Ordinary granting the license shall keep a record of the name of the person taking out such license, the name of the maker of the fire-arm to be carried, and the caliber and number of the same. **[**Sidenote: License, how obtained.**]** SEC. 3. The person making such application and to whom such license is granted shall pay to the Ordinary for granting said license the sum of fifty cents, which license shall cover a period of three years from date of granting same.

	Governor Hoke Smith was re-elected
1911	**Strickland v. State, 137 Ga. 1, 72 S.E. 260 (1911)** **(**Supreme Court of Georgia. Oct. 5, 1911.) (Syllabus by the Court.) 1. Weapons--Constitutional Law--Right to Carry Weapons. The act of the General Assembly, approved August 12, 1910 (Georgia Laws 1910, p. 134), entitled "An act to prohibit any person from having or carrying a revolver without first having obtained a license from the ordinary of the county of said state, in which the party resides, and to provide how said license may be obtained and a penalty prescribed for a violation of the same, and for other purposes," is not null and void because in violation of article 1, § 1, par. 22, of the Constitution of the state, which provides: "The right of the people to keep and bear arms shall not be infringed, but the General Assembly shall have power to prescribe the manner in which arms shall be borne." 2. Weapons--Constitutional Law--Carrying Revolver. The act described in the preceding headnote is not violative of the right of the citizen, under article 8, § 2, of the Constitution of the United States, which declares: "A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed." Atkinson, J., dissenting. Certified Questions from Court of Appeals. J. L. Strickland was convicted of carrying a pistol without a license, and brought error to the Court of Appeals, which certified certain questions to the Supreme Court. Questions answered in the negative. See, also, 72 S.E. 436. The Court of Appeals certified to the Supreme Court the following questions: "Is the act of the General Assembly of the state of Georgia, approved August 12, 1910 (Georgia Laws 1910, p. 134), entitled 'An act to prohibit any person from having or carrying about his person, in any county in the state of Georgia, any pistol or revolver without first having obtained a license from the ordinary of the county of said state, in which the party resides, and to provide how said license may be obtained and a penalty prescribed for a violation of the same, and for other purposes,' null and void, because in violation of article 1, § 1, par. 22, of the Constitution of the state of Georgia, which provides: 'The right of the people to keep and bear arms shall not be infringed, but the General Assembly shall have power to prescribe the manner in which arms may be borne'? Is this act in violation of the right of the citizen, under article 8, § 2, of the Constitution of the United States (Civil Code 1910, § 6685), which provides: 'A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed'"? R. W. Adamson and Napier & Maynard, for plaintiff in error. C. E. Roop, Sol., for the State. LUMPKIN, J. The first question propounded by the Court of Appeals is whether the act of August 12, 1910 (Acts 1910, p. 134), entitled "An act to prohibit any person from having or carrying about his person, in any county in the state of Georgia, any pistol or revolver without first having obtained a license from the ordinary of the county of said State, in which the party resides, and to provide how said license may be obtained and a penalty prescribed for a violation of the same, and for other purposes," is violative of article 1, § 1, par. 22, (p.261)of the Constitution of this state, which provides that "the right of the people to keep and bear arms shall not be infringed, but the General Assembly shall have power to prescribe the manner in which arms may be borne." 1. First let us glance hastily at some of the English laws which antedated the introduction into the federal Constitution, and into the Constitutions of many of the states, of provisions in reference to bearing arms. As early as A.D. 1328, the statute of 2 Ed. III was passed, prohibiting persons "to go or ride armed by night or by day." And it has been declared that at common law riding or going about armed with dangerous or unusual weapons, to the terror of the people, was always indictable. Bish. Stat. Cr. (3d Ed.) §§ 783, 784; 4 Bl. Com. 149. By the act of 22 and 23 Car. II, c. 25, § 3, it was provided that no person who had not lands of the yearly value of £100, except certain specified persons, should be allowed to keep a gun, etc. James II arbitrarily disarmed the Protestant population, and quartered Catholic soldiers among the people. After the revolution which forced his abdication, in the first year of the reign of William and Mary, an act of Parliament was passed which recited certain abuses which had existed, and asserted certain rights and privileges. Among the grounds of complaint recited were the keeping of a standing army within the kingdom in time of peace, without the consent of Parliament, and quartering soldiers contrary to law, and "causing several good subjects, being Protestants, to be disarmed, at the time when papists were both armed and employed contrary to law." The Bill of Rights no doubt arose from the conduct of the Stuarts. It followed the Declaration of Rights, to which the Prince of Orange assented. Among other things, it declared that "the subjects which are Protestants may have arms for their defense, suitable to their condition and as allowed by law." This was not an unlimited conference of authority upon the

Protestants, but only insured them rights under the law, which allowed persons of a certain rank and condition to have arms.

When the second amendment to the Constitution of the United States was adopted, it declared: "A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed." The third amendment also declared that no soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, except in the manner to be prescribed by law. Some similar provision has been incorporated in most of the state Constitutions. The language employed has not always been uniform. In some cases the preliminary reference to the importance of an efficient militia is made, and in some it is omitted, and there are other verbal differences. But the common element is the assurance of the right "to bear arms."

One of the first questions which was raised under the constitutional provisions on this subject was whether they were violated by laws which prohibited the carrying of concealed weapons. In the case of Bliss v. Commonwealth, 2 Litt. (Ky.) 90, 13 Am. Dec. 251, decided in 1822, the Supreme Court of Kentucky declared that an act to prevent the carrying of concealed weapons was unconstitutional and void as impairing the constitutional right to bear arms. This ruling has not been followed, but severely criticised. The decisions are practically unanimous to the contrary. Aymette v. State, 21 Tenn. (2 Humph.) 154; State v. Wilforth, 74 Mo. 528, 41 Am. Rep. 330; State v. Reid, 1 Ala. 612, 35 Am. Dec. 44; State v. Speller, 86 N.C. 697; State v. Mitchell, 3 Blackf. (Ind.) 229; Wright v. Commonwealth, 77 Pa. 470; State v. Jumel, 13 La. Ann. 399; State v. Buzzard, 4 Ark. 18; note to case of In re Brickey, [8 Idaho 597, 70 P. 609], 1 Am. & Eng. Ann. Cas. 55, 56; Ex parte Thomas, 21 Okl. 770, 97 Pac. 260, 20 L.R.A. (N.S.) 1007, 17 Am. & Eng. Ann. Cas. 566, and note.

In several states other statutes, regulatory in their nature, or prohibiting the carrying of certain kinds of weapons, or the carrying of weapons under certain circumstances and at certain places, have been upheld. In Andrews v. State, 3 Heisk. (Tenn.) 165, 8 Am. Rep. 8, the Supreme Court of Tennessee held that an act of the Legislature providing that it should not be lawful for any person to publicly or privately carry a dirk, sword-cane, Spanish stiletto, belt or pocket pistol, or revolver, was constitutional, except as to a revolver; that the word "revolver" might include a pistol adapted to the equipment of a militiaman or soldier, or a weapon not so adapted; that if the weapon designated by the statute was of the former character the absolute prohibition against it was too broad. In the opinion, in speaking of the arms in the use of which a soldier should be trained, at one place the word "repeater" was used. But it was evident that reference was made to army and navy repeaters of a character used in modern warfare, and not to every pistol which might repeat its fire. The pocket revolver was not meant, for in Page v. State, 3 Heisk. (Tenn.) 198, the court sustained a conviction for carrying such a pistol. In the opinion it was said that "the evidence fully establishes the fact that the pistol carried by Page was not an arm for war purposes, and therefore, under the ruling of this court in the case of Andrews v. State, decided at Jackson, it was a weapon, the carrying of which the Legislature could constitutionally prohibit." In Fife v. State, 31 Ark. 455, 25 Am. Rep. 556, an act was under consideration which provided that "any person who shall bear or carry any pistol of (p. 262)any kind whatever, or any dirk, butcher or bowie knife, or sword or spear in a cane, brass or metal knucks, or razor, as a weapon, shall be adjudged guilty of a misdemeanor," etc. The court in construing the act said: "From the company in which the pistol is placed, and the known public mischief which the Legislature intended by the act to prevent, it is manifest that the pistol intended to be proscribed is such as is usually carried in the pocket, or of a size to be concealed about the person, and used in private quarrels and brawls, and not such as is in ordinary use, and effective as a weapon of war, and useful and necessary for 'the common defense.'" It was held that the act did not infringe the constitutional privilege of the citizen to bear arms.

In State v. Wilburn, 7 Baxt. (Tenn.) 57, 32 Am. Rep. 551, it was held that a law prohibiting the carrying of an army pistol, except in the hand, was not violative of the constitutional provision of that state in regard to the right of citizens to bear arms for the common defense, which also stated that the Legislature should have power, by law, to regulate the wearing of arms, with a view to prevent crime. In Haile v. State, 38 Ark. 564, 42 Am. Rep. 3, it was held that a statute prohibiting the carrying of army pistols by nonmilitary persons, except uncovered and in the hand, was not unconstitutional.

In West Virginia an act was passed which made it a misdemeanor to carry about the person any revolver or other pistol, dirk, bowie knife, razor, slungshot, billy, metallic or other false knuckles, or any other dangerous or deadly weapon of like kind or character, or to sell, or furnish any such weapon to one whom the furnisher knew, or had reason from his appearance or otherwise to believe, to be under the age of 21 years. Certain exceptions were made as to keeping or carrying a pistol about the dwelling of the owner, or from the place where it was purchased to his dwelling house, etc. In State v. Workman, 35 W. Va. 367, 14 S.E. 9, 14 L.R.A. 600, it was held that, whenever an act of the Legislature can be so construed as to avoid conflict with the Constitution, such construction will be adopted by the courts, and that the act was not unconstitutional. In Ex parte Thomas, 21 Okl. 770, 97 Pac. 260, 20 L.R.A. (N. S.) 1007, 17 Am. & Eng. Ann. Cas. 566, it was held that the word "arms," as used in the Oklahoma Constitution, providing that "the right of a citizen to keep and bear arms * * * shall never be prohibited," has reference to such arms as are recognized in civilized warfare, and not to weapons mentioned in the statute of that state which forbade the carrying about the person of any pistol, revolver, bowie knife, dirk, knife, loaded cane, billy, metal knuckles, or any other offensive or defensive weapon, except as in the act provided.

In City of Salina v. Blaksley, 72 Kan 230, 83 Pac. 619, 3 L.R.A. (N.S.) 168, 115 Am. St. Rep. 196, 7 Am. & Eng. Ann. Cas. 925, the Supreme Court of Kansas went further than any other case which has come to the attention of the writer, and held that the provision of the Constitution of that state that "the people shall have the right to bear arms for their defense and security" was a limitation upon the legislative power to enact laws prohibiting the bearing of arms in the militia, or any other

military organization provided for by law, but was not a limitation on legislative power to enact laws prohibiting and punishing the promiscuous carrying of arms or other deadly weapons.

In Re Brickey, 8 Idaho, 597, 70 Pac. 609, 101 Am. St. Rep. 215, the Supreme Court of Idaho held that, while it is undoubtedly within the police power of the Legislature to prohibit the carrying of concealed deadly weapons, the Legislature has no power to prohibit absolutely the carrying of deadly weapons in any manner whatsoever, in cities, towns, and villages; such a regulation being repugnant to those provisions of both the state and federal Constitutions which guarantee to the citizens the right to bear arms. In so far as reference was made to the federal Constitution, the decision was the result of oversight, as will presently be seen.

An examination of the various decisions, whether dealing with laws against carrying concealed weapons, or with regulations as to the manner of carrying certain weapons, or the prohibition against carrying weapons of a particular character, will show that two general lines of reasoning have been employed in upholding such statutes: First, that such provisions are to be construed in the light of the origin of the constitutional declarations, of their connection with words declaratory of the necessity for an efficient militia or for the common defense, or the like, where they are used, and in view of the general public purpose which such provisions were intended to subserve; and, second, that the right to bear arms, like other rights of person and property, is to be construed in connection with the general police power of the state, and as subject to legitimate regulation thereunder. Where a state Constitution in terms provides, in connection with the right to bear arms, that the state may regulate this right, or may regulate the manner of bearing arms, these words expressly recognize the police power in direct connection with the constitutional declaration as to the right. But even where such expressions do not occur, it has been held that the different provisions of the Constitution must be construed together, and that the declaration or preservation of certain rights is not to be segregated and treated as arbitrary, but in connection with the general police power of the state, unless the language of the instrument itself should exclude such a construction. Thus, if the right to bear arms includes deadly (p.263)weapons of every character, and is absolute and arbitrary in its nature, it might well be argued, as it was in earlier days, that the citizen was guaranteed the right to carry weapons or arms, in the broadest meaning of that term, whenever, wherever, and however he pleased, and that any regulation, unless expressly provided for in the Constitution, was an infringement of that right. The ruling that the Legislature may prohibit the carrying of concealed weapons essentially concedes the police power of regulation to some extent. If this be conceded, the question then becomes one as to whether the particular regulation involved is legitimate and reasonably within the police power, or whether it is arbitrary, and, under the name of regulation, amounts in effect, to a deprivation of the constitutional right.

Various other rights are guaranteed by the Constitution, but they are construed in connection with the general police power of the state. The Constitution prohibits the passage of any law curtailing or restraining the liberty of speech or of the press. But it has never been held that this gave the arbitrary right to a person to make public speeches or shout his sentiments, at all times and in all places, regardless of interference with public order; nor has it ever been held that such guaranties interfered with laws making libel and slander punishable. The right of contract has been held to be a part of the liberty of the citizen, and yet various contracts have been subjected to police regulation. The right to go from place to place is subject to police regulation for the public health and safety, as, for instance, in times of epidemics. Other illustrations might readily be given.

Let us now consider more especially the laws and decisions of this state on the subject. The provision in reference to bearing arms appeared in the Constitution of 1861. It was again incorporated in the Constitution of 1865 and that of 1868. In the latter the same language was used as in the Constitution of 1877, except that it contained the preamble: "A well regulated militia being necessary to the security of a free people." In the Constitution of 1877, these words were not employed in that immediate connection, but were used in article 10, § 1, par. 1, treating of the militia; and it was doubtless deemed unnecessary to reiterate them in both connections. While proceedings of a constitutional convention may be looked to, they do not furnish a controlling construction of the meaning of words in the Constitution. Such an instrument derives its vitality and force from its adoption by the people, rather than from the intentions of certain members of the convention, or expressions of individual opinions in speeches.

The first case which arose in this state on the subject under consideration was that of Nunn v. State (which was decided in 1846), 1 Ga. 243. At that time it was still a somewhat mooted question whether the second amendment to the Constitution of the United States was a limitation on the power of Congress only, or also affected that of the state Legislatures, although Barron v. Baltimore, 7 Pet. 243, 8 L.Ed. 672, had been decided. An examination of the decisions of courts will show that some very reputable authorities had expressed the opinion that the amendment applied to state Legislatures, as well as to Congress. As already noted, the Supreme Court of Idaho, as late as 1902, still treated it as a limitation upon the state governments, and as a guaranty to the individual citizen. In this condition of judicial consideration, the Nunn Case was decided. It was said: "A law which merely inhibits the wearing of certain weapons in a concealed manner is valid. But, so far as it cuts off the exercise of the right of the citizen altogether to bear arms, or, under the color of prescribing the mode, renders the right itself useless, it is in conflict with the Constitution, and void." As at that time there was no provision on the subject in the state Constitution, and the only constitutional declaration quoted was from the second amendment to the federal Constitution, it is clear that the court took the view that such amendment was a restriction upon the Legislature of the state, as well as upon Congress, and what was said was in reference to the federal Constitution. The opinion contains some broad language used in discussion; but evidently it was never intended to hold that men, women, and children had some inherent right to keep and carry arms or weapons of every description, which could not be infringed by the Legislature, unless as a result of the constitutional provision under consideration. Since that time the Supreme Court of the United States, whose construction of the federal Constitution is conclusive, has held that the second

amendment to that instrument was a restriction upon the power of Congress only. In United States v. Cruikshank, 92 U.S. 542, 23 L.Ed. 588, it was said: "The second amendment means no more than that it [the right to bear arms] shall not be infringed by Congress, and has no other effect than to restrict the powers of the national government. Sovereignty, for the protection of the rights of life and personal liberty within the respective states, rests alone with the states." Presser v. Illinois, 116 U.S. 252, 6 Sup.Ct. 580, 29 L.Ed. 615; Twining v. New Jersey, 211 U.S. 78, 29 Sup.Ct. 14, 53 L.Ed. 97. In Stockdale v. State, 32 Ga. 225, the only point really decided was whether the court erred in refusing a request to give a charge as to what exposure of a weapon would satisfy the act prohibiting the carrying of concealed weapons, and in charging to the effect that, if any part of a pistol was concealed, it was a violation of the law. No constitutional question was involved; and, so far as the reference (p.264)to the Nunn Case mentioned such a question, it was obiter dictum.

