

**South Carolina General Assembly**  
124th Session, 2021-2022

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**Bill 3094**

~~Indicates Matter Stricken~~

Indicates New Matter

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~~Indicates Matter Stricken~~

Indicates New Matter

AS PASSED BY THE SENATE

May 6, 2021

**H. 3094**

Introduced by Reps. B. Cox, White, Lucas, Burns, Jones, Allison, Caskey, Chumley, Collins, Crawford, Daning, Davis, Elliott, Erickson, Felder, Forrest, Fry, Gagnon, Gatch, Gilliam, Haddon, Hardee, Hewitt, Hiott, Hixon, Huggins, Jordan, Kimmons, Ligon, Long, Magnuson, McCravy, Morgan, Murphy, B. Newton, W. Newton, Nutt, Oremus, Pope, Sandifer, Simrill, G.M. Smith, G.R. Smith, M.M. Smith, Stringer, Taylor, Thayer, Trantham, West, Whitmire, Willis, Wooten, Yow, McGarry, Bryant, V.S. Moss, McCabe, Hosey, T. Moore, W. Cox, Bailey, Lowe, Atkinson, J.E. Johnson, Brittain, Bennett, Hyde, McGinnis, Martin and Bradley

S. Printed 5/6/21--S. [SEC 5/7/21 12:32 PM]

Read the first time March 23, 2021.

**A BILL**

TO AMEND SECTION 23-31-210, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ISSUANCE OF CONCEALED WEAPON PERMITS, SO AS TO ENACT THE "OPEN CARRY WITH TRAINING ACT" BY REVISING THE DEFINITION OF THE TERM "CONCEALABLE WEAPON" TO ALLOW A PERMIT HOLDER TO CARRY A CONCEALABLE WEAPON OPENLY ON HIS PERSON; AND TO AMEND SECTION 16-23-20, RELATING TO THE CARRYING OF A HANDGUN, SO AS TO PROVIDE A PERSON WHO POSSESSES A CONCEALED WEAPON PERMIT MAY CARRY IT OPENLY ON OR ABOUT HIS PERSON IN A VEHICLE.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited as the "Open Carry With Training Act".

SECTION 2. Section 23-31-210(5) of the 1976 Code is amended to read:

"(5) 'Concealable weapon' means a firearm having a length of less than twelve inches measured along its greatest dimension that ~~must~~ may be carried openly on one's person or in a manner that is hidden from public view in normal wear of clothing except when needed for self-defense, defense of others, and the protection of real or personal property."

SECTION 3. Section 16-23-20(9) of the 1976 Code is amended to read:

"(9) a person in a vehicle if the handgun is:

(a) secured in a closed glove compartment, closed console, closed trunk, or in a closed container secured by an integral fastener and transported in the luggage compartment of the vehicle; however, this item is not violated if the glove compartment, console, or trunk is opened in the presence of a law enforcement officer for the sole purpose of retrieving a driver's license, registration, or proof of insurance. If the person has been issued a concealed weapon permit pursuant to Article 4, Chapter 31, Title 23, then the person also may secure his weapon under a seat in a vehicle, or in any open or closed storage compartment within the vehicle's passenger compartment; or

(b) carried openly or concealed on or about his person, and he has a valid concealed weapons permit pursuant to the provisions of Article 4, Chapter 31, Title 23;"

SECTION 4. Section 23-31-220 of the 1976 Code is amended to read:

"Section 23-31-220. (A) Nothing contained in this article shall in any way be construed to limit, diminish, or otherwise infringe upon:

(1) the right of a public or private employer to prohibit a person who is licensed under this article from carrying a concealable weapon, whether concealed or openly carried, upon the premises of the business or work place or while using any machinery, vehicle, or equipment owned or operated by the business;

(2) the right of a private property owner or person in legal possession or control to allow or prohibit the carrying of a concealable weapon, whether concealed or openly carried, upon his premises.

(B) The posting by the employer, owner, or person in legal possession or control of a sign stating 'No Concealable Weapons Allowed' shall constitute notice to a person holding a permit issued pursuant to this article that the employer, owner, or person in legal possession or control requests that concealable weapons, whether concealed or openly carried, not be brought upon the premises or into the work place. A person who brings a concealable weapon, whether concealed or openly carried, onto the premises or work place in violation of the provisions of this paragraph may be charged with a violation of Section 16-11-620. In addition to the penalties provided in Section 16-11-620, a person convicted of a second or subsequent violation of the provisions of this paragraph must have his permit revoked for a period of one year. The prohibition contained in this section does not apply to persons specified in Section 16-23-20, item (1).

