



City of Gainesville Police Department

Carol Martin, Chief of Police

What Gainesville Parks and Recreation Users Should Know About Georgia's Expanded Firearms Laws (H.B. 60)

On April 23rd 2014 Governor Nathan Deal signed into law House Bill 60, otherwise known as the "Safe Carry Protection Act of 2014". This is undoubtedly one of the most sweeping firearms legislation changes in Georgia to date. H.B. 60 was passed with strong majorities in both the House and the Senate, and will take effect on July 1, 2014.

The recent changes in firearms legislation brought about by H.B. 60 will affect how law enforcement professionals interact with persons choosing to exercise their right to legally carry firearms and other weapons in public places, including our city parks and recreational facilities. This document attempts to address some common questions and misconceptions about current firearms legislation and the recent changes brought about by H.B. 60, with specific emphasis on legislative aspects directly affecting Gainesville Parks and Recreation users.

What is a Georgia Weapons Carry License?

In general, to carry a handgun either openly or concealed in Georgia (other than on their property or inside their home, car, place of business), or a knife designed for offense and defense with a blade length of over 5 inches, a person must possess a valid Georgia Weapons Carry License (GWCL). There are exceptions, such as for exempt persons employed as Peace Officers, District Attorneys, Judges, Wardens, and persons in the military service of the State or of the United States.

For a complete listing of exceptions and exemptions, please refer to the Official Code of Georgia – Annotated (O.C.G.A.) section 16-11-130.

What if I possess a Weapons Carry License or permit from another State?

Georgia law also recognizes the weapons licenses of Georgia non-residents for which Georgia has a reciprocal relationship with their home state. These weapons license holders permit holders must abide by the weapons laws of Georgia when they are in Georgia.

Can someone with a weapons license (who is not a police officer) walk around Gainesville parks or recreational areas with an openly carried firearm? Doesn't Gainesville have city ordinances prohibiting weapons in public places, except for law enforcement?

Georgia law does not prohibit weapons license holders from possessing firearms or other weapons in city or county parks. Provided that they are not engaged in some other illegal activity within the park, a person with a weapons license can visit a Gainesville park while exercising their right to bear arms in either an open or concealed fashion. In Georgia, the legislative regulation of weapons and firearms is reserved to the Georgia General Assembly. A legal concept known as *preemption* explicitly prohibits counties, cities, municipalities and other local



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governments from attempting to regulate the possession, ownership, transport and carrying of weapons other than to reasonably limit the discharge of firearms within the boundaries of the city, county or municipality (this does not include the discharge of a firearm in defense of self or others). Because of preemption, local ordinances that regulate the possession of firearms in our parks do not exist. Although preemption has been a part of Georgia firearms law for some time, H.B. 60 brings increased focus and clarification to this area of law.

Isn't a person with a weapons license supposed to carry their weapon in a holster, concealed from view? Especially in a public park where there may be children present?

In Georgia, weapons license holders may carry a weapon (i.e. pistol, revolver or knife) openly or concealed in any non-prohibited location in accordance with Georgia law. Although it is a good idea to do so, there is no legal requirement for weapons to be carried in any type of holster.

Suppose I see an openly armed person walking along a trail at Longwood Park. Since I have no idea if they have a weapons license, or whether they are a convicted felon, can I request that the police simply respond to check this person out?

It goes without saying that the safety and security of Gainesville residents and visitors is of paramount concern to us. That being understood, Georgia law maintains that law-abiding Georgia residents and non-residents possessing weapons licenses have the right to freely visit locations in our state, while armed, that are not deemed off-limits by state or federal law. While code section 16-11-137 (newly established in H.B. 60) clearly states that weapons license holders shall have their valid weapons carry license in their immediate possession at all times when carrying a weapon, this does not mean that law enforcement can detain an armed person (such that they are not free to leave) simply to check whether they are in compliance with this requirement. Outside of a voluntary casual conversation between the officer and the armed person, the officer must have reasonable articulable suspicion (which must be based on more than just the simple possession of the firearm) to believe that this armed person has been, is now or is about to be involved in criminal activity in order to detain them and investigate further. If an officer finds no reasonable suspicion that this armed person has, is or is about to be engaged in illegal activity, then outside of a voluntary conversation with the individual, there is very little that an officer, acting under color of law, can compel a law-abiding armed person to do.

Let's say I see an armed person sitting on a bench at the park who is cursing and yelling obscenities at each passerby. Every now and then, I see him remove a small gun from his pocket and then put it away again, but does not point it at anyone. In light of the new firearms laws, what can the police do about this individual?

The new firearm legislation brought forward in H.B. 60 does nothing to limit law enforcement's ability to detain and investigate armed persons for which they have reasonable suspicion that these persons have been, currently are or are



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about to engage in illegal activity. In this particular example, if officers find reasonable articulable suspicion that this armed person has been acting in a disorderly fashion or they witness his disorderly behavior firsthand (addressed by both local ordinances and state law), Georgia law permits us to detain this person to investigate them further. This investigation would include, amongst other aspects, a check of the person's identity and warrant status, as well as their eligibility to possess a firearm and whether they have a weapon carry license in their immediate possession. Officers will also determine whether probable cause exists indicating that this person has violated one or more criminal laws, and if so, determine whether an arrest should occur. The difference between this situation and that described earlier is that although individuals in both cases were openly armed, the facts described here lead more likely to reasonable suspicion that the person sitting on the park bench has committed one or more crimes justify their being detained pending further investigation.

Suppose I see a man walking along the roadway at City Park with a military-style rifle slung across his shoulder. I can't tell if it was a BB gun or a real gun, but it has a big clip and certainly looked very real to me! Is this legal? Can people walk around with loaded rifles and shotguns in city parks when there are lots of people around?

In Georgia, if a person is not prohibited by law from possessing a firearm (for example, a convicted felon may not possess firearms) they may carry a long gun (i.e. a rifle or shotgun) in locations that are not off-limits. Public parks generally are not off-limits locations. The big difference here is that you do not have to have any kind of permit or license to carry a long gun as long as you are not prohibited from possessing owning a firearm.

We hope that the preceding examples have been helpful in clarifying some of the facets of Georgia's existing firearms laws, as well as the recently signed changes contained in House Bill 60, as they pertain to your enjoyment of Gainesville Parks and Recreation facilities. As always, we stand steadfastly committed to the safety and security of all Gainesville residents and visitors, as well as the protection of rights of all under Georgia law.