In Hill v. State, 53 Ga. 472, an act which made it penal to carry about the person any dirk, bowie knife, revolver, or any kind of deadly weapon to any court of justice or any election grounds or precinct, or any place of public worship, or any other public gathering in this state, except militia muster grounds, was attacked as violative of the provision of the Constitution of 1868 in regard to the right of the people to keep and bear arms. Speaking of the meaning of this clause of the Constitution, McCay, J., made use of the following vigorous utterance: "It is to secure the existence of a well-regulated militia; that, by the express words of the clause, was the object of it, and I have always been at a loss to follow the line of thought that extends the guaranty to the right to carry pistols, dirks, bowie knives, and those other weapons of like character, which, as all admit, are the greatest nuisances of our day. It is in my judgment a perversion of the meaning of the word 'arms,' as used in the phrase 'the right to keep and bear arms,' to treat it as including weapons of this character. The preamble of the clause is the key to the meaning of it. The word 'arms' evidently means the arms of a militiaman, the weapons ordinarily used in battle, to wit, guns of every kind, swords, bayonets, horseman's pistols, etc. The very words 'bear arms' had then, and now have, a technical meaning. The 'arms-bearing' part of a people were its men fit for service on the field of battle. That country was 'armed' that had an army ready for fight. The call 'to arms' was a call to put on the habiliments of battle, and I greatly doubt if in any good author of those days a use of the word 'arms,' when applied to a people, can be found, which includes pocket pistols, dirks, sword canes, tooth picks, bowie knives, and a host of other relics of the past barbarism, or inventions of modern savagery of like character. In what manner the right to keep and bear these pests of society can encourage or secure the existence of a militia, and especially of a well-regulated militia, I am not able to divine." He said that if it should be held (following the opinion in the Nunn Case) that the guaranty of our state Constitution was intended to include weapons of the character mentioned, the act was still not unconstitutional; that the power to "prescribe the manner in which arms may be borne" should be given a reasonable interpretation, and that it included the power to prescribe, not only the particular way in which such weapons might be carried, such as openly or secretly, on the shoulder or in the hand, loaded or unloaded, cocked or uncocked, capped or uncapped, but also the time when and the place where they might be borne. He said: "The Constitution is to be construed as a whole. One part of it is not to be understood in such a sense as will militate against another. It is as well the duty of the General Assembly to pass laws for the protection of the person and property of the citizens, as it is to abstain from any infringement of the right to bear arms. The preservation of the public peace, and the protection of the people against violence, are constitutional duties of the Legislature, and the guaranty of the right to keep and bear arms is to be understood and construed in connection and in harmony with these constitutional duties." Bish. St. Cr. (3d Ed.) § 793. Surely no one will contend that children have a constitutional right to go to school with revolvers strapped around them, or that men and women have a right to go to church, or sit in the courtrooms, or crowd around election precincts, armed like desparadoes, and that this is beyond the power of the Legislature to prevent.

It was argued that the requirement of a license to carry the weapons named in the act, and the fixing of a fee of 50 cents, were obnoxious to the constitutional provision. If this argument be sound, then practically the whole licensing system would be destroyed on the ground that to require a license is not a regulation, but a prohibition. Many persons are required to obtain a license before engaging in certain businesses or performing certain acts; where a legitimate exercise of the police power of the state, it has never been thought that this was a violation of any constitutional right as to person or property. It was contended also that a requirement of a bond of $100, conditioned upon a proper and legitimate use of the weapons, rendered the act obnoxious to the Constitution. It was said that this might deprive some persons who could not give a bond of the right to carry the weapon. There are many cases in which a person may exercise a certain right by giving a bond. Numerous public officers are required to furnish bond before taking charge of the office, but this has not been thought to be unconstitutional because some citizens might desire to hold the office who could not give the bond. The right to appeal to the courts is guaranteed by the Constitution. In order to obtain a writ of attachment, the plaintiff must give bond. It would hardly be said that, because he could not give the bond required by the statute, he was unconstitutionally excluded from appealing to the court in that manner. Illustrations might be multiplied. We think, upon careful consideration, that the regulatory provisions of the act of 1910 are not so arbitrary or unreasonable as to amount, in effect, to a prohibition of the right to bear arms, or an infringement of that right as protected by the Constitution.

Acts of the Legislature ought to be given a reasonable and sensible construction, and (p.265)one which will not conflict with the Constitution, where it is practicable to do so. County of De Kalb v. City of Atlanta, 132 Ga. 727 (2), 65 S.E. 72; Southern Ry. Co. v. Atlanta Sand Co., 135 Ga. 36 (5), 68 S.E. 807; Atlantic Coast Line R. Co. v. State, 135 Ga. 545, 561, 69 S.E. 725, 32 L.R.A. (N.S.) 20. The illustrations given by Blackstone, in connection with his rules for construing statutes, are familiar. Among them is a law forbidding a layman to "lay hands" on a priest, which was construed to include hurting him with a weapon; a law forbidding all ecclesiastical persons to purchase "provisions" at Rome, which should be construed as not including "grain or other victuals," but nominations to benefices, which were known as ecclesiastical provisions; a law declaring that those who in a storm forsook a ship should forfeit all property therein, and the ship and lading should

belong to those who staid in it, which was construed not to apply in favor of a sick passenger, who, by reason of his disease, was unable to get out and escape; and a law which declared that "whoever draws blood in the streets" should be punished, which was held not to apply to a surgeon, who opened the vein of a person who fell down in the street in a fit. 1 Bl. Com. 60, 61. We are not called upon to determine whether the act of 1910 offends the rules of rhetoric or English grammar, but whether it violates the Constitution. The act should receive a reasonable construction. Suppose that the owner of a pistol should accidentally drop it from the window of his dwelling to the street. A narrow and literal construction of the act might make it penal for him to pick it up and carry it into his house. It is lawful to sell pistols. But a similar construction might make it impossible for the carrier to deliver them to the dealer, or the dealer to deliver them to the customer. But we will not anticipate that any such construction will be given, but one which will carry out the legislative purpose.

2. The second question propounded by the Court of Appeals is whether the act of 1910 is in violation of the right of a citizen, under article 8, § 2, of the Constitution of the United States, which provides: "A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed." What has been said above answers this question in the negative. It is not contended that anything contained in this act affects, or was intended to affect, any federal law passed in pursuance of the Constitution of the United States in regard to the regulation of militia. All the Justices concur, except BECK, J., absent.

ATKINSON, J. (dissenting). The first question propounded by the Court of Appeals should be answered in the affirmative. The correctness of the answer depends upon a proper construction of the statute in question, and of the Constitution of this state. In construing the Constitution on the subject, its history is such as to make manifest the intention of the people in adopting it, and the intent, as thus shown, should be given effect. Precedents of other states, consisting of rulings of courts, relative to Constitutions, statutes, and questions which were not identical with those of our own, and which probably had different histories, can have but little, if any, weight in showing the intention of the makers of our Constitution and statutes. Resort to the history of the early English laws on the subject of the right to bear arms is not important, otherwise than as to be suggestive of reasons why it should have been expressly put in our fundamental law that the inherent right of the people to bear arms should never be infringed by the legislative power in the exercise of the right to enact laws.

Section 1 of the act, concerning the constitutionality of which the question is propounded, declares: "That from and after the passage of this act it shall be unlawful for any person to have or carry about his person, in any county in the state of Georgia, any pistol or revolver without first taking out a license from the ordinary of the respective counties in which the party resides, before such person shall be at liberty to carry around with him on his person, or to have in his manual possession outside of his own home or place of business; provided that nothing in this act shall be construed to alter, affect or amend any laws now in force in this state relative to the carrying of concealed weapons on or about one's person; and provided further, that this shall not apply to sheriffs, deputy sheriffs, marshals, or other arresting officers of this state or United States who are now allowed, by law, to carry revolvers; nor to any of the militia of said state while in service or upon duty; nor to any students of military colleges or schools when they are in the discharge of their duty at such colleges." Section 2 declares: "That the ordinary of the respective counties of this state, in which the applicant resides, may grant such license, either in term time or during vacation, upon the application of party or person desiring to apply for such license; provided applicant shall be at least eighteen years old or over, and shall give a bond payable to the Governor of the state in the sum of one hundred dollars, conditioned upon the proper and legitimate use of said weapon, with a surety approved by the ordinary of said county, and the ordinary granting the license shall keep a record of the name of the person taking out such license, the name of the maker of the firearm to be carried, and the caliber and number of the same." Section 3 provides that: "The person making such application, (p.266)and to whom such license is granted, shall pay to the ordinary for granting said license the sum of fifty cents, which license shall cover a period of three years from date of granting same." Section 4 makes the violation of the act punishable as for a misdemeanor.

The majority refuse to "anticipate" that this act will be so construed as to render it unlawful for the owner of a pistol, who should accidentally drop it from his dwelling to the street, to afterwards pick it up and carry it into his house; or that, if a pistol should be purchased, it would be unlawful for the dealer to deliver it or the purchaser to receive it. When some such question arises, it cannot be passed over lightly. An existing statute prohibits the carrying of a pistol concealed, and in a prosecution for the violation of this statute it has been held that if a pistol be carried concealed but for a moment it is a violation of the law. Brinson v. State, 75 Ga. 882. But the provisions of the act above quoted extend further than to instances such as mentioned by the majority. Under them no person, male or female, under the age of 18 years, other than such as might come within certain classes specifically excepted, could lawfully carry around on his person, or have in his manual possession, any kind of pistol or revolver, for any purpose whatever, in any conceivable manner, elsewhere than in his own home or place of business. Nor could any person over the age of 18 years do so without first having obtained a license so to do from the ordinary of the county, and having given bond and paid the prescribed fee. Relatively to a person under the age of 18 years, it matters not what the conditions or causes might be that would render it necessary for him or her, as the case might be, to go to or from his home or place of business, or what dangers might be encountered on the way, or how great the necessity for a pistol or revolver for the protection of self or property, he would violate the statute if on the way he carried in his hand, or otherwise about his person, a pistol or revolver. The same would apply to all persons over the age of 18 years, not falling within any of the excepted classes, unless they had complied with the prescribed conditions relative to obtaining a license, giving bond, and paying the fee. A nonresident, without a place of business, could not obtain a license. If there were a vacancy in the office of the ordinary, no person could obtain a license. However distasteful or inconvenient it might be to a law-abiding citizen to take out a license and be recorded as the carrier of a pistol, or, in case of remote distance from the

ordinary, or inaccessibility to his office, however great the necessity of carrying a pistol or revolver for self-protection, before a license could be obtained, it would be a violation of this statute to carry any kind of a pistol or revolver in any manner whatever, and punishable as for a misdemeanor.

Whatever else might be said of this statute, it ought not to be held that it does not infringe the right to carry a pistol or revolver. As the statute is to be construed as infringing the right to carry a pistol or revolver, it only remains to determine whether "pistols or revolvers," as contemplated by this act, are to be classed as "arms," within the meaning of the Constitution of this state, which declares that "the right of the people to keep and bear arms shall not be infringed, but the General Assembly shall have the power to prescribe the manner in which arms may be borne." If they were so contemplated, then the act is obnoxious to this clause of the Constitution. The act contemplates all pistols and revolvers, because it excepts none. If it had not contemplated specially pistols and revolvers, such as belong to the accoutrement of the militia, the militia would not have been included among the classes which were excepted from its operation. By such an exception, the act gave to the militia the right of carrying pistols and revolvers of the kind which it undertook to deny to other people. If it were a proper test and right to hold that the Constitution, by the use of the word "arms," contemplated only such as were borne by the militia, this act, according to the manifest purpose and intent of the Legislature, would antagonize the Constitution; but this dissent is not rested on that proposition. Before our Constitution contained any declaration against the infringement upon the right of the people to bear arms, it was thought by this court that the second amendment to the Constitution of the United States, which is set forth in the second question propounded by the Court of Appeals, prohibited legislation by state Legislatures which infringed the right to bear arms, and that the Constitution last mentioned, which did not refer to "pistols or revolvers," otherwise than as might be comprehended by the word "arms," contemplated pistols. That such was the understanding of this court at that time is shown by the decision rendered in the case of Nunn v. State, 1 Ga. 243, which has been referred to by the majority. Nunn had been convicted under the act of 1837, which made it a misdemeanor "for any merchant or vender of wares or merchandise in this state, or any person or persons whatever, to sell, or to offer to sell, or to keep or to have about their persons, or elsewhere, any of the hereinafter described weapons, to wit: Bowie or any other kinds of knives, manufactured and sold for the purpose of wearing or carrying the same as arms of offense or defense; pistols, dirks, sword-canes, spears, etc., shall also be contemplated in this act, save such pistols as are known and used as horseman's pistols." Cobb's Dig. p. 848. This act was attacked as being unconstitutional, and it was so (p.267)held by this court, and the judgment of the lower court refusing a new trial was reversed. The effect of the decision was to hold that a pistol was an "arm," in the meaning of the Constitution. The court, expressing the opinion through Lumpkin, J., said: "We are of the opinion, then, that so far as the act of 1837 seeks to suppress the practice of carrying certain weapons secretly that it is valid, inasmuch as it does not deprive the citizen of his natural right of self-defense, or of his constitutional right to keep and bear arms. But that so much of it as contains a prohibition against bearing arms openly is in conflict with the Constitution, and void; and that as the defendant has been indicted and convicted for carrying a pistol, without charging that it was done in a concealed manner, under that portion of the statute which entirely forbids its use, the judgment of the court below must be reversed, and the proceeding quashed."

This decision was rendered in 1846, and was subsequently approved in the case of Stockdale v. State, 32 Ga. 225-227, which was decided at the January term, 1861. No constitutional question was raised in this latter case; but it is pertinent to the present discussion for the purpose of showing that this court construed the word "arms" to include "pistols." In the opinion, Lyon, J., after quoting so much of the opinion as is quoted above from the case of Nunn v. State, supra, said: "That decision has been constantly adhered to from that time to the present, and must continue to stand as the law of this court on that subject." It was further said: "To enforce the law, as the court construed it to the jury, would be to prohibit the bearing of those arms [pistols] altogether. * * * What the Legislature did intend was to compel persons who carried those weapons to so wear them about their persons that others, who might come in contact with them, might see that they were 'armed.'" Subsequently, in 1874, the decision of this court, in the case of Hill v. State, 53 Ga. 472, was rendered. Hill was indicted under a section of the Code which prohibited the carrying of a pistol, etc., to any court of justice, etc. He was convicted, and this court affirmed the judgment of the lower court in refusing to grant a new trial, holding, among other things, that the statute under which he was indicted was not obnoxious to the Constitution of this state, which declared, "a well regulated militia being necessary to the security of a free state, the right of the people to keep and bear shall not be infringed, but the General Assembly shall have the power to prescribe the manner in which arms may be borne." McCay, J., speaking for himself, was of the opinion that if the question were entirely a new one he should not hesitate to hold that the language of the Constitution of this state, as well as that of the United States, guarantees only "the right to keep and bear the 'arms' necessary for a militiaman," and did not include pistols; and after criticising the reasoning in the case of Nunn v. State, supra, said further: "But, assuming that the guaranty of our state Constitution was intended to include weapons of this character (which, considering that it was made a part of the Constitution after the decision of Nunn v. State, 1 Ga. 243, is not improbable) we are still of the opinion that the act" under which the indictment was found was not unconstitutional. The decision, however, was placed, not on a holding that pistols were not arms, as contemplated by the Constitution, but upon a construction of that provision of the Constitution which authorizes the Legislature to regulate the manner in which arms might be borne, holding, in effect, that the right to regulate the manner of carrying arms authorized the legislation preventing them from being carried to courts of justices, etc.