(C) In addition to the provisions of subsection (B), a public or private employer or the owner of a business may post a sign regarding the prohibition or allowance on those premises of concealable weapons, whether concealed or openly carried, which may be unique to that business."

SECTION 5. Section 23-31-235 of the 1976 Code is amended to read:

"Section 23-31-235. (A) Notwithstanding any other provision of this article, any requirement of or allowance for the posting of signs prohibiting the carrying of a concealable weapon, whether concealed or openly carried, upon any premises shall only be satisfied by a sign expressing the prohibition in both written language interdict and universal sign language.

(B) All signs must be posted at each entrance into a building where a concealable weapon permit holder is prohibited from carrying a concealable weapon, whether concealed or openly carried, and must be:

- (1) clearly visible from outside the building;
- (2) eight inches wide by twelve inches tall in size;
- (3) contain the words 'NO CONCEALABLE WEAPONS ALLOWED' in black one-inch tall uppercase type at the bottom of the sign and centered between the lateral edges of the sign;
- (4) contain a black silhouette of a handgun inside a circle seven inches in diameter with a diagonal line that runs from the lower left to the upper right at a forty-five degree angle from the horizontal;
- (5) a diameter of a circle; and
- (6) placed not less than forty inches and not more than sixty inches from the bottom of the building's entrance door.

(C) If the premises where concealable weapons are prohibited does not have doors, then the signs contained in subsection (A) must be:

- (1) thirty-six inches wide by forty-eight inches tall in size;
- (2) contain the words 'NO CONCEALABLE WEAPONS ALLOWED' in black three-inch tall uppercase type at the bottom of the sign and centered between the lateral edges of the sign;
- (3) contain a black silhouette of a handgun inside a circle thirty-four inches in diameter with a diagonal line that is two inches wide and runs from the lower left to the upper right at a forty-five degree angle from the horizontal and must be a diameter of a circle whose circumference is two inches wide;
- (4) placed not less than forty inches and not more than ninety-six inches above the ground;
- (5) posted in sufficient quantities to be clearly visible from any point of entry onto the premises.

(D) Nothing in this section prevents a public or private employer or owner of a business from posting a sign regarding the prohibition or allowance on those premises of concealable weapons, whether concealed or openly carried, which may be unique to that business."

SECTION 6. Section 23-31-210(4)(a) of the 1976 Code is amended to read:

"(a) a person who, within three years before filing an application, successfully has completed a basic or advanced handgun education course offered by a state, county, or municipal law enforcement agency or a nationally recognized organization that promotes gun safety. This education course must include, but is not limited to:

- (i) information on the statutory and case law of this State relating to handguns and to the use of deadly force;
- (ii) information on handgun use and safety;
- (iii) information on the proper storage practice for handguns with an emphasis on storage practices that reduces the possibility of accidental injury to a child; ~~and~~
- (iv) the actual firing of the handgun in the presence of the instructor, provided that a minimum of twenty-five rounds must be fired;
- (v) properly securing a firearm in a holster;
- (vi) 'cocked and locked' carrying of a firearm;

(vii) how to respond to a person who attempts to take your firearm from your holster; and

(viii) deescalation techniques and strategies."

SECTION 7. Article 4, Chapter 31, Title 23 of the 1976 Code is amended by adding:

"Section 23-31-232. (A) Notwithstanding any other provision of law, upon express permission given by the appropriate church official or governing body, a person who holds a valid permit issued pursuant to this article may carry a concealable weapon, whether concealed or openly carried, on the leased premises of an elementary or secondary school if a church leases the school premises or areas within the school for church services or official church activities.

(1) The provisions contained in this section apply:

(a) only during those times that the church has the use and enjoyment of the school property pursuant to its lease with the school; and

(b) only to the areas of the school within the lease agreement, any related parking areas, or any reasonable ingress or egress between these areas.

(2) A school district may request that a church utilizing school property for its services disclose and notify the school district if persons are, or may be, carrying concealed weapons on the school property.

(3) The provisions of this section do not apply during any time students are present as a result of a curricular or extracurricular school-sponsored activity that is taking place on the school property.

(B) For the purposes of the Federal Gun-Free School Zone Act (18 U.S.C. Section 921(a)), the buildings and grounds of a school that are leased to a church are not considered a school during the hours that the church has the use and enjoyment of the school property pursuant to this section."

