

Department of Labor State of Georgia



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UNOFFICIAL OPINION U96-22

To: Representative
District 35

October 25, 1996

Re: The provisions of O.C.G.A. § [16-11-127](#), which prohibit the carrying of deadly weapons to or at **public gatherings**, while not limited in application to the enumerated places and functions in the statute, do not apply to every place in which the public may be present, but only to those places in which the public is gathered.

You have recently written my office with a query regarding the scope of O.C.G.A. § [16-11-127](#). Specifically, you relate that a constituent has apparently been informed by various officials that this Code Section prohibits the possession of a handgun by an individual (even with a firearms permit issued under O.C.G.A. § [16-11-129](#)) in any place open to the public because, if members of the public are present, this constitutes a "gathering" of the "public" and is thus prohibited. For the following reasons, I do not believe that this construction is the appropriate one.

Code Section 16-11-127 prohibits the carrying of any deadly weapon (not just a handgun) at or to a **public gathering**. The Section enumerates five areas which are, by operation of law, **public gatherings**. Those are athletic or sporting events, churches or church functions, political rallies or functions, publicly owned or operated buildings, and establishments at which alcoholic beverages are sold for consumption on the premises. The Code Section also indicates that the definition of **public gathering** is not limited to these five specific areas. O.C.G.A. § [16-11-127](#)(b).

Therefore, your inquiry turns on this question: what other places are **public gatherings** at which the possession of a

deadly weapon is prohibited? In *State v. Burns*, 200 Ga. App. 16 (1991), the Court of Appeals, when faced with this very question, held that the focus should be on the "gathering" rather than on the "place." Thus, the Code Section applies when people are

gathered or will gather for a particular function, but does not apply simply because a weapon is otherwise lawfully carried to a public place where people may be present.

In the same vein, this office concluded that a shopping mall is not a **public gathering**; the fact that people may be present, even in large numbers, does not necessarily constitute a **public gathering**. 1984 Op. Att'y Gen. U84-37. Of course, portions of a shopping mall leased to a church or to a government agency, or where alcoholic beverages are sold for consumption on the premises, are areas to which the Code Section would apply by its own terms.

Finally, I would note that a parking area on the grounds of and in close proximity to an area which is a **public gathering** is a part of the **public gathering** and is thus subject to the prohibitions of this Code Section. *Hubbard v. State*, 210 Ga. App. 141 (1993).

Therefore, it is my unofficial opinion that the "**public gathering**" law, O.C.G.A. § [16-11-127](#), in addition to the five specific areas, focuses not on the place but the gathering of people, and that the prohibition against carrying a weapon applies to situations "when people are gathered or will be gathered for a particular function and not when a weapon is carried lawfully to a public place, where people may gather." *Burns*, 200 Ga. App. at 16 (emphasis in original).

Prepared by:

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