The ruling so made was a concession that pistols were "arms," within the meaning of the Constitution, but only saved the statute by construing the power to regulate the manner of carrying such arms into authority to provide that arms should not be carried to courts of justice. There were no other decisions on this subject; but all of these, except the last, were rendered prior to the adoption of the Constitution of 1861, which was the first time the makers of the Constitution of this state saw fit to interpose. When they spoke, they made an affirmative declaration which recognized the existence of the right of the people to bear arms, and placed a limitation on the power of the

Legislature with respect thereto, and declared that the right should not be infringed. This was done after "arms" had been construed by this court, in Nunn v. State, supra, to include pistols, and after this interpretation had been followed by the decision in Stockdale v. State, supra, in 1861, at which time the construction was reaffirmed. Subsequently the question was dealt with in other Constitutions, as follows: The Constitution of 1865, art. 1, § 1, par. 4 (Code 1868, § 4893) declared: "A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed." The Constitution of 1868, art. 1, § 1, par. 14 (Code of 1873, § 5006), declared: "A well regulated militia being necessary to the security of a free people, the right of the people to keep and bear arms shall not be infringed, but the General Assembly shall have the power to prescribe by law the manner in which arms may be borne." There was no other provision in the Constitution on the subject until the adoption of the Constitution of 1877, when the question was dealt with as set forth in the excerpt copied in the first question propounded by the Court of Appeals. Without going further, it is manifest that (p.268)the framers of the Constitution of 1877, by the use of the word "arms," as in that instrument employed, intended to include pistols. It would be strange to impute to them a different intention, when it is considered that the Legislature had formerly so employed it, and the courts had so interpreted it from the time of the decision in Nunn v. State, 1 Ga. 243, up to the time of the decision in Stockdale v. State, 32 Ga. 225, in 1861, and still recognized in Hill v. State, 53 Ga. 472, in 1874, and especially when in the latter case the interpretation was specially mentioned and criticised by the judge rendering the opinion, before such interpretation was yielded to by the court. After such use and interpretation of the word, if it was intended by the Constitution of 1877 to empower the Legislature to deal with pistols on a different footing from other weapons of offense and defense, some change in expression on the subject would have been made.

But in looking to the real intent of the framers of the Constitution, there is still more light on the subject disclosed by Small's Report of the Constitutional Convention of 1877. "One of the aids in constitutional construction is an examination of the proceedings of the constitutional convention." Butts County v. Jackson Banking Co., 129 Ga. 801, 805, 60 S.E. 149, 151, 15 L.R.A. (N.S.) 567, 121 Am. St. Rep. 244. See, also, Wellborn v. Estes, 70 Ga. 390, 401; Blocker v. Boswell, 109 Ga. 233, 34 S.E. 289; State v. Central R. Co., 109 Ga. 728, 35 S.E. 37, 48 L.R.A. 351; Epping v. Columbus, 117 Ga. 264 (4), 271, 43 S.E. 803; Park v. Candler, 114 Ga. 466, 40 S.E. 523. By reference to Small's Report (page 56), it will be seen that section 19 of the Bill of Rights was: "A well regulated militia being necessary for the security of a free people, the right of the people to keep and bear arms shall not be infringed, but the General Assembly shall have the power to prescribe the manner in which arms may be borne." When this section was under consideration, as appears on page 91, it was referred to as section 23, and a motion was made which in effect struck "a well regulated militia being necessary for the security of a free people," for the reason that such a declaration had already been made in the section of the Bill of Rights on militia. After that amendment was carried, Mr. Toombs moved "to strike out all after the word 'infringe,' and strike out 'but the General Assembly shall have the power to prescribe the manner in which arms may be borne,' insisting that 'the Legislature has no power to prescribe how the people shall bear arms; that they shall not carry them in their boots, or anywhere else that they want to. I think the people have the right to keep and bear arms as they choose for their protection.'" On the other hand, Mr. Warren urged: "I hope the gentleman's motion will not prevail. The experience of all of us is that the General Assembly should have the right to regulate the manner of keeping and bearing arms. There is nothing which provokes bloodshed so much as the indiscriminate bearing of concealed weapons." The motion to amend was lost. Other amendments which were offered, but not adopted, were: (a) By inserting the word "place" after the word "manner," so as to give the Legislature the power to prescribe where a man shall carry arms and where not; (b) "when off their freeholds or away from their homes." Thus it appears from the debates that the members of the convention who framed the provision as it appears in the Constitution of 1877 had in mind that "arms," as referred to in the clause as adopted, contemplated, not merely such arms of warfare as might be used by the militia, but especially small weapons which might be concealed about the person, which was in keeping with the interpretation theretofore placed on the word by the court.

Resort to the general law, relative to the police power of the state, in this discussion, does not aid those who take a contrary view from that above expressed. It is the Constitution which we are construing, being itself the fundamental law; and it regulates and may limit the police power. By the provision of the Constitution in question, it was intended to limit the police power, when it was declared that "the right of the people to bear arms shall not be infringed." This declaration was modified all that it was intended that it should be modified by the other express declaration, "the General Assembly shall have the power to prescribe the manner in which arms may be borne." This was affirmative action upon the part of the people in adopting the Constitution, and shows that the matter of restricting the Legislature in the exercise of the police power of the state, relative to the right of the people to bear arms, received special consideration, and that there was no intent to further qualify the broad declaration which favored the right to bear arms. It was intended to guarantee to the people the right to bear arms, so that the Legislature could do no more than to regulate the manner in which they should be borne. This guaranty was to all the "people," and was never intended to be restricted merely to those of the militia, or those intending to become such.

The majority answer the second question propounded by the Court of Appeals in the negative, on account of the reasoning placed in their discussion relative to the first question. I do not concur in the reasons which they urge; but, in view of the ruling in Hill v. State, 53 Ga. 472; U.S. v. Cruikshank, 92 U.S. 542, 23 L.Ed. 588; Presser v. Illinois, 116 U.S. 252, 6 Sup.Ct. 580, 29 L.Ed. 615; Spies v. Illinois, 123 U.S. 131, 8 Sup.Ct. 22, 31 L.Ed. 80; Fife v. State, 31 Ark. 455, 25 Am. Rep. 556, and Ellenbecker (p.269)v. Plymouth County, 134 U.S. 31, 10 Sup.Ct. 424, 33 L.Ed. 801, I concede that the second amendment to the Constitution of the United States relates only to limitations upon the power of Congress, and has no reference to state legislation, and accordingly concur in the Judgment that the question should be answered in the negative.

1922	***Hayes v. State, 28 Ga. App. 67, 110 S.E. 320 (1922).*]** Broyles, C. J. it was not a violation of the act of 1910, penalizing the carrying of a pistol on or about one's person, or having a pistol in his manual possession outside of his own home or place of business (*Park's Ann. Code, Vol. 6, § 348 (a)*), for the owner of a pistol, while driving a horse and buggy, to have the pistol under the seat of the buggy where it was not in contact with his hands or any other portion of his person. Under this ruling the defendant's conviction was unauthorized by the evidence, and the court erred in overruling the motion for a new trial. *Judgment reversed. Luke and Blood worth, JJ., concur.* Decided January 17, 1922. Accusation of carrying pistol without license; from city court of Fort Gaines--Judge Turnipseed. October 10, 1921. The sheriff testified that the pistol was found in the pocket of a coat which was rolled up and was under and near the front of a seat in the defendant's buggy, which the defendant had just left at a livery stable, and that the defendant said that the coat was his coat and the pistol was his pistol. *E. R. King*, for plaintiff in error. *P. C. King, solicitor*, contra.
1945	**Constitution of 1945**, the RKBA is: "Paragraph XXII. Arms, Right to Keep and Bear. The right of the people to keep and bear arms, shall not be infringed, but the General Assembly shall have power to prescribe the manner in which arms may be borne."
1968	**Law Number: No. 1157** Criminal Code was revised, classified, consolidated, and superseded. The new Carry laws are: 26-2901. Carrying a Concealed Weapon. A person commits a misdemeanor when he knowingly has or carries about his person, outside of his own home, unless in an open manner and fully exposed to view, any bludgeon, metal knuckles, firearm, knife designed for the purpose of offense and defense, or any other dangerous or deadly weapon or instrument of like character. 26-2902. Deadly Weapons at Public Gatherings. A person commits a misdemeanor when he carries to or while at a public gathering any explosive compound, firearm, or knife designed for the purpose of offense and defense. 26-2903. Carrying Pistol without License. A person commits a misdemeanor when he has or carries on or about his person outside of his home, automobile or place of business any pistol or revolver, whether concealed or not, for which he has not obtained a license from the ordinary of the county in which he resides. 26-2904. License to Carry Pistol or Revolver. The ordinary of each county may on application under oath and payment of a license fee of three dollars issue a license, either in term time or during vacation, to any resident of the county authorizing the applicant, for a period of three years from the granting of such license, to have and carry a pistol or revolver in an open manner and fully exposed to view or in his motor vehicle provided the applicant: (a) is twenty-one years or older; (b) is mentally competent; (c) has not within the 10 years immediately preceding the application been convicted of a felony or within the two years immediately preceding the application been convicted of a forcible misdemeanor; and (d) gives a bond, with a surety approved by the ordinary of said county, payable to the Governor in the sum of $300 conditioned upon the lawful use of the pistol or revolver. The ordinary granting the license shall keep a record of the name of the person taking out the license, the name of the maker of the firearm to be carried, and the caliber and number of the firearm. The ordinary shall not grant a license to any applicant who does not comply with the above requirements and furnish the required information. The ordinary of the county where the license was issued shall, after notice and hearing, revoke the license upon ajudication of mental incompetency, upon the conviction of a felony, a forcible misdemeanor, or a violation of section 26-2901 or section 26-2902. 26-2907. Exemptions. Section 26-2901, 26-2902, 26-2903, and 26-2906 shall not apply to or affect any of the following persons while engaged in pursuit of official duty or when authorized by Federal or State law, regulation or order: (1) peace officers; (2) wardens, superintendents, and keepers of

	prisons, penitentiaries, jails, or other institutions for the detention of persons accused or convicted of an offense; (3) persons in the military service of the State or of the United States; (4) persons employed in fulfilling defense contracts with the government of the United States or agencies thereof when possession of the weapon is necessary for manufacture, transport, installation, and testing under the requirements of such contract.
1974	**Law Number: No. 955** – Added exemptions for district attorneys and staff to section 26-2907. 26-2907. Exemptions. Sections 26-2901, 26-2902, 26-2903, and 26-2906 shall not apply to or affect any of the following persons while engaged in pursuit of official duty or when authorized by Federal or State law, regulations or, and keepers of prisons, penitentiaries, jails, or other institutions for the detention of persons accused or convicted of an offense; (3) persons in the military service of the State or of the United States; (4) persons employed in fulfilling defense contracts with the government of the United States or agencies thereof when possession of the weapon is necessary for manufacture, transport, installation, and testing under the requirements of such contract; and (5) district attorneys, investigators employed by and assigned to a district attorney's office, and assistant district attorneys.
1976	**Constitution of 1976** includes the following: 'Paragraph V. Arms, Right to Keep and Bear. The right of the people to keep and bear arms, shall not be infringed, but the General Assembly shall have power to prescribe the manner in which arms may be borne." **Law Number: No. 1367** – Significant rewrite of law. The new sections that replaced the old are: "26-2901. Carrying a concealed weapon. A person commits the crime of carrying a concealed weapon when he knowingly has or carries about his person, outside of his home, or place of business, unless in an open manner and fully exposed to view, any bludgeon, metal knuckles, firearm, knife designed for the purpose of offense and defense, or any other dangerous or deadly weapon or instrument of like character, except as hereinafter permitted under this section. Upon conviction of the crime of carrying a concealed weapon, he shall be punished as follows: • (a) for the first offense, he shall be guilty of a misdemeanor and, upon conviction, he shall be punished by imprisonment for not more than 12 months and may be fined in an amount not to exceed $1,000; • (b) for the second offense, and for any subsequent offense, he shall be guilty of a felony and, upon conviction, shall be imprisoned for not less than one year and not more than five years. The provisions of this section shall not, outside of his home, motor vehicle, or place of business, permit the carrying of a pistol revolver, or concealable firearm by any person unless he has on his person a valid license issued under Code section 26-2904, and such pistol, revolver or firearm may only be carried in a shoulder or waist belt holster, hipgrip or any other similiar device, handbag, purse, attache case, brief case or other closed container. Carrying on the person in a concealed manner other than as provided herein shall not be permitted and shall be a violation of this section. The provisions of this section shall not forbid the transportation of any firearm by a person who is not among those enumerated as ineligible for a license under section 26-2904, provided such firearm is enclosed in a case, unloaded, and separated from the ammunition therefor. The provisions of this section shall not forbid the transportation of a loaded firearm in any private passenger motor vehicle in an open manner and fully exposed to view or in the glove compartment of said vehicle." "26-2902. Deadly weapons at public gatherings. A person commits a misdemeanor when he carries to or while at a public gathering any explosive compound, firearm, or knife designed for the purpose of offense and defense. For the purpose of this section, `public gathering' shall include, but shall not be limited to: athletic or sporting events, schools or school functions, churches or church functions, political rallies or functions, publicly owned or operated buildings, or establishments at which alcoholic beverages are sold for consumption on the premises. Provided, however, that this section shall not apply to competitors participating in organized sport shooting events. Provided, however, law enforcement officers, judges, and district attorneys may carry pistols in publicly owned or operated buildings." "26-2903. Carrying pistol without license. A person commits the crime of carrying a pistol without a license when he has or carries on or about his person, outside of his home, motor vehicle or place of business, any pistol or revolver without having on his person a valid license issued by the judge of the probate court of the county in which he resides, provided that no permit shall be required for persons with a valid hunting or fishing license on their person or to persons not required by law to have hunting licenses who are engaged in legal hunting, fishing, or sport shooting when said persons have the permission of the owner of the land on which said activities are being conducted, and further provided that the pistol or revolver, whenever loaded, shall be carried only in an open

and fully exposed manner. Upon conviction of the crime of carrying a pistol without a license, he shall be punished as follows:

- (a) for the first offense, he shall be guilty of a misdemeanor and, upon conviction, shall be punished by imprisonment for not more than 12 months and may be fined in an amount not to exceed $1,000;

- (b) for the second offense, and for any subsequent offense, he shall be guilty of a felony and, upon conviction, shall be imprisoned for not less than one year nor more than five years."

"26-2904. License to carry pistol or revolver. (a) The judge of the probate court of each county may, on application under oath and on payment of a fee of fifteen dollars, issue a license, either in term time or during vacation, valid for a period of three years, to residents of that county, authorizing them to carry any pistol or revolver. Applicants shall submit the application for a license to the judge of the probate court on forms prescribed and furnished free of charge to such persons wishing to apply for the license. Forms shall be designed to elicit information from the applicant pertinent to his eligibility under this section, but shall not require nonpertinent nor irrelevant data such as serial numbers or other identification capable of being used as a de facto registration of firearms owned by the applicant. The Department of Public Safety shall furnish application forms and license forms required by this Act. Such forms shall be furnished to each judge of each probate court within the State at no cost. No license shall be granted to:

- (1) any person under 21 years of age;

- (2) any person who is a fugitive from justice or against whom proceedings are pending for any felony, forcible misdemeanor or violation of sections 26-2901, 26-2902 or 26-2903 of this Chapter until such time as the proceedings are adjudicated; or

- (3) any person who has been convicted of a forcible felony and has not been free of all restraint or supervision in connection therewith for at least ten years, or any person who has been convicted of a forcible misdemeanor or a nonforcible felony and has not been free of all restraint or supervision in connection therewith for at least five years, or any person who has been convicted of a violation of sections 26-2901, 26-2902 or 26-2903 of this Chapter and has not been free of all restraint or supervision in connection therewith for at least three years, immediately preceding the date of the application.

If an individual has been hospitalized as an inpatient in any mental hospital or alcohol or drug treatment center within five years of the date of his application it shall be at the discretion of the probate judge considering the circumstances surrounding the hospitalization and the recommendation of the superintendent of the hospital or treatment center where the individual was a patient to issue the license. Following completion of the application the judge of the probate court shall require the applicant to proceed to an appropriate law enforcement agency in the county with the completed application. The appropriate local law enforcement agency in each county shall then make one set of classifiable fingerprints of such applicant for a license to carry a pistol or revolver, and shall also place the fingerprint required by subsection (d) on a blank license from which has been furnished to the law enforcement agency by the judge of the probate court and shall place the name of the applicant on such blank license form. No fee shall be charged the applicant by the sheriff's department or law enforcement agency for this service.

(b) Each law enforcement agency, upon receiving such application and obtaining such fingerprints, shall promptly conduct a through search of their records and records to which they have access, and shall notify the judge of the probate court within 20 days, by telephone and in writing, of any findings relating to the applicant which may bear on his eligibility for a license under the terms of this section. When no derogatory information is found on the applicant bearing on his eligibility to obtain a license, a report shall not be required. The law enforcement agency shall return the application and the blank license form with the fingerprint thereon directly to the judge of the probate court within such time period. Not later than thirty days after the date of the application the judge of the probate court shall issue the applicant a license to carry any pistol or revolver if no facts establishing ineligibility have been reported and if the judge determines the applicant has met all the qualifications and is of good moral character and has complied with all the requirements contained herein.