SECTION 8. Section 23-31-520 of the 1976 Code is amended to read:

"Section 23-31-520. ~~This article does not affect the authority of any county, municipality, or political subdivision to regulate the careless or negligent discharge or public brandishment of firearms, nor does it prevent the regulation of public brandishment of firearms during the times of or a demonstrated potential for insurrection, invasions, riots, or natural disasters. This article denies any county, municipality, or political subdivision the power to confiscate a firearm or ammunition unless incident to an arrest.~~

(A) Notwithstanding another provision of law, a governing body of a county, municipality, or political subdivision may temporarily restrict the otherwise lawful open carrying of a firearm on public property when a governing body issues a permit to allow a public protest, rally, fair, parade, festival, or other organized event. However, if a permit is not applied for and issued prior to an event as described in this subsection, a county, municipality, or political subdivision may not exercise the provisions of this subsection. A person or entity hosting a public protest, rally, fair, parade, festival, or other organized event must post signs at the event when open carrying is allowed or not allowed at the event.

(B) A governing body exercising the authority granted to it pursuant to this section must be specific in the area, duration, and manner in which the restriction is imposed and must provide prior notice of the restriction when feasible. In no event may the restriction extend beyond the beginning and conclusion of the event or beyond the location of the event. The duration of an event may not be scheduled for such a length of time as to frustrate the intent of this section.

(C) A county, municipality, or political subdivision may not confiscate a firearm or ammunition for a violation of this section unless incident to an otherwise lawful arrest."

SECTION 9. A. Article 4, Chapter 31, Title 23 of the 1976 Code is amended by adding:

"Section 23-31-250. (A) The State of South Carolina, and its political subdivisions, can not be compelled by the federal government to take any legislative or executive action to implement or enforce a federal law, treaty, executive order, rule, or regulation related to an individual's right to keep and bear arms enshrined in the Second Amendment to the United States Constitution that limits or proscribes carrying concealable weapons, whether concealed or openly carried, as provided in this chapter.

(B) Any federal law, treaty, executive order, rule, or regulation related to limiting or proscribing the carry of concealable weapons must be evaluated by the Attorney General. The Attorney General shall issue a written opinion of whether the law, treaty, executive order, rule, or regulation purports to compel legislative or executive action prohibited pursuant to subsection (A).

(C) If the Attorney General renders an opinion that a federal law, treaty, executive order, rule, or regulation purports to compel legislative or executive action prohibited pursuant to subsection (A), then:

- (1) no public funds of this State, or any political subdivision of this State, shall be allocated for the implementation or enforcement of that federal law, treaty, executive order, rule, or regulation;
- (2) no personnel or property of this State, or any political subdivision of this State, shall be allocated to the implementation or enforcement of that federal law, treaty, executive order, rule, or regulation; and
- (3) no official, agent, or employee of the State of South Carolina, or any political subdivision of it, shall implement, attempt to implement, enforce, or attempt to enforce that federal law, treaty, executive order, rule, or regulation."

B. This SECTION takes effect upon approval by the Governor.

SECTION 10. A. Section 14-17-325 of the 1976 Code is amended to read:

"Section 14-17-325. (A) Every clerk of court shall report the disposition of each case in the Court of General Sessions to the State Law Enforcement Division within ~~thirty five~~ thirty five days of disposition, weekends and holidays excluded.

(B) Every clerk of court shall also report to the State Law Enforcement Division, within five days, the issuance, rescission, or termination of any:

- (1) criminal indictments;
- (2) permanent restraining orders;
- (3) orders of state firearms prohibition pursuant to Section 16-25-30; and
- (4) other restraining orders, orders of protection, or other orders that prohibit a person from legally purchasing or possessing a firearm, but only upon being directed to transmit such orders by the appropriate judge. For any orders, the Court Administration must provide the form.

(C) ~~The disposition report reporting required by this section must be in a format approved by representatives of the State Law Enforcement Division and the office of court administration Court Administration. With the approval of the State Law Enforcement Division and the office of court administration, this reporting requirement may be satisfied by use of General Sessions docket information transmitted to the office of the court administration."~~

B. Chapter 1, Title 22 of the 1976 Code is amended by adding:

"Section 22-1-200. (A) Magistrates shall report the disposition of each criminal case to the State Law Enforcement Division within five days, weekends and holidays excluded.

(B) Magistrates shall also report to the State Law Enforcement Division, within five days, weekends and holidays excluded, the issuance, rescission, or termination of any:

- (1) restraining orders and emergency restraining orders;
- (2) magistrate court orders of protection from domestic abuse act orders;
- (3) orders of state firearms prohibition pursuant to Section 16-25-30; and
- (4) any other restraining orders, orders of protection, or other orders that prohibit a person from legally purchasing or possessing a firearm, but only upon being directed to transmit such orders by the appropriate magistrate. For any form orders provided by Court Administration that may require transmission pursuant to this subsection, Court Administration shall include within the form order a checked box option that the magistrate may select, when appropriate, to order the clerk to transmit the appropriate information to SLED.

