



# **BOMA Georgia**

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## **FOUNDATION**

A Research Report on  
**Property Management and Firearms in Georgia**  
Produced by the BOMA Georgia Foundation

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## Overview

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This research report was created to assist property owners and managers in understanding Georgia's firearm laws as they pertain to the ownership and management of buildings in the state. This document is for informational purposes only and does not constitute legal advice. Users should consult their legal counsel for advice regarding the specific application of these laws.

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## About the BOMA Georgia Foundation

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The Building Owners and Managers Association of Georgia Foundation advances real estate education and research. It provides scholarships for individuals to enroll in real estate designation and certificate professional development programs. Foundation research provides tools to real estate professionals that add value to the properties they own, manage, and operate.

The foundation's research studies and reports to help real estate professionals and companies stay competitive in the continually evolving real estate marketplace. To learn more, visit [www.BOMAGeorgiaFoundation.org](http://www.BOMAGeorgiaFoundation.org).

## Firearms in Georgia

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While the right to bear arms is enshrined in the US Constitution, most laws related to firearms are implemented and enforced at the state level. Gun laws vary widely among the fifty states and those state laws cannot be changed by the federal government, unless determined to be a violation of the US Constitution 2<sup>nd</sup> Amendment.

At the outset, it is helpful to recall that carrying firearms is generally defined in two distinct ways: concealed carry or open carry. Concealed carry firearms are not visible to others, with the firearm generally held against the body underneath clothing. With open carry, the firearm is visible to all. Until recently, Georgians wishing to carry concealed were required to obtain a Weapons Carry License through their local probate court.

### Requirements:

1. Meet at least one of these age-related requirements:
  - Be 21 or older
  - Be 18 or older if you are in the military, have completed basic training, and can provide proof that you are either on active duty or have been honorably discharged
2. Be a Georgia resident
3. Be a U.S. citizen or legal resident
4. Have no felony convictions or pending criminal proceedings
5. Have no drug convictions
6. Have no other disqualifying convictions
7. Have not been in a mental hospital or drug or alcohol treatment center within the last 5 years
8. Have not been committed to a mental hospital against your will

There have been several watershed firearms bills in Georgia over the last decade, including the Georgia [Safe Carry Protection Act](#), enacted in 2014. While many of those provisions remain in effect today, the more recent Georgia [Constitutional Carry Act](#) (2022) made changes throughout Georgia's weapons statute. This paper will review Georgia's current firearms laws as it relates to property management.

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## Firearms and Property Owners in Georgia

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Georgia law has long held that “private property owners or persons in legal control of private property through a lease, rental agreement, licensing agreement, contract, or any other agreement to control access to such private property shall have the right to exclude or eject a person who is in possession of a weapon or long gun on their private property.”<sup>1</sup>

The statute goes on to refer to Georgia’s criminal trespass code, which makes it a crime to come on to another’s property for an unlawful purpose, when such entry has been expressly forbidden, and/or when the owner/occupant/representative has given the person notice to depart for whatever reason.

This essential language preserves the right of private property owners to establish their own weapons policy with some exceptions.

### Parking areas

The [2008 Parking Lot](#) law remains the preeminent state law governing employer-owned parking lots and firearms. It allows an employee to maintain a concealed firearm in their private vehicle. While this originally only applied to employees holding a valid Weapons Carry License, 2022’s Constitutional Carry legislation essentially eliminates that licensing requirement.

Presumably, all employees who meet the broad definition of a “Lawful Weapons Carrier”, defined as any person who is licensed or eligible for a license pursuant to Code section 16-11-129 and who is not otherwise prohibited by law from possessing a weapon or long gun, any resident of any other state who would otherwise be eligible to obtain a license pursuant to such Code section but for the residency requirement, and any person licensed to carry a weapon in any other state<sup>2</sup> are now permitted to store a concealed firearm in their private vehicle while it is parked in their employer’s lot.

Employers are prohibited from maintaining or enforcing an employment policy banning concealed weapons from the employer’s parking lot and generally cannot search locked, privately-owned vehicles of employees or invited guests on the employer’s parking lot except in limited circumstances. Such exemptions include instances when the:

- Employer maintains secure parking areas restricting public access;
- Vehicle is owned or leased by the employer and the employee uses it in the course of business;
- The employee is restricted from possessing a firearm due to pending or past disciplinary action;
- The employer is a penal institution or confinement alternative; or

- Possession of a firearm on the premises is otherwise prohibited by state or federal law.