(c) If at any time during the period for which the license was issued, the judge of the probate court of the county wherein said license was issued shall learn or have brought to his attention in any manner any reasonable ground to believe the licensee is not eligible to retain the said license, the judge may, after notice and hearing, revoke the license of the person upon adjudication of falsification of application, mental incompetency, chronic alcohol or narcotic usage, conviction of any felony or forcible misdemeanor, or for violation of Code sections 26-2901, 26-2902 or 26-2903. It shall be unlawful for any person to possesss a license which has been revoked, and any person found in possession of any such revoked license, except in the performance of their official duties, shall be guilty of a misdemeanor and, upon conviction, shall be punished as for a misdemeanor. It shall be required that any license holder under this section shall have in his possession his valid license whenever he is carrying a pistol or revolver under the authority granted by this section, and his failure to do so shall be prima facie evidence of a violation of section 26-2903. Loss of any license issued in accord with this section, or damage to such license in any manner which shall

	render it illegible, shall be reported to the judge of the probate court of the county in which it was issued within 48 hours of the time the loss or damage becomes known to the license holder. The judge of the probate court shall thereupon issue a replacement for, and shall take custody of, and destroy, a damaged license; and in any case in which a license has been lost, he shall issue a cancellation order and notify by telephone and in writing each of the law enforcement agencies whose records were checked before issuance of the original license. A fee of three dollars shall be charged by the judge for such services. (d) Licenses issued as prescribed in this section shall be printed on durable but lightweight card stock, and the completed card shall be laminated in plastic to improve its wearing qualities and to inhibit alterations. Measurements shall be 3[UNK] inches long, and 2[UNK] inches wide. Each shall be serially numbered within the county of issuance, and shall bear the full name, actual residence address, birthdate, weight, height, color of eyes, sex, and a clear print of the right index finger of the licensee. If the right index fingerprint cannot be secured for any reason, the print of another finger may be used, but shall be marked to identify the finger from which the print is taken. The license shall show the date of issuance, the expiration date, the probate court in which issued, and shall be signed by the licensee and bear the signature or facsimile thereof the judge. The seal of the court shall be placed on the face before the license is laminated. The reverse side of the license shall have imprinted thereon in its entirety Code section 26-2902, as amended. (e) Deliberate alteration or the counterfeiting of such a license card shall constitute a felony, and upon conviction, shall be punishable by imprisonment for a period of not less than one nor more than five years." Severability of Act – “In the event any section, subsection, sentence, clause or phrase of this Act shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of full force and effect, as if the section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not orginally a part thereof. The General Assembly hereby declares that it would have passed the remaining parts of this Act if it had known that such part or parts hereof would be declared or adjudged invalid or unconstitutional. “
1979	**1979 Vol. 1 -- Page:** 1019 **Full Title:** To amend Code Section 26-2907, relating to exemptions from the provisions of Code Section 26-2901, relating to carrying a concealed weapon; Code Section 26-2902, relating to the carrying of deadly weapons at public gatherings; Code Section 26-2903, relating to carrying pistols without licenses; and Code Section 26-2906, relating to machine guns, as amended, so as to provide an additional exemption in Code Section 26-2907 for those employees of the State Board of Pardons and Paroles when specifically designated and authorized in writing by the members of the State Board of Pardons and Paroles to carry a weapon and for the Attorney General and those members of his staff whom he specifically authorizes in writing to carry a weapon; to provide for an effective date; to repeal conflicting laws; and for other purposes. **Section 1.** Code Section 26-2907, relating to exemptions from the provisions of Code Section 26-2901, relating to carrying a concealed weapon; Code Section 26-2902, relating to the carrying of deadly weapons at public gatherings; Code Section 26-2903, relating to carrying pistols without licenses; and Code Section 26-2906, relating to machine guns, as amended, is hereby amended by adding, following the words "and assistant district attorneys," the following: "; (6) those employees of the State Board of Pardons and Paroles when specifically designated and authorized in writing by the members of the State Board of Pardons and Paroles to carry a weapon; and (7) the Attorney General and those members of his staff whom he specifically authorizes in writing to carry a weapon.", so that when so amended Code Section 26-2907 shall read as follows: "26-2907. Exemptions. Sections 26-2901, 26-2902, 26-2903, and 26-2906 shall not apply to or affect any of the following persons while engaged in pursuit of official duty or when authorized by Federal or State law, regulations or order: (1) peace officers; (2) wardens, superintendents, and keepers of prisons, penitentiaries, jails, or other institutions for the detention of persons accused or convicted of an offense; (3) persons in the military service of the State or of the United States; (4) persons employed in fulfilling defense contracts with the government of the United States or agencies thereof when possession of the weapon is necessary for manufacture, transport, installation, and testing under the requirements of such contract; (5) district attorneys, investigators employed by and assigned to a district attorney's office, and assistant district attorneys; (6) those employees of the State Board of Pardons and Paroles when specifically designated and authorized in writing by the members of the State Board of Pardons and Paroles to carry a weapon; and (7) the Attorney General and those members of his staff whom he specifically authorizes in writing to carry a weapon. A prosecution based upon a violation of Sections 26-2901, 26-2902, 26-2903, or 26-2906 need not negative any exemptions."
1982	**1982 Vol. 1 -- Page:** 789 **Full Title:** To amend Code Section 26-2907, relating to exemptions from the provisions of Code Section 26-2901, relating to carrying a concealed weapon, Code Section 26-2902, relating to the

carrying of deadly weapons at public gatherings, Code Section 26-2903, relating to carrying **pistols** without licenses, and Code Section 26-2906, relating to machine guns, as amended, so as to provide additional exemptions in Code Section 26-2907 for probation supervisors and public safety directors of municipal corporations; to amend the Official Code of Georgia Annotated accordingly; to provide effective dates; to provide for automatic repeal of certain provisions of this Act; to repeal conflicting laws; and for other purposes.

Section 1. Code Section 26-2907, relating to exemptions from the provisions of Code Section 26-2901, relating to carrying a concealed weapon, Code Section 26-2902, relating to the carrying of deadly weapons at public gatherings, Code Section 26-2903, relating to carrying pistols without licenses, and Code Section 26-2906, relating to machine guns, as amended, is amended to read as follows:

"26-2907. Exemptions. Sections 26-2901, 26-2902, 26-2903, and 26-2906 shall not apply to or affect any of the following persons while engaged in pursuit of official duty or when authorized by Federal or State law, regulations or order: (1) peace officers; (2) wardens, superintendents, and keepers of prisons, penitentiaries, jails, or other institutions for the detention of persons accused or convicted of an offense; (3) persons in the military service of the State or of the United States; (4) persons employed in fulfilling defense contracts with the government of the United States or agencies thereof when possession of the weapon is necessary for manufacture, transport, installation, and testing under the requirements of such contract; (5) district attorneys, investigators employed by and assigned to a district attorney's office, and assistant district attorneys; (6) those employees of the State Board of Pardons and Paroles when specifically designated and authorized in writing by the members of the State Board of Pardons and Paroles to carry a weapon; (7) the Attorney General and those members of his staff whom he specifically authorizes in writing to carry a weapon; (8) probation supervisors employed by and under the authority of the Department of Offender Rehabilitation pursuant to the `State-wide Probation Act' when specifically designated and authorized in writing by the Director of Division of Probation; and (9) public safety directors of municipal corporations.

A prosecution based upon a violation of Sections 26-2901, 26-2902, 26-2903, or 26-2906 need not negative any exemptions."

Section 2. Code Section 16-11-130 of the Official Code of Georgia Annotated, relating to exemptions from Code Sections 16-11-126 through 16-11-128, relating to firearms and weapons, is amended by striking subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:
"(a) Code Sections 16-11-126 through 16-11-128 shall not apply to or affect any of the following persons while engaged in pursuit of official duty or when authorized by federal or state law, regulations, or order:

- (1) Peace officers;
- (2) Wardens, superintendents, and keepers of correctional institutions, jails, or other institutions for the detention of persons accused or convicted of an offense;
- (3) Persons in the military service of the state or of the United States;
- (4) Persons employed in fulfilling defense contracts with the government of the United States or agencies thereof when possession of the weapon is necessary for manufacture, transport, installation, and testing under the requirements of such contract;
- (5) District attorneys, investigators employed by and assigned to a district attorney's office, and assistant district attorneys;
- (6) Those employees of the State Board of Pardons and Paroles when specifically designated and authorized in writing by the members of the State Board of Pardons and Paroles to carry a weapon;
- (7) The Attorney General and those members of his staff whom he specifically authorizes in writing to carry a weapon;
- (8) Probation supervisors employed by and under the authority of the Department of Offender Rehabilitation pursuant to the `State-wide Probation Act' when specifically designated and authorized in writing by the Director of Division of Probation; and
- (9) Public safety directors of municipal corporations."

	Full Title: To amend Code Section 26-2904, relating to licenses to carry a **pistol** or revolver, as amended by an Act approved April 3, 1978 (Ga. Laws 1978, p. 1607), so as to provide that certain retired law enforcement officers may obtain a license without the payment of any fee; to provide for a definition; to repeal conflicting laws; and for other purposes. **Section 1.** Code Section 26-2904, relating to licenses to carry a **pistol** or revolver, as amended by an Act approved April 3, 1978 (Ga. Laws 1978, p. 1607), is hereby amended by adding a new subsection, to be known as subsection (f), to read as follows: "(f) Any person who has served as a law enforcement officer for at least ten of the 12 years immediately preceding the retirement of such person as a law enforcement officer shall be entitled to be issued a license as provided in this Code section without the payment of any of the fees provided in this Code section. Such person must comply with all the other provisions of this Code section relative to the issuance of such licenses. `Law enforcement officer' shall mean any peace officer who is employed by the State of Georgia or any political subdivision thereof who is required by the terms of his employment, whether by election or appointment, to give his full time to the preservation of public order or the protection of life and property or the prevention of crime. Such term shall include sheriffs and deputy sheriffs and conservation rangers."
1983	**Constitution of 1983** retains prior RKBA language: Paragraph VIII. **Arms, right to keep and bear.** The right of the people to keep and bear arms shall not be infringed, but the General Assembly shall have power to prescribe the manner in which arms may be borne. **1983 Vol. 1 -- Page:** 1431 To amend Code Section 16-11-129 of the Official Code of Georgia Annotated, relating to licenses to carry firearms, so as to change the period for which such licenses are valid; to provide that the judge of the probate court may require an applicant for such licese to sign a waiver authorizing certain hospitals to verify hospitalization of the applicant; to provide that the fingerprints of initial applicants shall be forwarded to the Federal Bureau of Investigation for the purpose of verifying eligibility; to provide for payment of certain fees; to provide an effective date; to repeal conflicting laws; and for other purposes. **Section 1**. Code Section 16-11-129 of the Official Code of Georgia Annotated, relating to licenses to carry certain firearms, is amended by striking said Code section in its entirety and inserting in lieu thereof a new Code Section 16-11-129 to read as follows: • "16-11-129. (a) The judge of the probate court of each county may, on application under oath and on payment of a fee of $15.00, issue a license valid for a period of five years to residents of that county authorizing them to carry any **pistol** or revolver. Applicants shall submit the application for a license to the judge of the probate court on forms prescribed and furnished free of charge to persons wishing to apply for the license. Forms shall be designed to elicit information from the applicant pertinent to his eligibility under this Code section but shall not require nonpertinent or irrelevant data such as serial numbers or other identification capable of being used as a de facto registration of firearms owned by the applicant. The Department of Public Safety shall furnish application forms and license forms required by this Code section. The forms shall be furnished to each judge of each probate court within the state at no cost. • (b) No license shall be granted to: ○ (1) Any person under 21 years of age; ○ (2) Any person who is a fugitive from justice or against whom proceedings are pending for any felony, forcible misdemeanor, or violation of Code Section 16-11-126, 16-11-127, or 16-11-128 until such time as the proceedings are adjudicated; ○ (3) Any person who has been convicted of a forcible felony and has not been free of all restraint or supervision in connection therewith for at least ten years or any person who has been convicted of a forcible misdemeanor or a nonforcible felony and has not been free of all restraint or supervision in connection therewith for at least five years or any person who has been convicted of a violation of Code Section 16-11-126, 16-11-127, or 16-11-128 and has not been free of all restraint or supervision inconnection therewith for at least three years, immediately preceding the date of the application; or ○ (4) Any individual who has been hospitalized as an inpatient in any

mental hospital or alcohol or drug treatment center within five years of the date of his application. The probate judge may require any applicant to sign a waiver authorizing any mental hospital or treatment center to inform the judge whether or not the applicant has been an inpatient in any such facility in the last five years and authorizing the superintendent of such facility to make to the judge a recommendation regarding whether a license to carry a **pistol** or revolver should be issued. The judge shall keep any such hospitalization or treatment information confidential. It shall be at the discretion of the probate judge, considering the circumstances surrounding the hospitalization and the recommendation of the superintendent of the hospital or treatment center where the individual was a patient, to issue the license.

- (c)
    - (1) Following completion of the application the judge of the probate court shall require the applicant to proceed to an appropriate law enforcement agency in the county with the completed application. The appropriate local law enforcement agency in each county shall then make two sets of classifiable fingerprints of the applicant for a license to carry a **pistol** or revolver, place the fingerprint required by subsection (f) of this Code section on a blank license form which has been furnished to the law enforcement agency by the judge of the probate court, and place the name of the applicant on the blank license form. The law enforcement agency shall be entitled to a fee of $5.00 from the applicant for its services in connection with the application.
    - (2) In the case of each applicant who is applying for a license under this Code section for the first time, the judge of the probate court shall direct the law enforcement agency to transmit one set of the applicant's fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report. In such cases, the applicant shall submit an additional fee of not more than $12.00, payable in such form as the judge may direct, to cover the cost of the records search.
- (d) Each law enforcement agency, upon receiving such applications and obtaining such fingerprints, shall promptly conduct a thorough search of its records and records to which it has access and shall notify the judge of the probate court within 50 days, by telephone and in writing, of any findings relating to the applicant which may bear on his eligibility for a license under the terms of this Code section. When no derogatory information is found on the applicant bearing on his eligibility to obtain a license, a report shall not be required. The law enforcement agency shall return the application and the blank license form with the fingerprint thereon directly to the judge of the probate court within such time period. Not later than 60 days after the date of the application the judge of the probate court shall issue the applicant a license to carry any **pistol** or revolver if no facts establishing ineligibility have been reported and if the judge determines the applicant has met all the qualifications, is of good moral character, and has complied with all the requirements contained herein.
- (e) If, at any time during the period for which the license was issued, the judge of the probate court of the county in which the license was issued shall learn or have brought to his attention in any manner any reasonable ground to believe the licensee is not eligible to retain the license, the judge may, after notice and hearing, revoke the license of the person upon adjudication of falsification of application, mental incompetency, chronic alcohol or narcotic usage, conviction of any felony or forcible misdemeanor, or for violation of Code Section 16-11-126, 16-11-127, or 16-11-128. It shall be unlawful for any person to possess a license which has been revoked, and any person found in possession of any such revoked license, except in the performance of his official duties, shall be guilty of a misdemeanor. It shall be required that any license holder under this Code section have in his possession his valid license whenever he is carrying a **pistol** or revolver under the authority granted by this Code section, and his failure to do so shall be prima-facie evidence of a violation of Code Section 16-11-128. Loss of any license issued in accordance with this Code section or damage to the license in any manner which shall render it illegible shall be reported to the judge of the probate court of the county in which it was issued within 48 hours of the time the loss or damage becomes known to the license holder. The judge of the probate court shall thereupon issue a replacement for and shall take custody of and destroy a damaged license; and in any case in which a license has been lost, he shall issue a cancellation order and notify by telephone and in writing each of the law enforcement agencies whose records were checked before issuance of the

	original license. A fee of $3.00 shall be charged by the judge for such services. • (f) Licenses issued as prescribed in this Code section shall be printed on durable but lightweight card stock, and the completed card shall be laminated in plastic to improve its wearing qualities and to inhibit alterations. Measurements shall be 3 ¼ inches long, and 2 ¼ inches wide. Each shall be serially numbered within the county of issuance and shall bear the full name, actual residence address, birth date, weight, height, color of eyes, sex, and a clear print of the right index finger of the licensee. If the right index fingerprint cannot be secured for any reason, the print of another finger may be used but shall be marked to identify the finger from which the print is taken. The license shall show the date of issuance, the expiration date, the probate court in which issued, and shall be signed by the licensee and bear the signature or facsimile thereof of the judge. The seal of the court shall be placed on the face before the license is laminated. The reverse side of the license shall have imprinted thereon in its entirety Code Section 16-11-127. • (g) A person who deliberately alters or counterfeits such a license card commits a felony and, upon conviction thereof, shall be punished by imprisonment for a period of not less than one nor more than five years. • (h) Any person who has served as a law enforcement officer for at least ten of the 12 years immediately preceding the retirement of such person as a law enforcement officer shall be entitled to be issued a license as provided for in this Code section without the payment of any of the fees provided for in this Code section. Such person must comply with all the other provisions of this Code section relative to the issuance of such licenses. As used in this subsection, the term `law enforcement officer' means any peace officer who is employed by the State of Georgia or any political subdivision thereof and who is required by the terms of his employment, whether by election or appointment, to give his full time to the preservation of public order or the protection of life and property or the prevention of crime. Such term shall include sheriffs, deputy sheriffs, and conservation rangers. • (i) (1) Any person who holds a license under this Code section to carry a **pistol** or revolver may, at the time he applies for a renewal of the license, also apply for a temporary renewal license if less than 90 days remain before expiration of the license he then holds or if his previous license has expired within the last 30 days. (2) Unless the judge of the probate court knows or is made aware of any fact which would make the applicant ineligible for a five-year renewal license, the judge shall at the time of application issue a temporary renewal license to the applicant. (3) Such a temporary renewal license shall be in the form of a paper receipt indicating the date on which the court received the renewal application and shall show the name, address, sex, age, and race of the applicant and that the temporary renewal license expires 90 days from the date of issue. (4) During its period of validity the temporary renewal permit, if carried on or about the holder's person together with the holder's previous license, shall be valid in the same manner and for the same purposes as a five-year license. (5) A $1.00 fee shall be charged by the probate court for issuance of a temporary renewal license. (6) A temporary renewal license may be revoked in the same manner as a five-year license."
1987	**1987 Vol. 1 -- Page:** 358 **Full Title:** To amend Code Section 16-11-127 of the Official Code of Georgia Annotated, relating to the prohibition against carrying deadly weapons to public gatherings, so as to provide that magistrates may carry **pistols** in publicly owned or operated buildings; to repeal conflicting laws; and for other purposes. BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

