

Georgia Council of Probate Court Judges
Weapons Carry License Broad Overview FAQ

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Disclaimer: The Georgia Council of Probate Court Judges (GCPCJ) makes no assurance of the legal status of these opinions on the interpretation of the provisions of S.B. 308. GCPCJ makes no representation that these opinions constitute legal advice or a legally sanctioned interpretation of the changes to the laws mentioned. Probate judges in Georgia only issue weapons carry licenses; they do not enforce or interpret any provisions **of the licensing laws** other than those directly related to the application for and the issuance or denial of issuance of the licenses. Charges brought by any law enforcement officer/agency are not tried in the probate courts, and the opinions expressed herein will not constitute a defense to any such charge. These opinions are offered, published, and intended only as a public service since the judges and staff of the probate courts are often asked these questions.

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1. What is a "weapon?"

A knife or handgun. **NOTE:** There is an expanded definition of "weapon" in the Code Section dealing with school safety zones.

2. What is a "knife?"

A blade longer than 5 inches attached to a handle (with some other criteria).

3. What is a "handgun?"

A firearm with a barrel not exceeding 12 inches (with some other criteria such as explosive discharge) and not including single shot firearms with .46 centimeter or less projectiles.

4. What is a rifle or shotgun termed?

It is not a "weapon." It is a "long gun." Only handguns and knives are "weapons."

5. Where can one carry a weapon without a carry license?

On his or her property; or, inside his or her home, motor vehicle, or place of business. [See also Question 7. below.](#)

6. What about carrying the weapon between the car and the business?

The law does not specifically deal with that issue. However, the law now contains a blanket permission for a person to whom a weapons carry license has been issued to "carry a weapon ... in every location in this state" except where expressly prohibited.

7. Who can carry a weapon?

Someone with a "weapons carry license" in his or her possession may carry a weapon. There are a number of persons who are exempt from the requirement of having a weapons carry license, primarily law enforcement, military, and certain courts-related personnel. **Without a valid license**, a person who is not prohibited from possessing a handgun or long gun may: (1) have or carry a weapon or long gun anywhere on his/her property or inside his/her home, motor vehicle or place of business; (2) carry a long gun anywhere not prohibited, provided that, if loaded, it is fully exposed; (3) have and carry a handgun anywhere not prohibited, provided it is unloaded and

enclosed in a case; (4) transport a handgun or long gun in any private motor vehicle anywhere not prohibited by law or by the owner or other person in lawful possession of private property; and (5) have and carry a handgun or long gun while hunting, fishing, or engaging in sport shooting, provided the person possess a valid hunting or fishing license (or is exempt from having a hunting or fishing license) and has the permission of the owner of the property where the activity takes place.

8. Does it matter if the weapon is carried in a holster in the open?

No, the law places no restriction on how a weapon or long gun may be carried by a person with a valid license.

9. Are there other "carry" provisions in the law?

Yes, and the Probate Judge or clerks will not attempt to give legal advice on the circumstances concerning where or under what circumstances an item is a "weapon," where a weapon or long gun may be possessed or carried, and in what manner a weapon or long gun may be possessed and carried. ***It is the responsibility of the owner to obtain that information, to govern himself or herself accordingly, and to seek legal advice from an attorney if needed.***

10. How much does the weapons carry license application cost?

It is now \$30 because of SB 308 for the application. ***Additional fees apply for the fingerprinting and criminal records checks.***

11. What is the "renewal license?"

There is not a true "renewal" license, although the law makes reference to "requests for license renewals." There is, however, a temporary renewal license which may be issued in connection with certain applications. Every license application is treated as a new application for purposes of an examination of criminal and mental health records.

12. What is the cost for a replacement license?

If a license is lost, stolen, or damaged, a replacement license, valid for the remainder of the original five-year term of that license may be obtained for a fee of \$5.

13. Who can apply for a Georgia Weapons Carry License?

A person at least 21 years old who is domiciled in the state of Georgia and certain

military personnel on active duty in the state of Georgia who are NOT residents of Georgia (with additional criteria) may apply for a license.

14. What if someone moves?

The weapons carry license is still good if the person moves to another county or even to another State (as far as use within Georgia is concerned).

15. What about persons who are not citizens (who qualify to apply)?

Certain persons who are not citizens of the United States but who are in the U. S. legally are permitted to apply for the license. Such persons must prove an exception from the federal laws prohibiting possession of a firearm.