(C) The reporting required by this section must be in a format approved by the State Law Enforcement Division and Court Administration."

C. Article 1, Chapter 25, Title 14 of the 1976 Code is amended by adding:

"Section 14-25-250. (A) Each municipal judge shall report the disposition of each criminal case to the State Law Enforcement Division within five days, weekends and holidays excluded.

(B) A municipal judge shall also report to the State Law Enforcement Division, within five days, weekends and holidays excluded, the issuance, rescission, or termination of any:

- (1) restraining orders and emergency restraining orders;
- (2) municipal court orders of protection from domestic abuse act orders;
- (3) orders of state firearms prohibition pursuant to Section 16-25-30; and
- (4) any other restraining orders, orders of protection, or other orders that prohibit a person from legally purchasing or possessing a firearm, but only upon being directed to transmit such orders by the appropriate judge. For any form orders provided by Court Administration that may require transmission pursuant to this subsection, Court Administration shall include within the form order a checked box option that the judge may select, when appropriate, to order the clerk to transmit the appropriate information to SLED.

(C) The reporting required by this section must be in a format approved by the State Law Enforcement Division and Court Administration."

D. Article 5, Chapter 3, Title 63 of the 1976 Code is amended by adding:

"Section 63-3-545. (A) The clerk of the family court shall report to the State Law Enforcement Division, within five days, weekends and holidays excluded, the issuance, rescission, or termination of any:

- (1) permanent restraining orders;
- (2) family court orders of protection from domestic abuse act orders; or
- (3) any other restraining orders, orders of protection, or other orders that prohibit a person from legally purchasing or possessing a firearm, including any and all orders referenced in Section 16-25-30, but only upon being directed to transmit such orders by the appropriate judge. For any form orders provided by Court Administration that may require transmission pursuant to this subsection, Court Administration shall include within the form order a checked box option that the judge may select when appropriate to order the clerk to transmit the appropriate information to SLED.

(B) The reporting required by this section must be made in a format approved by the State Law Enforcement Division and Court Administration."

E. The provisions of this SECTION take effect October 1, 2021.

SECTION 11. Section 23-31-240 of the 1976 Code is amended to read:

"Section 23-31-240. Notwithstanding any other provision contained in this article, the following persons who possess a valid permit pursuant to this article may carry a concealable weapon anywhere within this State, ~~when carrying out the duties of their office:~~

- (1) active Supreme Court justices;
- (2) active judges of the court of appeals;
- (3) active circuit court judges;
- (4) active family court judges;
- (5) active masters-in-equity;
- (6) active probate court judges;
- (7) active magistrates;
- (8) active municipal court judges;
- (9) active federal judges;
- (10) active administrative law judges;
- (11) active solicitors and assistant solicitors;
- (12) active workers' compensation commissioners; and
- (13) the Attorney General and assistant attorneys general."

SECTION 12. A. Section 23-31-215(A)(5), (6), and (7) of the 1976 Code is amended to read:

"(5) proof of training; and

~~(6) payment of a fifty-dollar application fee. This fee must be waived for disabled veterans and retired law enforcement officers; and~~

~~(7) a complete set of fingerprints unless, because of a medical condition verified in writing by a licensed medical doctor, a complete set of fingerprints is impossible to submit. In lieu of the submission of fingerprints, the applicant must submit the written statement from a licensed medical doctor specifying the reason or reasons why the applicant's fingerprints may not be taken. If all other qualifications are met, the Chief of SLED may waive the fingerprint requirements of this item. The statement of medical limitation must be attached to the copy of the application retained by SLED. A law enforcement agency may charge a fee not to exceed five dollars for fingerprinting an applicant."~~

B. Section 23-31-215(C) of the 1976 Code is amended to read:

"(C) SLED shall issue a written statement to an unqualified applicant specifying its reasons for denying the application within ninety days from the date the application was received; otherwise, SLED shall issue a

concealable weapon permit. If an applicant is unable to comply with the provisions of Section 23-31-210(4), SLED shall offer the applicant a handgun training course that satisfies the requirements of Section 23-31-210(4). ~~The course shall cost fifty dollars. SLED may not charge a fee of any kind for a concealable weapon permit. SLED shall use the proceeds to defray the training course's operating costs.~~ If a permit is granted by operation of law because an applicant was not notified of a denial within the ninety-day notification period, the permit may be revoked upon written notification from SLED that sufficient grounds exist for revocation or initial denial."

SECTION 13. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 14. This act takes effect ninety days after approval by the Governor.

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