	Section 1. Code Section 16-11-127 of the Official Code of Georgia Annotated, relating to the prohibition against carrying deadly weapons to public gatherings, is amended by striking subsection (c) in its entirety and substituting in lieu thereof a new subsection (c) to read as follows: "(c) This Code section shall not apply to competitors participating in organized sport shooting events. Law enforcement officers, peace officers retired from state or federal law enforcement agencies, judges, magistrates, solicitors, and district attorneys may carry **pistols** in publicly owned or operated buildings."
1990	**1990 Vol. 1 -- Page:** 138 To amend Code Section 16-11-129 of the Official Code of Georgia Annotated, relating to licenses to carry **pistols** or revolvers, so as to change certain provisions relating to fees; to provide for an effective date; to repeal conflicting laws; and for other purposes. BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA: **Section 1**. Code Section 16-11-129 of the Official Code of Georgia Annotated, relating to licenses to carry **pistols** or revolvers, is amended by striking paragraph (2) of subsection (c) thereof, and inserting in its place a new paragraph to read as follows: "(2) In the case of each applicant who is applying for a license under this Code section for the first time, the judge of the probate court shall direct the law enforcement agency to transmit one set of the applicant's fingerprints to the Georgia Crime Information Center for a search of the Federal Bureau of Investigation records and an appropriate report. In such cases, the applicant shall submit an additional fee in an amount established by the Georgia Bureau of Investigation but not to exceed $30.00 for a search of records of the Federal Bureau of Investigation and an appropriate report, payable in such form as the judge may direct, to cover the cost of the records search."**Section 2**. This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.
1992	Law Number: No. 606 Cleanup of some typographical errors in section. Not recapped here since they don't appear meaningful

1994	**1994 Vol. 1 -- Page:** 351 To amend Code Section 16-11-129 of the Official Code of Georgia Annotated, relating to licenses to carry a **pistol** or revolver and temporary renewal permits, so as to prohibit the issuance of a license to carry a **pistol** or revolver to any person who has been convicted of a felony and who has not been pardoned for such felony; to repeal conflicting laws; and for other purposes. BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA: **Section 1**. Code Section 16-11-129 of the Official Code of Georgia Annotated, relating to licenses to carry a **pistol** or revolver and temporary renewal permits, is amended by striking paragraph (3) of subsection (b) of said Code section and inserting in lieu thereof a new paragraph (3) to read as follows: "(3) Any person who has been convicted of a felony by a court of this state or any other state; by a court of the United States including its territories, possessions, and dominions; or by a court of any foreign nation and has not been pardoned for such felony by the President of the United States, the State Board of Pardons and Paroles, or the person or agency empowered to grant pardons under the constitution or laws of such state or nation or any person who has been convicted of a forcible misdemeanor and has not been free of all restraint or supervision in connection therewith for at least five years or any person who has been convicted of a violation of Code Section 16-11-126, 16-11-127, or 16-11-128 and has not been free of all restraint or supervision in connection therewith for at least three years, immediately preceding the date of the application; "
1996 Gov. Purdue's bill while he was in Senate	Law Number: No. 520. Changes provisions related to carrying a concealed weapon, provided for reciprocity, and military exemptions. This bill replaced section 16-11-126 with: "16-11-126. (a) A person commits the offense of carrying a concealed weapon when such person knowingly has or carries about his or her person, unless in an open manner and fully exposed to view, any bludgeon, metal knuckles, firearm, knife designed for the purpose of offense and defense, or any other dangerous or deadly weapon or instrument of like character outside of his or her home or place of business, except as permitted under this Code section. (b) Upon conviction of the offense of carrying a concealed weapon, a person shall be punished as follows: • (1) For the first offense, he or she shall be guilty of a misdemeanor; and • (2) For the second offense, and for any subsequent offense, he or she shall be guilty of a felony and, upon conviction thereof, shall be imprisoned for not less than one year and not more than five years. (c) This Code section shall not permit, outside of his or her home, motor vehicle, or place of business, the concealed carrying of a pistol, revolver, or concealable firearm by any person unless that person has on his or her person a valid license issued under Code Section 16-11-129 and the pistol, revolver, or firearm may only be carried in a shoulder holster, waist belt holster, any other holster, hipgrip, or any other similar device, in which event the weapon may be concealed by the person's clothing, or a handbag, purse, attache case, briefcase, or other closed container. Carrying on the person in a concealed manner other than as provided in this subsection shall not be permitted and shall be a violation of this Code section. (d) This Code section shall not forbid the transportation of any firearm by a person who is not among those enumerated as ineligible for a license under Code Section 16-11-129, provided the firearm is enclosed in a case, unloaded, and separated from its ammunition. This Code section shall not forbid any person who is not among those enumerated as ineligible for a license under Code Section 16-11-129 from transporting a loaded firearm in any private passenger motor vehicle in an open manner and fully exposed to view or in the glove compartment of the vehicle; provided, however, that any person in possession of a valid permit issued pursuant to Code Section 16-11-129 may carry a handgun in any location in a motor vehicle. (e) On and after October 1, 1996, a person licensed to carry a handgun in any state whose laws recognize and give effect within such state to a license issued pursuant to this part shall be authorized to carry a handgun in this state, but only while the licensee is not a resident of this state; provided, however, that such licenseholder shall carry the handgun in compliance with the laws of this state."

Section 16-11-128 is amended by adding at the end:

"(c) On and after October 1, 1996, a person licensed to carry a handgun in any state whose laws recognize and give effect within such state to a license issued pursuant to this part shall be authorized to carry a handgun in this state, but only while the licensee is not a resident of this state; provided, however, that such licenseholder shall carry the handgun in compliance with the laws of this state."

Section 16-11-129 (a) is replaced with:

"(a) Application for license; term. The judge of the probate court of each county may, on application under oath and on payment of a fee of $15.00, issue a license valid for a period of five years to any person whose domicile is in that county or who is on active duty with the United States armed forces and who is not a domiciliary of this state but who either resides in that county or on a military reservation located in whole or in part in that county at the time of such application, which license shall authorize that person to carry any pistol or revolver in any county of this state notwithstanding any change in that person's county of residence or state of domicile. Applicants shall submit the application for a license to the judge of the probate court on forms prescribed and furnished free of charge to persons wishing to apply for the license. Forms shall be designed to elicit information from the applicant pertinent to his or her eligibility under this Code section but shall not require data which is nonpertinent or irrelevant such as serial numbers or other identification capable of being used as a de facto registration of firearms owned by the applicant. The Department of Public Safety shall furnish application forms and license forms required by this Code section. The forms shall be furnished to each judge of each probate court within the state at no cost."
Section 16-11-129 (c) paragraph 3 is replaced with:

"3) Applications for renewal of licenses issued under this Code section shall be made to the judge of the probate court of the county in which the applicant is domiciled or, if the applicant is a member of the United States armed forces, the county in which he or she resides or in which the military reservation on which the applicant resides is located in whole or in part at the time of making the renewal application. In the case of an applicant for a renewal of a license, the judge of the probate court may, in his or her discretion, direct that the local county law enforcement agency request a search of the criminal history file and wanted persons file of the Georgia Crime Information Center by computer access from that county in lieu of transmitting the application and forms."

Section 16-11-129 (f) is replaced with:

"(f) License specifications. Licenses issued as prescribed in this Code section shall be printed on durable but lightweight card stock, and the completed card shall be laminated in plastic to improve its wearing qualities and to inhibit alterations. Measurements shall be 3 1/4 inches long, and 2 1/4 inches wide. Each shall be serially numbered within the county of issuance and shall bear the full name, residential address, birth date, weight, height, color of eyes, sex, and a clear print of the right index finger of the licensee. If the right index fingerprint cannot be secured for any reason, the print of another finger may be used but such print shall be marked to identify the finger from which the print is taken. The license shall show the date of issuance, the expiration date, and the probate court in which issued and shall be signed by the licensee and bear the signature or facsimile thereof of the judge. The seal of the court shall be placed on the face before the license is laminated. The reverse side of the license shall have imprinted thereon in its entirety Code Section 16-11-127."

1997

SENATE BILL 247

By: Senators Bowen of the 13th, Streat of the 19th, Huggins of the 53rd and others

A BILL TO BE ENTITLED
AN ACT

To amend Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to the carrying and possession of firearms, so as to change the applicability of certain provisions of the law relating to the issuance of licenses to former law enforcement officers to carry a pistol or revolver; to provide that Code Sections 16-11-126 through 16-11-128 shall not apply to or affect sheriffs, retired sheriffs, deputy sheriffs, or certain retired deputy sheriffs; to provide that sheriffs, retired sheriffs, deputy sheriffs, and certain retired deputy sheriffs shall be authorized to carry a pistol or revolver on or off duty anywhere within the state and the provisions of Code Sections 16-11-126 through 16-11-128 shall not apply to the carrying of such firearms; to clarify certain provisions relating to carrying of firearms by licensed persons in public places; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to the carrying and possession of firearms, is amended by striking in its entirety subsection (b) of Code Section 16-11-127, relating to carrying deadly weapons to or at public gatherings, and inserting in lieu thereof a new subsection (b) to read as follows:

"(b) For the purpose of this Code section, 'public gathering' shall include, but shall not be limited to, athletic or sporting events, churches or church functions, political rallies or functions, publicly owned or operated buildings, or establishments at which alcoholic beverages are sold for consumption on the premises. Nothing in this Code section shall otherwise prohibit the carrying of a firearm in any other public place by a person licensed or permitted to carry such firearm by this part."

SECTION 2.

Said part is further amended by striking subsection (h) of Code Section 16-11-129, relating to the requirement of a license to carry a pistol or revolver, and inserting in lieu thereof a new subsection (h) to read as follows:

"(h) Licenses for former law enforcement officers. Except as otherwise provided in Code Section 16-11-130, any ~~Any~~ person who has served as a law enforcement officer for at least ten of the 12 years immediately preceding the retirement of such person as a law enforcement officer shall be entitled to be issued a license as provided for in this Code section without the payment of any of the fees provided for in this Code section. Such person must comply with all the other provisions of this Code section relative to the issuance of such licenses. As used in this subsection, the term 'law enforcement officer' means any peace officer who is employed by the United States government or by the State of Georgia or any political subdivision thereof and who is required by the terms of his or her employment, whether by election or appointment, to give his or her full time to the preservation of public order or the protection of life and property or the prevention of crime. Such term shall include ~~sheriffs, deputy sheriffs, and~~ conservation rangers."

	2-25 SECTION 3. 2-26 Said part is further amended by redesignating subsection (c) 2-27 of Code Section 16-11-130, relating to exemptions from Code 2-28 Sections 16-11-126 through 16-11-128, as subsection (d) and 2-29 inserting a new subsection (c) to read as follows: 2-30 "(c) Code Sections 16-11-126 through 16-11-128 shall not 2-31 apply to or affect any sheriff, retired sheriff, deputy 2-32 sheriff, or retired deputy sheriff if such retired deputy 2-33 sheriff is receiving benefits under the Peace Officers' 2-34 Annuity and Benefit Fund provided under Chapter 17 of 2-35 Title 47. In addition, any such sheriff, retired sheriff, 2-36 deputy sheriff, or retired deputy sheriff shall be 2-37 authorized to carry a pistol or revolver on or off duty 2-38 anywhere within the state and the provisions of Code 2-39 Sections 16-11-126 through 16-11-128 shall not apply to 2-40 the carrying of such firearms."
1997	**1997 Vol. 1 -- Page:** 514 **Full Title:** To amend Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to the carrying and possession of firearms, so as to change the applicability of certain provisions of the law relating to the issuance of licenses to former law enforcement officers to carry a **pistol** or revolver; to provide that Code Sections 16-11-126 through 16-11-128 shall not apply to or affect sheriffs, retired sheriffs, deputy sheriffs, or certain retired deputy sheriffs; to provide that sheriffs, retired sheriffs, deputy sheriffs, and certain retired deputy sheriffs shall be authorized to carry a **pistol** or revolver on or off duty anywhere within the state and the provisions of Code Sections 16-11-126 through 16-11-128 shall not apply to the carrying of such firearms; to clarify certain provisions relating to carrying of firearms by licensed persons in public places; to repeal conflicting laws; and for other purposes. BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA: **SECTION 1.** Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to the carrying and possession of firearms, is amended by striking in its entirety subsection (b) of Code Section 16-11-127, relating to carrying deadly weapons to or at public gatherings, and inserting in lieu thereof a new subsection (b) to read as follows: "(b) For the purpose of this Code section, `public gathering' shall include, but shall not be limited to, athletic or sporting events, churches or church functions, political rallies or functions, publicly owned or operated buildings, or establishments at which alcoholic beverages are sold for consumption on the premises. Nothing in this Code section shall otherwise prohibit the carrying of a firearm in any other public place by a person licensed or permitted to carry such firearm by this part." **SECTION 2.** Said part is further amended by striking subsection (h) of Code Section 16-11-129, relating to the requirement of a license to carry a **pistol** or revolver, and inserting in lieu thereof a new subsection (h) to read as follows: "(h) *Licenses for former law enforcement officers.* Except as otherwise provided in Code Section 16-11-130, any person who has served as a law enforcement officer for at least ten of the 12 years immediately preceding the retirement of such person as a law enforcement officer shall be entitled to be issued a license as provided for in this Code section without the payment of any of the fees provided for in this Code section. Such person must comply with all the other provisions of this Code section relative to the issuance of such licenses. As used in this subsection, the term `law enforcement officer' means any peace officer who is employed by the United States government or by the State of Georgia or any political subdivision thereof and who is required by the terms of his or her employment, whether by election or appointment, to give his or her full time to the preservation of public order or the protection of life and property or the prevention of crime. Such term shall include conservation rangers." **SECTION 3.** Said part is further amended by redesignating subsection (c) of Code Section 16-11-130, relating to exemptions from Code Sections 16-11-126 through 16-11-128, as subsection (d) and inserting a new subsection (c) to read as follows: "(c) Code Sections 16-11-126 through 16-11-128 shall not apply to or affect any sheriff, retired sheriff, deputy sheriff, or retired deputy sheriff if such retired deputy sheriff is receiving benefits under the Peace Officers' Annuity and Benefit Fund provided under Chapter 17 of Title 47. In addition, any such sheriff, retired sheriff, deputy sheriff, or retired deputy sheriff shall be authorized to carry a **pistol** or revolver on or off duty anywhere within the state and the provisions of Code Sections 16-11-126 through 16-11-128 shall not apply to the carrying of such firearms."