16. Will the physical license itself be changing?

It is the responsibility of the Department of Public Safety to furnish the application and license forms to the probate court. There will be significant changes to the form of the license, which will become effective on January 1, 2012. In the meantime, the license remains the same, except that the language of Code Section 16-11-127 need no longer be printed on the reverse side.

17. Does the GCPCJ have input into the license form?

Not as to the current form of the license. However, in connection with the design and specifications of the new license form, the GCPCJ (probably through its Firearms Licensing Committee) will participate in the creation and design of the new license forms so as to assure uniformity across the state. The Georgia Department of Administrative Services is to purchase the equipment and supplies necessary to produce the licenses using the competitive bidding procedure.

18. Is a misdemeanor "drug" conviction still a lifetime prohibitor under Georgia Law?

No. A person who has been convicted of a misdemeanor involving the use or possession of a controlled substance is eligible if: (1) the person has been free of supervision for the conviction for at least five years, and (2) the person has not, during the five years preceding the application, been convicted of a second misdemeanor involving the use or possession of a controlled substance, convicted of any offense involving the manufacture or distribution of a controlled substance, convicted of the unlawful possession or shipping of a firearm in commerce under federal law, or has had a weapons carry license

revoked.

19. Does a "first offender" drug plea still count as a "conviction" under Georgia Law?

No. However, if first offender treatment has been entered for a drug offense, in order to be eligible for a weapons carry license, the person must be otherwise eligible, must have completed the first offender probation without adjudication of guilt, and must have had no other convictions since completion of the first offender sentence for at least five years after completion of the first offender sentence.

20. What about a pardon?

If the pardon restores the right to possess a weapon, then there are no provisions limiting the right to a weapons carry license to someone otherwise eligible.

21. Do forcible misdemeanors disqualify anymore?

No, except for a "misdemeanor crime of domestic violence" [MCDV], as defined under the federal law. Conviction, as defined under the applicable federal or state law, of an MCDV is a lifetime prohibitor under federal law.

22. What are the Georgia prohibitors?

These are called "licensing exceptions" and include:

- a) Anyone under 21;
- b) Any convicted felon who has not been granted a pardon which covers the felony offense;
- c) Any person against whom proceedings are pending for a felony;
- d) Any fugitive from justice;
- e) Anyone prohibited under federal law from possessing or shipping a firearm;
- f) Any person who has been convicted of an offense arising out of the unlawful **manufacture or distribution** of a controlled substance or dangerous drug;
- g) Any person whose weapons carry license has been revoked;
- h) Any person convicted of (1) pointing a gun or pistol at another, (2) carrying a weapon without a weapons carry license, or (3) carrying a weapon or long gun in an unauthorized location, unless such person has been free of restraint or supervision in connection with the conviction and has been free of any other conviction for a period of five years immediately preceding the

- application for a license;
- i) Any person convicted of a misdemeanor involving the **use or possession** of a controlled substance, unless such person has, for not less than five years immediately preceding the application for a license, been free of restraint or supervision in connection with the conviction, has been free of a second conviction of a misdemeanor involving the **use or possession** of a controlled substance, and has been free of conviction of (1) possession or shipping of a firearm in violation of federal law or (2) an offense arising out of the **manufacture or distribution** of a controlled substance or dangerous drug, or (3) has had his/her weapons carry licenses revoked;
 - j) Any person who has been hospitalized as an inpatient in any mental hospital or alcohol or drug treatment center within five years immediately preceding the application, unless the judge, in his/her discretion approves the issuance of the license; [NOTE: Under federal law, any person who has been involuntarily committed for treatment at any mental institution is prohibited from possessing a firearm and is ineligible for a Georgia license.]
 - k) For purposes of these exceptions, anyone who has been afforded first offender treatment for an offense arising out of the unlawful manufacture or distribution of a controlled substance or dangerous drug or for an offense involving the use or possession of a controlled substance is eligible for a license only if the first offender sentence was successfully completed without adjudication of guilt, and the person has been without any other conviction for at least five years immediately preceding the application.

23. What if information is received from any source that a weapons carry licensee may have become ineligible after the license is issued?

A hearing may be held after notice to the licensee, and the probate judge may revoke the license upon finding that the licensee is no longer eligible for a license, or that the license was issued on a falsified application, or that the licensee has become mentally incompetent or chronically uses alcohol or narcotics.

24. Do hearings cost the applicant?

For conducting trials of contested matters or formal hearing on a denial of a weapons carry permit, the cost is \$25 per half day or portion thereof.