## **Properties and Buildings**

[O.C.G.A. § 16-11-135](#)(k) states that nothing in Georgia’s Firearms Possession Statute can be construed to restrict private property owners’ rights to control access to their property. It appears to indicate that an employer who is also the property owner enjoys superior rights to those created by the rest of the statute which permits access to their property for employees with guns.

This interpretation of the statute has been upheld in at least one case by the Eleventh Circuit Court of Appeals in [GeorgiaCarry.Org, Inc. v. Georgia](#)<sup>3</sup>. In that case, the Plaintiffs argued the 2010 Carry Law that prohibited them from carrying weapons within their places of worship was unconstitutional because it violated both their First Amendment right to the free exercise of their religion and the Second Amendment right to bear arms. The US District Court found no merit to their claims and dismissed their complaint. The Plaintiffs appealed but the Eleventh Circuit affirmed the district court in dismissing the claim.

As upheld in this case, the statute does not restrict an owner or manager from expressly prohibiting weapons on the properties themselves. The statute also allows lease language which prohibits employees from carrying weapons, except as provided in O.C.G.A. § 16-11-135(b), that statute prohibits conditioning employment on any agreement by the employee to not bring firearms into the parking lot in their privately owned vehicle. That is provided that the employee is a “Lawful Weapons Carrier”.

There is no specific guidance in the statute regarding how notice must be given to those who approach a property where the owner or manager has banned weapons. However, a potential analogue can be found in the Georgia criminal trespass statute (noted above). As referenced in O.C.G.A. § 16-11-135(k) and O.C.G.A. § 16-7-21, Georgia courts have interpreted the notice requirement under the criminal trespass statute to “be reasonable under the circumstances, as well as sufficiently explicit to apprise the trespasser what property he is forbidden to enter”<sup>4</sup>. This provides a general example of the notice that should be provided to persons regarding weapons.

## Frequently Asked Questions

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### Can I restrict firearms in my building, parking area, and/ or property?

Yes, with some limitations. You can prohibit weapons in the building, on the property, and in limited circumstances, the parking area. However, for the parking area, you cannot prohibit a Lawful Weapons Carrier from transporting or storing a weapon in their vehicle. This prohibition may be an option if the parking area has restricted access. You cannot search vehicles in your parking area unless the parking area has restricted access and the search policy applies to all vehicles. In unrestricted parking areas, vehicle searches are allowed when:

- The vehicle is owned or leased by the employer;
- The search is conducted by a certified law enforcement officers under a valid search warrant or valid warrantless search based upon probable cause under exigent circumstances;
- A reasonable person believes that accessing a locked vehicle of an employee is necessary to prevent an immediate threat to human health, life, or safety; or
- An employee consents to a search of his or her locked privately owned vehicle by licensed private security officers for loss prevention purposes based on probable cause that the employee unlawfully possesses employer property.

### How do I give notice of a policy prohibiting weapons?

As mentioned above, the notice has to “be reasonable under the circumstances, as well as sufficiently explicit to apprise the trespasser what property he is forbidden to enter.” What is “reasonable” is subject to interpretation, but common methods of notice include, for example, signs posted on entry doors.

You may also choose to distribute reminders of your property’s firearms policy to your tenants at regular intervals. Your policy can be as specific as needed and can include information about firearms in the leasing and management office, common areas (corridors, elevators, parking areas), and restricted access areas (pools, business center, fitness center). Your policy should remind lessees that the compliance of their occupants and guests is their (the lessee’s) responsibility. Naturally, your property’s policy should have a carveout for law enforcement officials.



## What is my recourse if a person carries in a prohibited area?

Under Georgia law, a person commits the offense of criminal trespass when they knowingly and without authority:

- Enter upon the land or premises of another person ... for an unlawful purpose;
- Enter upon the land or premises of another person after receiving, prior to such entry, notice from the owner, rightful occupant, or, upon proper identification, an authorized representative of the owner or rightful occupant that such entry is forbidden; or
- Remains upon the land or premises of another person ... after receiving notice to depart <sup>5</sup>.

As a property owner, you have the right to exclude or eject a person for violating your weapons policy under this criminal trespass statute. It is the same as it would be for any other violation of policies regarding your property.

## Is my premises liability exposure increased by these statutes?

[OCGA § 16-11-135](#)(e)-specifically includes the following:

*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.*

However, owners and managers should consult with their counsel about potential exposure and mitigation strategies at specific properties.