2000

SENATE BILL 466

To amend Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to dangerous instrumentalities and practices, so as to change the penalty provisions applicable to the offense of furnishing a pistol or revolver to a person under the age of 18 years; to change the penalty provisions applicable to the offense of unlawful possession of firearms or weapons; to change the penalty provisions applicable to second or subsequent offenses of carrying a concealed weapon; to provide that upon conviction of the offense of carrying a weapon within a school safety zone when the offense involves a firearm as defined in paragraph (2) of subsection (a) of Code Section 16-11-131, or a dangerous weapon or machine gun as defined in Code Section 16-11-121, such person shall be punished by a fine of not more than $10,000.00 and by imprisonment for a period of not less than five nor more than ten years, or both; to change the penalty provisions applicable to the offense of possession of a firearm by a convicted felon or first offender probationer if the felony conviction or probation was for a forcible felony; to change the penalty provisions applicable to the offense of possession of a pistol or revolver by a person under the age of 18 years; to provide that any person who is prohibited from possessing a firearm because of conviction of a forcible felony or because of being on probation as a first offender for a forcible felony and who attempts to purchase or obtain transfer of a firearm shall be guilty of a felony; to provide a penalty; to define a certain term; to provide for related matters; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to dangerous instrumentalities and practices, is amended by striking in its entirety Code Section 16-11-101.1, relating to the offense of furnishing a pistol or revolver to a person under the age of 18 years, and inserting in lieu thereof a new Code Section 16-11-101.1 to read as follows:

"16-11-101.1.

(a) For the purposes of this Code section, the term:

(1) 'Minor' means any person under the age of 18 years.

(2) 'Pistol or revolver' means a pistol or revolver as defined in subsection (a) of Code Section 16-11-132.

(b) It shall be unlawful for a person intentionally, knowingly, or recklessly to sell or furnish a pistol or revolver to a minor, except that it shall be lawful for a parent or legal guardian to permit possession of a pistol or revolver by a minor for the purposes specified in subsection (c) of Code Section 16-11-132 unless otherwise expressly limited by subsection (c) of this Code section.

(c)(1) It shall be unlawful for a parent or legal guardian to permit possession of a pistol or revolver by a minor if the parent or legal guardian knows of a minor's conduct which violates the provisions of Code Section 16-11-132 and fails to make reasonable efforts to prevent any such violation of Code Section 16-11-132.

(2) Notwithstanding any provisions of subsection (c) of Code Section 16-11-132 or any other law to the contrary, it shall be unlawful for any parent or legal guardian intentionally, knowingly, or recklessly to furnish to or permit a minor to possess a pistol or revolver if such parent or legal guardian is aware of a substantial risk that such minor will use a pistol or revolver to commit a felony offense or if such parent or legal guardian who is aware of such substantial risk fails to make reasonable efforts to prevent commission of the offense by the minor.

(3) In addition to any other act which violates this subsection, a parent or legal guardian shall be deemed to have violated this subsection if such parent or legal guardian furnishes to or permits possession of a pistol or revolver by any minor who has been convicted of a forcible felony or forcible misdemeanor, as defined in Code Section 16-1-3, or who has been adjudicated delinquent under the provisions of Article 1 of Chapter 11 of Title 15 for an offense which would constitute a forcible felony or forcible misdemeanor, as defined in Code Section 16-1-3, if such minor were an adult.

(d) Upon conviction of a violation of subsection (b) or (c) of this Code section, a person shall be guilty of a felony and punished by a fine not to exceed $5,000.00 or by imprisonment for not less than ~~two~~ three nor more than five years, or both."

SECTION 2.

Said article is further amended by striking in its entirety Code Section 16-11-123, relating to the offense of unlawful possession of firearms or weapons, and inserting in lieu thereof a new Code Section 16-11-123 to read as follows:

"16-11-123.

A person commits the offense of unlawful possession of firearms or weapons when he or she knowingly has in his or her possession any sawed-off shotgun, sawed-off rifle, machine gun, dangerous weapon, or silencer, and, upon conviction thereof, he or she shall be punished by imprisonment for ~~not less than one nor more than~~ a period of five years."

SECTION 3.

Said article is further amended by striking in its entirety Code Section 16-11-126, relating to the offense of carrying a concealed weapon, and inserting in lieu thereof a new Code Section 16-11-126 to read as follows:

"16-11-126

(a) A person commits the offense of carrying a concealed weapon when such person knowingly has or carries about his or her person, unless in an open manner and fully exposed to view, any bludgeon, metal knuckles, firearm, knife designed for the purpose of offense and defense, or any other dangerous or deadly weapon or instrument of like character outside of his or her home or place of business, except as permitted under this Code section.

(b) Upon conviction of the offense of carrying a concealed weapon, a person shall be punished as follows:

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

(2) For the second offense, and for any subsequent offense, he or she shall be guilty of a felony and, upon conviction thereof, shall be imprisoned for not less than ~~one year~~ two years and not more than five years.

(c) This Code section shall not permit, outside of his or her home, motor vehicle, or place of business, the concealed carrying of a pistol, revolver, or concealable firearm by any person unless that person has on his or her person a valid license issued under Code Section 16-11-129 and the pistol, revolver, or firearm may only be carried in a shoulder holster, waist belt holster, any other holster, hipgrip, or any other similar device, in which event the weapon may be concealed by the person's clothing, or a handbag, purse, attache case, briefcase, or other closed container. Carrying on the person in a concealed manner other than as provided in this subsection shall not be permitted and shall be a violation of this Code section.

(d) This Code section shall not forbid the transportation of any firearm by a person who is not among those enumerated as ineligible for a license under Code Section 16-11-129, provided the firearm is enclosed in a case, unloaded, and separated from its ammunition. This Code section shall not forbid any person who is not among those enumerated as ineligible for a license under Code Section 16-11-129 from transporting a loaded firearm in any private passenger motor vehicle in an open manner and fully exposed to view or in the glove compartment, console, or similar compartment of the vehicle; provided, however, that any person in possession of a valid permit issued pursuant to Code Section 16-11-129 may carry a handgun in any location in a motor vehicle.

(e) On and after October 1, 1996, a person licensed to carry a handgun in any state whose laws recognize and give effect within such state to a license issued pursuant to this part shall be authorized to carry a handgun in this state, but only while the licensee is not a resident of this state; provided, however, that such licenseholder shall carry the handgun in compliance with the laws of this state."

SECTION 4.

Said article is further amended by striking in its entirety Code Section 16-11-127.1, relating to the offense of carrying a weapon within a school safety zone, and inserting in lieu thereof a new Code Section 16-11-127.1 to read as follows:

"16-11-127.1.

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

(1) 'School safety zone' means in, on, or within 1,000 feet of any real property owned by or leased to any public or private elementary school, secondary school, or school board and used for elementary or secondary education and in, on, or within 1,000 feet of the campus of any public or private technical school, vocational school, college, university, or institution of postsecondary education.

(2) 'Weapon' means and includes any pistol, revolver, or any weapon designed or intended to propel a missile of any kind, or any dirk, bowie knife, switchblade knife, ballistic knife, any other knife having a blade of two or more inches, straight-edge razor, razor blade, spring stick, metal knucks, blackjack, any bat, club, or other bludgeon-type weapon, or any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain, or any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart, or any weapon of like kind, and any stun gun or taser as defined in subsection (a) of Code Section 16-11-106. This paragraph excludes any of these instruments used for classroom work authorized by the teacher.

(b) Except as otherwise provided in subsection (c) of this Code section, it shall be unlawful for any person to carry to or to possess or have under such person's control while within a school safety zone or at a school building, school function, or school property or on a bus or other transportation furnished by the school any weapon or explosive compound, other than fireworks the possession of which is regulated by Chapter 10 of Title 25. Any person who violates this subsection shall be guilty of a felony and, upon conviction thereof, be punished by a fine of not more than $10,000.00, by imprisonment for not less than two nor more than ten years, or both; provided, however, that upon conviction of a violation of this subsection

involving a firearm as defined in paragraph (2) of subsection (a) of Code Section 16-11-131, or a dangerous weapon or machine gun as defined in Code Section 16-11-121, such person shall be punished by a fine of not more than $10,000.00 or by imprisonment for a period of not less than five nor more than ten years, or both. A juvenile who violates this subsection shall be subject to the provisions of Code Section 15-11-37.

(c) The provisions of this Code section shall not apply to:

(1) Baseball bats, hockey sticks, or other sports equipment possessed by competitors for legitimate athletic purposes;

(2) Participants in organized sport shooting events or firearm training courses;

(3) Persons participating in military training programs conducted by or on behalf of the armed forces of the United States or the Georgia Department of Defense;

(4) Persons participating in law enforcement training conducted by a police academy certified by the Peace Officer Standards and Training Council or by a law enforcement agency of the state or the United States or any political subdivision thereof;

(5) The following persons, when acting in the performance of their official duties or when en route to or from their official duties:

(A) A peace officer as defined by Code Section 35-8-2;

(B) A law enforcement officer of the United States government;

(C) A prosecuting attorney of this state or of the United States;

(D) An employee of the Georgia Department of Corrections or a correctional facility operated by a political subdivision of this state or the United States who is authorized by the head of such correctional agency or facility to carry a firearm;

(E) A person employed as a campus police officer or school security officer who is authorized to carry a weapon in accordance with Chapter 8 of Title 20; and

(F) Medical examiners, coroners, and their investigators who are employed by the state or any political subdivision thereof;

(6) A person who has been authorized in writing by a duly authorized official of the school to have in such person's possession or use as part of any activity being conducted at a school building, school property, or school function a weapon which would otherwise be prohibited by this Code section. Such authorization shall specify the weapon or weapons which have been authorized and the time period during which the authorization is valid;

(7) A person who is licensed in accordance with Code Section 16-11-129 or issued a permit pursuant to Code Section 43-38-10, when such person carries or picks up a student at a school building, school function, or school property or on a bus or other transportation furnished by the school or any weapon legally kept within a vehicle in transit through a designated school zone by any person other than a student;

(8) A weapon which is in a locked compartment of a motor vehicle or one which is in a locked container in or a locked firearms rack which is on a motor vehicle which is being used by an adult over 21 years of age to bring to or pick up a student at a school building, school function, or school property or on a bus or other

transportation furnished by the school, or when such vehicle is used to transport someone to an activity being conducted on school property which has been authorized by a duly authorized official of the school; provided, however, that this exception shall not apply to a student attending such school;

(9) Persons employed in fulfilling defense contracts with the government of the United States or agencies thereof when possession of the weapon is necessary for manufacture, transport, installation, and testing under the requirements of such contract;

(10) Those employees of the State Board of Pardons and Paroles when specifically designated and authorized in writing by the members of the State Board of Pardons and Paroles to carry a weapon;

(11) The Attorney General and those members of his or her staff whom he or she specifically authorizes in writing to carry a weapon;

(12) Probation supervisors employed by and under the authority of the Department of Corrections pursuant to Article 2 of Chapter 8 of Title 42, known as the 'State-wide Probation Act,' when specifically designated and authorized in writing by the director of the Division of Probation;

(13) Public safety directors of municipal corporations;

(14) State and federal trial and appellate judges;

(15) United States attorneys and assistant United States attorneys;

(16) Clerks of the superior courts; or

(17) Teachers and other school personnel who are otherwise authorized to possess or carry weapons, provided that any such weapon is in a locked compartment of a motor vehicle or one which is in a locked container in or a locked firearms rack which is on a motor vehicle.

(d)(1) This Code section shall not prohibit any person who resides or works in a business or is in the ordinary course transacting lawful business or any person who is a visitor of such resident located within a school safety zone from carrying, possessing, or having under such person's control a weapon within a school safety zone; provided, however, it shall be unlawful for any such person to carry, possess, or have under such person's control while at a school building or school function or on school property, a school bus, or other transportation furnished by the school any weapon or explosive compound, other than fireworks the possession of which is regulated by Chapter 10 of Title 25.

(2) Any person who violates this subsection shall be subject to the penalties specified in subsection (b) of this Code section.

(3) This subsection shall not be construed to waive or alter any legal requirement for possession of weapons or firearms otherwise required by law.

(e) It shall be no defense to a prosecution for a violation of this Code section that:

(1) School was or was not in session at the time of the offense;

(2) The real property was being used for other purposes besides school purposes at the time of the offense; or

(3) The offense took place on a school vehicle.

(f) In a prosecution under this Code section, a map produced or reproduced by any municipal or county agency or department for the purpose of depicting the location and boundaries of the area on or within 1,000 feet of the

real property of a school board or a private or public elementary or secondary school that is used for school purposes or within 1,000 feet of any campus of any public or private technical school, vocational school, college, university, or institution of postsecondary education, or a true copy of the map, shall, if certified as a true copy by the custodian of the record, be admissible and shall constitute prima-facie evidence of the location and boundaries of the area, if the governing body of the municipality or county has approved the map as an official record of the location and boundaries of the area. A map approved under this Code section may be revised from time to time by the governing body of the municipality or county. The original of every map approved or revised under this subsection or a true copy of such original map shall be filed with the municipality or county and shall be maintained as an official record of the municipality or county. This subsection shall not preclude the prosecution from introducing or relying upon any other evidence or testimony to establish any element of this offense. This subsection shall not preclude the use or admissibility of a map or diagram other than the one which has been approved by the municipality or county.

(g) A county school board may adopt regulations requiring the posting of signs designating the areas within 1,000 feet of school boards and private or public elementary and secondary schools as 'Weapon-free and Violence-free School Safety Zones.'"

SECTION 5.

Said article is further amended by striking in its entirety Code Section 16-11-131, relating to the offense of possession of a firearm by a convicted felon or first offender probationer, and inserting in lieu thereof a new Code Section 16-11-131 to read as follows:

"16-11-131.

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

(1) 'Felony' means any offense punishable by imprisonment for a term of one year or more and includes conviction by a court-martial under the Uniform Code of Military Justice for an offense which would constitute a felony under the laws of the United States.

(2) 'Firearm' includes any handgun, rifle, shotgun, or other weapon which will or can be converted to expel a projectile by the action of an explosive or electrical charge.

(b) Any person who is on probation as a felony first offender pursuant to Article 3 of Chapter 8 of Title 42 or who has been convicted of a felony by a court of this state or any other state; by a court of the United States including its territories, possessions, and dominions; or by a court of any foreign nation and who receives, possesses, or transports any firearm commits a felony and, upon conviction thereof, shall be imprisoned for not less than one nor more than five years; provided, however, that if the felony as to which the person is on probation or has been previously convicted is a forcible felony, then upon conviction of receiving, possessing, or transporting a firearm, such person shall be imprisoned for a period of five years.

(b.1) Any person who is prohibited by this Code section from possessing a firearm because of conviction of a forcible felony or because of being on probation as a first offender for a forcible felony pursuant to this Code section and who attempts to purchase or obtain transfer of a firearm shall be guilty of a felony and shall be punished by imprisonment for not less than one nor more than five years.

(c) This Code section shall not apply to any person who has been pardoned for the felony by the President of the United States, the State Board of Pardons and Paroles, or the person or agency empowered to grant pardons under the

constitutions or laws of the several states or of a foreign nation and, by the terms of the pardon, has expressly been authorized to receive, possess, or transport a firearm.

(d) A person who has been convicted of a felony, but who has been granted relief from the disabilities imposed by the laws of the United States with respect to the acquisition, receipt, transfer, shipment, or possession of firearms by the secretary of the United States Department of the Treasury pursuant to 18 U.S.C. Section 925, shall, upon presenting to the Board of Public Safety proof that the relief has been granted and it being established from proof submitted by the applicant to the satisfaction of the Board of Public Safety that the circumstances regarding the conviction and the applicant's record and reputation are such that the acquisition, receipt, transfer, shipment, or possession of firearms by the person would not present a threat to the safety of the citizens of Georgia and that the granting of the relief sought would not be contrary to the public interest, be granted relief from the disabilities imposed by this Code section. A person who has been convicted under federal or state law of a felony pertaining to antitrust violations, unfair trade practices, or restraint of trade shall, upon presenting to the Board of Public Safety proof, and it being established from said proof, submitted by the applicant to the satisfaction of the Board of Public Safety that the circumstances regarding the conviction and the applicant's record and reputation are such that the acquisition, receipt, transfer, shipment, or possession of firearms by the person would not present a threat to the safety of the citizens of Georgia and that the granting of the relief sought would not be contrary to the public interest, be granted relief from the disabilities imposed by this Code section. A record that the relief has been granted by the board shall be entered upon the criminal history of the person maintained by the Georgia Crime Information Center and the board shall maintain a list of the names of such persons which shall be open for public inspection.

(e) As used in this Code section, the term 'forcible felony' means any felony which involves the use or threat of physical force or violence against any person and further includes, without limitation, murder; felony murder; burglary; robbery; armed robbery; kidnapping; hijacking of an aircraft or motor vehicle; aggravated stalking; rape; aggravated child molestation; aggravated sexual battery; arson in the first degree; the manufacturing, transporting, distribution, or possession of explosives with intent to kill, injure, or intimidate individuals or destroy a public building; terroristic threats; or acts of treason or insurrection.

~~(e)~~(f) Any person placed on probation as a first offender pursuant to Article 3 of Chapter 8 of Title 42 and subsequently discharged without court adjudication of guilt pursuant to Code Section 42-8-62 shall, upon such discharge, be relieved from the disabilities imposed by this Code section."

SECTION 6.

Said article is further amended by striking in its entirety Code Section 16-11-132, relating to the offense of possession of a pistol or revolver by a person under the age of 18 years, and inserting in lieu thereof a new Code Section 16-11-132 to read as follows:

"16-11-132

(a)(1) For the purposes of this Code section, the term 'pistol' or 'revolver' means a firearm of any description, loaded or unloaded, from which any shot, bullet, or other missile can be discharged where the length of the barrel, not including any revolving, detachable, or magazine breech, does not exceed 12 inches; provided, however, that the term pistol or

revolver shall not include a gun which discharges shot of .46 centimeters or less in diameter.

(2) For the purposes of this Code section, a pistol or revolver is considered loaded if:

(A) There is a cartridge in the chamber or cylinder of the pistol or revolver;

(B) The person is carrying on his or her body or attached to his or her clothing the pistol or revolver and the ammunition for such pistol or revolver; or

(C) The pistol or revolver and the ammunition for such pistol or revolver are in such close proximity to such person that such person could readily gain access to the pistol or revolver and the ammunition and load the pistol or revolver.

(b) Notwithstanding any other provisions of this part and except as otherwise provided in this Code section, it shall be unlawful for any person under the age of 18 years to possess or have under such person's control a pistol or revolver. A person convicted of a first violation of this subsection shall be guilty of a misdemeanor and shall be punished by a fine not to exceed $1,000.00 or by imprisonment for not more than 12 months, or both. A person convicted of a second or subsequent violation of this subsection shall be guilty of a felony and shall be punished by a fine ~~not to exceed~~ of $5,000.00 or by imprisonment for ~~not less than one nor more than~~ a period of three years, or both.

(c) Except as otherwise provided in subsection (d) of this Code section, the provisions of subsection (b) of this Code section shall not apply to:

(1) Any person under the age of 18 years who is:

(A) Attending a hunter education course or a firearms safety course;

(B) Engaging in practice in the use of a firearm or target shooting at an established range authorized by the governing body of the jurisdiction where such range is located;

(C) Engaging in an organized competition involving the use of a firearm or participating in or practicing for a performance by an organized group under 26 U.S.C. Section 501(c)(3) which uses firearms as a part of such performance;

(D) Hunting or fishing pursuant to a valid license if such person has in his or her possession such a valid hunting or fishing license if required; is engaged in legal hunting or fishing; has permission of the owner of the land on which the activities are being conducted; and the pistol or revolver, whenever loaded, is carried only in an open and fully exposed manner; or

(E) Traveling to or from any activity described in subparagraphs (A) through (D) of this paragraph if the pistol or revolver in such person's possession is not loaded;

(2) Any person under the age of 18 years who is on real property under the control of such person's parent, legal guardian, or grandparent and who has the permission of such person's parent or legal guardian to possess a pistol or revolver; or

(3) Any person under the age of 18 years who is at such person's residence and who, with the permission of such person's parent or legal guardian, possesses a pistol or revolver for the purpose of exercising the rights authorized in Code Section 16-3-21 or 16-3-23.

(d) Subsection (c) of this Code section shall not apply to any person under the age of 18 years who has been convicted of a forcible felony or forcible misdemeanor, as defined in Code Section 16-1-3, or who has been adjudicated delinquent under the provisions of Article 1 of Chapter 11 of Title 15 for an offense which would constitute a forcible felony or forcible misdemeanor, as defined in Code Section 16-1-3, if such person were an adult."

SECTION 7.

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

2002

Senate Bill 330

To provide a short title; to amend Article 2 of Chapter 3 of Title 6 of the Official Code of Georgia Annotated, relating to powers of local governments as to air facilities, so as to provide that law enforcement officers of counties or municipalities operating an airport or landing field located in another political subdivision shall have jurisdiction within such facility; to amend Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, so as to change the penalty for the offense of transmitting a false public alarm; to provide for restitution for damages caused by such offense; to change the definition of the offense of a terroristic threat; to change the penalty for making a terroristic threat; to amend the "Bus and Rail Vehicle Passenger Act"; to change a short title; to define certain terms; to provide that it shall be unlawful to enter an aircraft, a bus, or a rail vehicle with certain items; to provide exceptions; to prohibit the secreting of certain items on the person or in the baggage of another; to provide a penalty; to prohibit the removal of baggage and similar items from certain public vehicles; to provide that it shall be unlawful to avoid or interfere with a security control device; to provide for restitution; to provide that it shall be unlawful to place an item on the person of or in the possession of any bus, rail, or air passenger; to provide penalties; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

This Act shall be known and may be cited as the "Transportation Security Act of 2002." …..

SECTION 5.

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

16-12-123.

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

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

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

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

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

(b) Any **person who boards or attempts to board an aircraft, bus, or rail vehicle with any** explosive, destructive device, or hoax device as such term is defined in Code Section 16-7-80; firearm; hazardous substance as defined by Code Section 12-8-92; **or knife or other device designed or modified for the purpose of offense and defense concealed on or about his or her person or property which is or would be accessible to such person while on the aircraft, bus, or rail vehicle shall be guilty of a felony** and, upon conviction thereof, shall be sentenced to imprisonment for not less than one nor more than ten years. The prohibition of this subsection shall not apply to any law enforcement officer, peace officer retired from a state or federal law enforcement agency, person in the military service of the state or of the United States, or commercial security personnel employed by the transportation company who is in possession of weapons used within the course and scope of their employment; nor shall the prohibition apply to persons transporting weapons contained in baggage which is not accessible to passengers if the presence of such weapons has been declared to the transportation company and such weapons have been secured in a manner prescribed by state or federal law or regulation for the purpose of transportation or shipment. …..

2006

Senate Bill 396

To amend Article 2 of Chapter 3 of Title 16 of the Official Code of Georgia Annotated, relating to justification and excuse as a defense to certain crimes, so as to provide that a person who is attacked has no duty to retreat; to provide that such person has a right to meet force with force, including deadly force; to provide for civil immunity; to amend Article 1 of Chapter 11 of Title 51 of the Official Code of Georgia Annotated, relating to general provisions relative to defense to tort actions, so as to provide for civil immunity; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 3 of Title 16 of the Official Code of Georgia Annotated, relating to justification and excuse as a defense to certain crimes, is amended by inserting immediately following Code Section 16-3-23 a new Code section to read as follows:

"16-3-23.1.

A person who uses threats or force in accordance with Code Section 16-3-21, relating to the use of force in defense of self or others, Code Section 16-3-23, relating to the use of force in defense of a habitation, or Code Section 16-3-24, relating to the use of force in defense of property other than a habitation, has no duty to retreat and has the right to stand his or her ground and use force as provided in said Code sections, including deadly force."

SECTION 2.

Said article is further amended by striking in its entirety Code Section 16-3-24.2, relating to immunity from prosecution and exception, and inserting in lieu thereof the following:

"16-3-24.2.

A person who uses threats or force in accordance with Code Section 16-3-21, 16-3-23, 16-3-23.1, or 16-3-24 shall be immune from criminal prosecution therefor unless in the use of deadly force, such person utilizes a weapon the carrying or possession of which is unlawful by such person under Part 2 or 3 of Article 4 of Chapter 11 of this title."

SECTION 3.

Article 1 of Chapter 11 of Title 51 of the Official Code of Georgia Annotated, relating to general provisions relative to defense to tort actions, is amended by striking in its entirety Code Section 51-11-9, relating to immunity from civil liability for threat or use of force in defense of a habitation, and inserting in lieu thereof the following:

"51-11-9.

A person who is justified in threatening or using force against another under the provisions of Code Section 16-3-21, relating to the use of force in defense of self or others, Code Section 16-3-23, relating to the use of force in defense of a habitation, or Code Section 16-3-24, relating to the use of force in defense of property other than a habitation, has no duty to retreat from the use of such force and shall not be held liable to the person against whom the use of force was justified or to any person acting as an accomplice or assistant to such person in any civil action brought as a result of the threat or use of such force."

SECTION 4.

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

House Bill 1032

To amend Code Section 16-11-129 of the Official Code of Georgia Annotated, relating to license to carry a pistol or revolver and temporary renewal permit, so as to provide that any person who is prohibited from possessing firearms pursuant to federal law may not be issued such a permit; to provide for a background check using the Federal Bureau of Investigation's National Instant Criminal Background Check System for permit issuances and renewals; to provide for a check of United States Immigration and Customs Enforcement records for noncitizen applicants; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 16-11-129 of the Official Code of Georgia Annotated, relating to license to carry a pistol or revolver and temporary renewal permit, is amended by striking in their entirety subsections (a) through (d) and inserting in lieu thereof the following:

"(a) *Application for license or renewal license; term.* The judge of the probate court of each county may, on application under oath and on payment of a fee of $15.00, issue a license or renewal license valid for a period of five years to any person whose domicile is in that county or who is on active duty with the United States armed forces and who is not a domiciliary of this state but who either resides in that county or on a military reservation located in whole or in part in that county at

	the time of such application, which license or renewal license shall authorize that person to carry any pistol or revolver in any county of this state notwithstanding any change in that person's county of residence or state of domicile. Applicants shall submit the application for a license or renewal license to the judge of the probate court on forms prescribed and furnished free of charge to persons wishing to apply for the license or renewal license. An applicant who is not a United States citizen shall provide sufficient personal identifying data, including without limitation his or her place of birth and United States issued alien or admission number, as the Georgia Bureau of Investigation may prescribe by rule or regulation. An applicant who is in nonimmigrant status shall provide proof of his or her qualifications for an exception to the federal firearm prohibition pursuant to 18 U.S.C. Section 922(y). Forms shall be designed to elicit information from the applicant pertinent to his or her eligibility under this Code section, including citizenship, but shall not require data which is nonpertinent or irrelevant such as serial numbers or other identification capable of being used as a de facto registration of firearms owned by the applicant. The Department of Public Safety shall furnish application forms and license forms required by this Code section. The forms shall be furnished to each judge of each probate court within the state at no cost. (b) *Licensing exceptions.* No license or renewal license shall be granted to: (1) Any person who is prohibited from possessing firearms pursuant to 18 U.S.C. Section 922; (1.1) Any person under 21 years of age; (2) Any person who is a fugitive from justice or against whom proceedings are pending for any felony, forcible misdemeanor, or violation of Code Section 16-11-126, 16-11-127, or 16-11-128 until such time as the proceedings are adjudicated; (3) Any person who has been convicted of a felony by a court of this state or any other state; by a court of the United States including its territories, possessions, and dominions; or by a court of any foreign nation and has not been pardoned for such felony by the President of the United States, the State Board of Pardons and Paroles, or the person or agency empowered to grant pardons under the constitution or laws of such state or nation or any person who has been convicted of a forcible misdemeanor and has not been free of all restraint or supervision in connection therewith for at least five years or any person who has been convicted of a violation of Code Section 16-11-126, 16-11-127, or 16-11-128 and has not been free of all restraint or supervision in connection therewith for at least three years, immediately preceding the date of the application; (4) Any individual who has been hospitalized as an inpatient in any mental hospital or alcohol or drug treatment center within five years of the date of his or her application. The probate judge may require any applicant to sign a waiver authorizing any mental hospital or treatment center to inform the judge whether or not the applicant has been an inpatient in any such facility in the last five years and authorizing the superintendent of such facility to make to the judge a recommendation regarding whether a license to carry a pistol or revolver should be issued. When such a waiver is required by the probate judge, the applicant shall pay to the probate judge a fee of $3.00 for reimbursement of the cost of making such a report by the mental health hospital, alcohol or drug treatment center, or the Department of Human Resources, which the probate judge shall remit to the hospital, center, or department. The judge shall keep any such hospitalization or treatment information confidential. It shall be at the discretion of the probate judge, considering the circumstances surrounding the hospitalization and the recommendation of the superintendent of the hospital or treatment center where the individual was a patient, to issue the license or renewal license; ~~or~~ (5)(A) Any person, the provisions of paragraph (3) of this subsection notwithstanding, who has been convicted of an offense arising out of the unlawful manufacture, distribution, possession, or use of a controlled substance or other dangerous drug. (B) As used in this paragraph, the term: (i) 'Controlled substance' means any drug, substance, or immediate precursor included in the definition of controlled substances in paragraph (4) of Code Section 16-13-21. (ii) 'Convicted' means a plea of guilty, a finding of guilt by a court of competent jurisdiction, the acceptance of a plea of nolo contendere, or the affording of first offender treatment by a court of competent jurisdiction irrespective of the pendency or availability of an appeal or an application for collateral relief. (iii) 'Dangerous drug' means any drug defined as such in Code Section 16-13-71~~.~~; or (6) Any person not lawfully present in the United States. (c) *Fingerprinting.* ~~(1)~~ Following completion of the application for a license or the renewal of a license, the judge of the probate court shall require the applicant to proceed to an appropriate law enforcement agency in the county with the completed application. The appropriate local law enforcement agency in each county shall then ~~make two sets of classifiable~~ capture the fingerprints of the applicant for a license or renewal license to carry a pistol or revolver, place the fingerprint required by subsection (f) of this Code section on a blank license form which has been furnished to the law enforcement agency by the judge of the probate court, and place the name of the applicant on the blank license form. The law enforcement agency shall be entitled to a fee of $5.00 from the applicant for its services in connection with the application. ~~(2) In the case of each applicant who is applying for a license under this Code section for the first time, the judge of the probate court shall direct the law enforcement agency to transmit one set of the applicant's fingerprints to the Georgia Crime Information Center for a search of the Federal Bureau of Investigation records and an appropriate report. In such cases, the applicant shall submit an additional fee in an amount established by the Georgia Bureau of Investigation but not to exceed $30.00 for a search of records of the Federal Bureau of Investigation and an appropriate report, payable in such form as the judge may direct, to cover the cost of the records search.~~ ~~(3) Applications for renewal of licenses issued under this Code section shall be made to the judge of the probate court of the county in which the applicant is domiciled or, if the applicant is a member of the United States armed forces, the county in which he or she resides or in which the military reservation on which the applicant resides is located in whole or in part at the time of making the renewal application. In the case of an applicant for a renewal of a license, the judge of the probate court may, in his or her discretion, direct that the local county law enforcement agency request a search of the criminal history file and wanted persons file of the Georgia Crime Information Center by computer access from that county in lieu of transmitting the application and forms.~~