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## Relevant Firearms Legislation in Georgia

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### **2008: The Parking Lot Law ([HB 89](#))**

In 2008, Governor Sonny Perdue signed HB 89 into law. It generally restricts the ability of employers to prohibit employees and visitors from storing firearms in their vehicles while parked in an employer's parking lot. While the employer cannot search a locked privately owned vehicle, it can search a vehicle for a weapon if there is a reasonable belief that doing so would prevent an immediate threat to life or safety.

This policy does not extend to vehicles owned or leased by the employer; the employer can still prohibit employees from transporting or storing a firearm in a work or company vehicle. Employers may prohibit firearms if it provides employees with a secure parking area with restricted public access using a gate, security officers, etc.

### **2010: Lawfully Carry Act ([SB 308](#))**

2010's law is the result of public meetings in which Georgia Weapons Carry License holders complained of confusing laws about where (and when) they could lawfully carry their weapons. The legislation removed the 1,000-yard gun-free barrier around college campuses and clarified that the gun-free zone around other schools only applies during hours the school is in session.

The bill also removed the "public gathering" clause, which gun advocates held was ambiguous and unenforceable. The legislation kept weapons out of K-12 schools, government buildings, courtrooms, jails, and places of worship.

### **2014: Georgia Safe Carry Protection Act ([HB 60](#))**

Signed into law by Governor Nathan Deal, House Bill 60 allows Georgia Weapons Carry License holders to carry weapons in bars, public housing, and government buildings without screening checkpoints. It allows weapons at airports in areas outside federal security checkpoints. It authorizes school districts and places of worship to determine if employees and parishioners are permitted to carry, respectively.

It clarifies that a gun owner who does not have a Weapons Carry License but is not otherwise prohibited from carrying may legally possess a weapon on their property, inside their home, motor vehicle, or place of business.



## 2017: Campus Carry Act ([HB 280](#))

While the aforementioned 2014 legislation allowed Georgia Weapons Carry License holders to keep weapons secured in their personal motor vehicle while it is on property owned or leased by public colleges and universities, the Campus Carry Act of 2017 allowed those same licensees to carry a concealed weapon on university property.

There are several exceptions, including sporting venues, student housing, faculty offices, and spaces being used for disciplinary proceedings. It does not allow handguns to be left unattended (in a locker room, for example); the weapon must be carried in a concealed manner or locked in a car. Governor Nathan Deal vetoed [similar legislation](#) in 2016 after lawmakers failed to include several of the exemptions described above.

## 2022: Constitutional Carry ([SB 319](#))

Governor Brian Kemp signed Senate Bill 319 into law on April 13. The legislation allows a “Lawful Weapons Carrier” to carry a concealed handgun in public without a Weapons Carry License issued by the state. Previously, only gun owners who obtained a Georgia Weapons Carry License could carry concealed. Certain individuals are expressly prohibited by law from possessing a weapon or long gun, including convicted felons and those who are mentally ill.

While SB 319 has essentially made the Weapons Carry License process moot for Georgians, probate courts are still issuing the licenses so Georgia residents can legally carry a concealed firearm in states that practice firearm permit reciprocity with Georgia. The State of Georgia recognizes the weapons licenses of any other state whose laws recognize and give effect to a Georgia license, subject to age restrictions in certain jurisdictions.

That list includes:

- Alabama
- Alaska
- Arkansas
- Arizona
- Colorado
- Florida,
- Idaho
- Indiana
- Iowa
- Kansas
- Kentucky
- Louisiana
- Maine
- Michigan
- Mississippi
- Missouri
- Montana
- New Hampshire
- North Carolina
- North Dakota

- Ohio
- Pennsylvania
- South Carolina
- South Dakota
- Tennessee
- Texas
- Utah
- Virginia
- West Virginia
- Wisconsin
- Wyoming

A non-resident of Georgia who has been issued a firearm license by one of these states may carry a firearm while in Georgia in accordance with Georgia law.

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## Acknowledgements

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1. O.C.G.A §16-11-127
  2. O.C.G.A §16-11-129
  3. 687 F.3d 1244, 1265 (11<sup>th</sup> Cir. 2012)
  4. Love v. State, 302 Ga. App. 106, 108, 690 S.E. 2d 246, 249 (2010)
  5. O.C.G.A. §16-7-21