	(d) *Investigation of applicant; issuance of license; renewal.* ~~Each law enforcement agency, upon receiving such applications and obtaining such fingerprints, shall promptly conduct a thorough search of its records and records to which it has access and~~ (1) For both license applications and requests for license renewals, the judge of the probate court shall direct the law enforcement agency to request a fingerprint based criminal history records check from the Georgia Crime Information Center and Federal Bureau of Investigation for purposes of determining the suitability of the applicant and return an appropriate report to the judge of the probate court. Fingerprints shall be in such form and of such quality as prescribed by the Georgia Crime Information Center and under standards adopted by the Federal Bureau of Investigation. The Georgia Bureau of Investigation may charge such fee as is necessary to cover the cost of the records search. (2) For both license applications and requests for license renewals, the judge of the probate court shall also direct the law enforcement agency to conduct a background check using the Federal Bureau of Investigation's National Instant Criminal Background Check System and return an appropriate report to the probate judge. (3) When a person who is not a United States citizen applies for a license or renewal of a license under this Code section, the judge of the probate court shall direct the law enforcement agency to conduct a search of the records maintained by the United States Bureau of Immigration and Customs Enforcement. As a condition to the issuance of a license or the renewal of a license, an applicant who is in nonimmigrant status shall provide proof of his or her qualifications for an exception to the federal firearm prohibition pursuant to 18 U.S.C. Section 922(y). (4) The law enforcement agency shall notify the judge of the probate court within 50 days, by telephone and in writing, of any findings relating to the applicant which may bear on his or her eligibility for a license or renewal license under the terms of this Code section. When no derogatory information is found on the applicant bearing on his or her eligibility to obtain a license or renewal license, a report shall not be required. The law enforcement agency shall return the application and the blank license form with the fingerprint thereon directly to the judge of the probate court within such time period. Not later than 60 days after the date of the application the judge of the probate court shall issue the applicant a license or renewal license to carry any pistol or revolver if no facts establishing ineligibility have been reported and if the judge determines the applicant has met all the qualifications, is of good moral character, and has complied with all the requirements contained in this Code section."
2008	**House Bill 89** To provide a short title; to amend Part 1 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to dangerous instrumentalities and practices, so as to provide for a felony for soliciting, persuading, encouraging, or enticing any dealer to transfer or otherwise convey a firearm to anyone other than the actual buyer; to amend Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to the carrying and possession of firearms, so as to change certain provisions relating to carrying deadly weapons to or at public gatherings; to provide for constables to carry pistols in publicly owned or operated buildings; to exempt constables from the prohibition of carrying weapons within school safety zones, at school functions, or on school property; to change certain provisions regarding the transportation and carrying of certain firearms; to prohibit the carrying of firearms and other weapons into certain buildings; to provide a definition; to authorize the carrying of firearms in certain locations; to require the timely issuance of firearm licenses; to prohibit certain employers from searching the private vehicles of employees; to prohibit employers from conditioning employment based upon certain regulations regarding the possession of a firearm; to provide exceptions; to provide certain immunity for employers; to provide for civil remedies; to provide for the timely issuance of firearms permits and licenses; to provide for remedies for failure to receive firearms permits or licenses under certain circumstances; to prohibit the consumption of alcoholic beverages while carrying a firearm under certain circumstances; to amend Title 51 of the Official Code of Georgia Annotated, relating to torts, so as to provide certain immunity from liability for certain persons and entities that voluntarily and without compensation assist state agencies during times of declared emergencies; to provide for related matters; to repeal conflicting laws; and for other purposes. BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA: **SECTION 1.** This Act shall be known and may be cited as the "Business Security and Employee Privacy Act." **SECTION 2.** Part 1 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to dangerous instrumentalities and practices, is amended by adding a new Code section to read as follows: "16-11-113. Any person who attempts to solicit, persuade, encourage, or entice any dealer to transfer or otherwise convey a firearm other than to the actual buyer, as well as any other person who willfully and intentionally aids or abets such person, shall be guilty of a felony. This Code section shall not apply to a federal law enforcement officer or a peace officer, as defined in Code Section 16-1-3, in the performance of his or her official duties or other person under such officer´s direct supervision." **SECTION 3.** Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to the

carrying and possession of firearms, is amended by revising Code Section 16-11-126, relating to the offense of carrying a concealed weapon, as follows:
"16-11-126.
(a) A person commits the offense of carrying a concealed weapon when such person knowingly has or carries about his or her person, unless in an open manner and fully exposed to view, any bludgeon, metal knuckles, firearm, knife designed for the purpose of offense and defense, or any other dangerous or deadly weapon or instrument of like character outside of his or her home or place of business, except as permitted under this Code section.
(b) Upon conviction of the offense of carrying a concealed weapon, a person shall be punished as follows:
(1) For the first offense, he or she shall be guilty of a misdemeanor; and
(2) For the second offense, and for any subsequent offense, he or she shall be guilty of a felony and, upon conviction thereof, shall be imprisoned for not less than two years and not more than five years.
(c) This Code section shall not permit, outside of his or her home, motor vehicle, or place of business, the concealed carrying of a pistol, revolver, or concealable firearm by any person unless that person has on his or her person a valid license issued under Code Section 16-11-129 and the pistol, revolver, or firearm may only be carried in a shoulder holster, waist belt holster, any other holster, hipgrip, or any other similar device, in which event the weapon may be concealed by the person´s clothing, or a handbag, purse, attache case, briefcase, or other closed container. ~~Carrying on the person in a concealed manner other than as provided in this subsection shall not be permitted and shall be a violation of this Code section.~~ Any person having been issued a license to carry a concealed weapon pursuant to Code Section 16-11-129 shall be permitted to carry such weapon, subject to the limitations of this part, in all parks, historic sites, or recreational areas as defined by Code Section 12-3-10 and in all wildlife management areas.
(d) This Code section shall not forbid the transportation of any firearm by a person who is not among those enumerated as ineligible for a license under Code Section 16-11-129, provided the firearm is enclosed in a case, unloaded, and separated from its ammunition. (e) This Code section shall not forbid any person who is not among those enumerated as ineligible for a license under Code Section 16-11-129 from transporting a loaded firearm in any private passenger motor vehicle ~~in an open manner and fully exposed to view or in the glove compartment, console, or similar compartment of the vehicle; provided, however, that any person in possession of a valid permit issued pursuant to Code Section 16-11-129 may carry a handgun in any location in a motor vehicle~~.
~~(e)~~(f) On and after October 1, 1996, a person licensed to carry a handgun in any state whose laws recognize and give effect within such state to a license issued pursuant to this part shall be authorized to carry a handgun in this state, but only while the licensee is not a resident of this state; provided, however, that such ~~licenseholder~~ license holder shall carry the handgun in compliance with the laws of this state."

SECTION 4.

Said part is further amended by revising Code Section 16-11-127, relating to carrying deadly weapons to or at public gatherings, as follows:
"16-11-127.
(a) Except as provided in Code Section 16-11-127.1, a person is shall be guilty of a misdemeanor when he or she carries to or while at a public gathering any explosive compound, firearm, or knife designed for the purpose of offense and defense.
(b) For the purpose of this Code section, 'public gathering' shall include, but shall not be limited to, athletic or sporting events, churches or church functions, political rallies or functions, publicly owned or operated buildings, or establishments at which alcoholic beverages are sold for consumption on the premises and which derive less than 50 percent of their total annual gross food and beverage sales from the sale of prepared meals or food. Nothing in this Code section shall otherwise prohibit the carrying of a firearm in any other public place by a person licensed or permitted to carry such firearm by this part.
(c)(1) This Code section shall not apply to competitors participating in organized sport shooting events.
(2) Law enforcement officers, peace officers retired from state, local, or federal law enforcement agencies, judges, magistrates, constables, solicitors-general, and district attorneys may carry pistols in publicly owned or operated buildings; provided, however, that a courthouse security plan adopted in accordance with paragraph (10) of subsection (a) of Code Section 15-16-10 may prohibit the carrying of a pistol.
(d) It ~~is~~ shall be an affirmative defense to a violation of this Code section if a person notifies a law enforcement officer or other person employed to provide security for a public gathering of the presence of such item as soon as possible after learning of its presence and surrenders or secures such item as directed by ~~the~~ such law enforcement officer or other person employed to provide security for ~~a~~ such public gathering.
(e) A person licensed or permitted to carry a firearm by this part shall be permitted to carry such firearm, subject to the limitations of this part, in all parks, historic sites, and recreational areas, including all publicly owned buildings located in such parks, historic sites, and recreational areas and in wildlife management areas, notwithstanding Code Section 12-3-10, in wildlife management areas notwithstanding Code Section 27-3-1.1 and 27-3-6, and in public transportation notwithstanding Code Sections 16-12-122 through 16-12-127; provided, however, that a person shall not carry a firearm into a place prohibited by federal law.
(f) A person licensed or permitted to carry a firearm by this part shall not consume alcoholic beverages in a restaurant or other eating establishment while carrying a firearm. Any person violating this subsection shall be guilty of a misdemeanor."

SECTION 5.

Said part is further amended in Code Section 16-11-127.1, relating to carrying weapons within

school safety zones, at school functions, or on school property, by striking "or" at the end of paragraph (16), by replacing the period with "; or" at the end of paragraph (17), and by adding a new paragraph to subsection (c) to read as follows:
"(18) Constables of any county of this state."

SECTION 6.

Said part is further amended by revising subsection (d) of Code Section 16-11-129, relating to a license to carry a pistol or revolver and temporary renewal permits, and by adding a new subsection to said Code section to read as follows:
"(d) Investigation of applicant; issuance of license; renewal.
(1) For both license applications and requests for license renewals, the judge of the probate court shall within two business days following the receipt of the application or request direct the law enforcement agency to request a fingerprint based criminal history records check from the Georgia Crime Information Center and Federal Bureau of Investigation for purposes of determining the suitability of the applicant and return an appropriate report to the judge of the probate court. Fingerprints shall be in such form and of such quality as prescribed by the Georgia Crime Information Center and under standards adopted by the Federal Bureau of Investigation. The Georgia Bureau of Investigation may charge such fee as is necessary to cover the cost of the records search.
(2) For both license applications and requests for license renewals, the judge of the probate court shall within two business days following the receipt of the application or request also direct the law enforcement agency to conduct a background check using the Federal Bureau of Investigation´s National Instant Criminal Background Check System and return an appropriate report to the probate judge.
(3) When a person who is not a United States citizen applies for a license or renewal of a license under this Code section, the judge of the probate court shall direct the law enforcement agency to conduct a search of the records maintained by the United States Bureau of Immigration and Customs Enforcement. As a condition to the issuance of a license or the renewal of a license, an applicant who is in nonimmigrant status shall provide proof of his or her qualifications for an exception to the federal firearm prohibition pursuant to 18 U.S.C. Section 922(y).
(4) The law enforcement agency shall ~~notify~~ report to the judge of the probate court within ~~50~~ 30 days, by telephone and in writing, of any findings relating to the applicant which may bear on his or her eligibility for a license or renewal license under the terms of this Code section. When no derogatory information is found on the applicant bearing on his or her eligibility to obtain a license or renewal license, a report shall not be required. The law enforcement agency shall return the application and the blank license form with the fingerprint thereon directly to the judge of the probate court within such time period. Not later than ~~60~~ ten days after ~~the date of the application~~ the judge of the probate court receives the report from the law enforcement agency concerning the suitability of the applicant for a firearms license, the judge of the probate court shall issue ~~the~~ such applicant a license or renewal license to carry any pistol or revolver ~~if no~~ unless facts establishing ineligibility have been reported ~~and if~~ or unless the judge determines ~~the~~ such applicant has not met all the qualifications, is not of good moral character, ~~and has complied~~ or has failed to comply with ~~all~~ any of the requirements contained in this Code section. The judge of the probate court shall date stamp the report from the law enforcement agency to show the date on which the report was received by the judge of the probate court."
"(j) When an eligible applicant who is a United States citizen fails to receive a license, temporary permit, or renewal license within the time period required by this Code section and the application or request has been properly filed, the applicant may bring an action in mandamus or other legal proceeding in order to obtain a license, temporary license, or renewal license, and such applicant shall be entitled to recover his or her costs in such action, including reasonable attorney´s fees."

SECTION 7.

Said part is further amended by adding a new Code section to read as follows:
"16-11-135.
(a) Except as provided in this Code section, no private or public employer, including the state and its political subdivisions, shall establish, maintain, or enforce any policy or rule that has the effect of allowing such employer or its agents to search the locked privately owned vehicles of employees or invited guests on the employer´s parking lot and access thereto.
(b) Except as provided in this Code section, no private or public employer, including the state and its political subdivisions, shall condition employment upon any agreement by a prospective employee that prohibits an employee from entering the parking lot and access thereto when the employee´s privately owned motor vehicle contains a firearm that is locked out of sight within the trunk, glove box, or other enclosed compartment or area within such privately owned motor vehicle, provided that any applicable employees possess a Georgia firearms license.
(c) Subsection (a) of this Code section shall not apply:
(1) To searches by certified law enforcement officers pursuant to valid search warrants or valid warrantless searches based upon probable cause under exigent circumstances;
(2) To vehicles owned or leased by an employer;
(3) To any situation in which a reasonable person would believe that accessing a locked vehicle of an employee is necessary to prevent an immediate threat to human health, life, or safety; or
(4) When an employee consents to a search of their locked privately owned vehicle by licensed private security officers for loss prevention purposes based on probable cause that the employee unlawfully possesses employer property.
(d) Subsections (a) and (b) of this Code section shall not apply:
(1) To an employer providing applicable employees with a secure parking area which restricts general public access through the use of a gate, security station, security officers, or other similar means which limit public access into the parking area, provided that any employer policy allowing vehicle searches upon entry shall be applicable to all vehicles entering the property and applied on

a uniform and frequent basis;
(2) To any penal institution, correctional institution, detention facility, diversion center, jail, or similar place of confinement or confinement alternative;
(3) To facilities associated with electric generation owned or operated by a public utility;
(4) To any United States Department of Defense contractor, if such contractor operates any facility on or contiguous with a United States military base or installation or within one mile of an airport;
(5) To an employee who is restricted from carrying or possessing a firearm on the employer´s premises due to a completed or pending disciplinary action;
(6) Where transport of a firearm on the premises of the employer is prohibited by state or federal law or regulation;
(7) To parking lots contiguous to facilities providing natural gas transmission, liquid petroleum transmission, water storage and supply, and law enforcement services determined to be so vital to the State of Georgia, by a written determination of the Georgia Department of Homeland Security, that the incapacity or destruction of such systems and assets would have a debilitating impact on public health or safety; or
(8) To any area used for parking on a temporary basis.
(e) No employer, property owner, or property owner´s agent shall be held liable in any criminal or civil action for damages resulting from or arising out of an occurrence involving the transportation, storage, possession, or use of a firearm, including, but not limited to, the theft of a firearm from an employee´s automobile, pursuant to this Code section unless such employer commits a criminal act involving the use of a firearm or unless the employer knew that the person using such firearm would commit such criminal act on the employer´s premises. Nothing contained in this Code section shall create a new duty on the part of the employer, property owner, or property owner´s agent. An employee at will shall have no greater interest in employment created by this Code section and shall remain an employee at will.
(f) In any action relating to the enforcement of any right or obligation under this Code section, an employer, property owner, or property owner´s agent´s efforts to comply with other applicable federal, state, or local safety laws, regulations, guidelines, or ordinances shall be a complete defense to any employer, property owner, or property owner´s agent´s liability.
(g) In any action brought against an employer, employer´s agent, property owner, or property owner ´s agent relating to the criminal use of firearms in the workplace, the plaintiff shall be liable for all legal costs of such employer, employer´s agent, property owner, or property owner´s agent if such action is concluded in such employer, employer´s agent, property owner, or property owner´s agent ´s favor.
(h) This Code section shall not be construed so as to require an employer, property owner, or property owner´s agent to implement any additional security measures for the protection of employees, customers, or other persons. Implementation of remedial security measures to provide protection to employees, customers, or other persons shall not be admissible in evidence to show prior negligence or breach of duty of an employer, property owner, or property owner´s agent in any action against such employer, its officers or shareholders, or property owners.
(i) All actions brought based upon a violation of subsection (a) of this Code section shall be brought exclusively by the Attorney General.
(j) In the event that subsection (e) of this Code section is declared or adjudged by any court to be invalid or unconstitutional for any reason, the remaining portions of this Code section shall be invalid and of no further force or effect. The General Assembly declares that it would not have enacted the remaining provisions of this Code section if it had known that such portion hereof would be declared or adjudged invalid or unconstitutional.
(k) Nothing in this Code section shall restrict the rights of private property owners or persons in legal control of property through a lease, a rental agreement, a contract, or any other agreement to control access to such property. When a private property owner or person in legal control of property through a lease, a rental agreement, a contract, or any other agreement is also an employer, his or her rights as a private property owner or person in legal control of property shall govern."

SECTION 8.

Title 51 of the Official Code of Georgia Annotated, relating to torts, is amended by revising Code Section 51-1-29.2 as follows:
"51-1-29.2.
Any natural person and any association, fraternal organization, private for profit entity, not for profit entity, religious organization, or charitable organization and the officers, directors, employees, and agents of such associations, organizations, and entities, when such persons, associations, organizations, or entities are working in coordination and under the direction of an appropriate state agency, who voluntarily and without the expectation or receipt of compensation provides services or goods in preparation for, anticipation of, or during a time of emergency and in a place of emergency as declared by the Governor for the benefit of any ~~individual~~ natural person or his or her property to prevent or minimize harm to such natural person or to prevent, minimize, and repair injury and damage to such person´s property resulting from biological, chemical, or nuclear agents; terrorism; pandemics or epidemics of infectious disease; or catastrophic acts of nature, including, but not limited to, fire, flood, earthquake, wind, storm, or wave action, or any other occurrence which warrants the declaration of a state of emergency or disaster by the Governor pursuant to Code Section 38-3-51 or by a federal agency shall not be civilly liable to any ~~individual~~ natural person receiving such assistance as a result of any act or omission in rendering such service if such natural person, association, organization, or entity was acting in good faith and unless the damage or injury was caused by the willful or wanton negligence or misconduct of such natural person, association, organization, or entity. Nothing in this Code section shall be construed to amend, repeal, alter, or affect in any manner any other provision of law granting immunity or limiting liability. Nothing in this Code section shall be construed to abrogate the sovereign immunity of this state as to all actions executed by any party under this Code section."

	SECTION 9. All laws and parts of laws in conflict with this Act are repealed.

Sources Used

GALILEO Digital Initiative Database

- http://www.georgiaencyclopedia.org
- Georgia Legislative Documents

http://www.legis.ga.gov/