**South Carolina General Assembly**

121st Session, 2015-2016

**S. 570**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Bright

Document Path: l:\s-res\lb\056sc c.ls.lb.docx

Companion/Similar bill(s): 105, 3716

Introduced in the Senate on March 17, 2015

Currently residing in the Senate Committee on **Judiciary**

Summary: SC Constitutional Carry Act of 2015

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/17/2015 Senate Introduced and read first time ([Senate Journal‑page 8](file:///h:\SJ%20Archive\2015\03-17-15.docx))

3/17/2015 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 8](file:///h:\SJ%20Archive\2015\03-17-15.docx))

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**VERSIONS OF THIS BILL**

[3/17/2015](file:///p:\pprever\2015-16\570_20150317.docx)

**A** **BILL**

TO AMEND CHAPTER 11, TITLE 10 OF THE 1976 CODE, RELATING TO TRESPASSES AND OFFENSES OF PUBLIC BUILDINGS AND PROPERTY, BY ENACTING THE “SOUTH CAROLINA CONSTITUTIONAL CARRY ACT OF 2015”; TO AMEND SECTION 10‑11‑320, RELATING TO THE CARRYING OR DISCHARGING OF A FIREARM, SO AS TO DELETE THE TERM “CONCEALABLE WEAPONS’ PERMIT” AND REPLACE IT WITH THE TERM “FIREARM”; TO AMEND SECTION 16‑23‑20, AS AMENDED, RELATING TO THE UNLAWFUL CARRYING OF A HANDGUN, SO AS TO DELETE REFERENCES TO A CONCEALED WEAPONS PERMIT ISSUED TO A PERSON, TO REVISE THE PROVISION THAT ALLOWS A HANDGUN TO BE CARRIED BY A PERSON IN A VEHICLE, AND TO PROVIDE THAT CERTAIN PERSONS WHO ARE AT LEAST TWENTY‑ONE YEARS OF AGE MAY CARRY A HANDGUN UNDER CERTAIN CIRCUMSTANCES; TO AMEND SECTIONS 16‑23‑420 AND 16‑23‑430, BOTH RELATING TO THE POSSESSION OF A FIREARM ON SCHOOL PROPERTY, SO AS TO DELETE REFERENCES TO CONCEALED WEAPONS PERMITS, AND TO PROVIDE THAT BOTH SECTIONS DO NOT APPLY TO A PERSON WHO LAWFULLY IS CARRYING A WEAPON; TO AMEND SECTION 16‑23‑460, RELATING TO CARRYING CONCEALED WEAPONS, SO AS TO PROVIDE THAT THIS SECTION DOES NOT APPLY TO HANDGUNS; TO AMEND SECTION 51‑3‑145, RELATING TO CERTAIN ACTS THAT ARE UNLAWFUL IN A STATE PARK, SO AS TO MAKE A TECHNICAL CHANGE; TO AMEND SECTION 23‑31‑215, AS AMENDED, RELATING TO THE ISSUANCE OF A CONCEALED WEAPONS PERMIT, SO AS TO PROVIDE AN EXCEPTION TO THE PROVISION THAT PROHIBITS THE CARRYING OF A CONCEALABLE WEAPON ONTO CERTAIN PREMISES, TO DELETE THE PROVISION THAT PROVIDES FOR THE REVOCATION OF A PERSON’S PERMIT WHEN HE VIOLATES CERTAIN PROVISIONS CONTAINED IN THIS SECTION, AND TO REVISE THE PROVISION THAT ALLOWS CERTAIN PERSONS TO CARRY A CONCEALED WEAPON WITHOUT A PERMIT; TO AMEND SECTIONS 23‑31‑220 AND 23‑31‑225, BOTH RELATING TO A PROPERTY OWNER’S RIGHT TO ALLOW A HOLDER OF A CONCEALED WEAPON PERMIT TO CARRY A WEAPON ONTO HIS PROPERTY, SO AS TO MAKE TECHNICAL CHANGES, TO PROVIDE THAT THIS PROVISION REGULATES BOTH PERSONS WHO POSSESS AND DO NOT POSSESS A WEAPONS PERMIT, AND TO DELETE THE PROVISION THAT REQUIRES THE REVOCATION OF A PERMIT FOR A VIOLATION OF CERTAIN PROVISIONS OF LAW, AND TO DELETE A REFERENCE TO THE PROVISION THAT PROVIDES FOR THE ISSUANCE OF CONCEALED WEAPONS PERMITS; AND TO AMEND SECTION 23‑31‑240, RELATING TO PERSONS WHO ARE ALLOWED TO CARRY A CONCEALED WEAPON WHILE ON DUTY, SO AS TO DELETE THE PROVISION THAT REQUIRES THESE PERSONS TO POSSESS A CONCEALED WEAPON PERMIT.

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

SECTION 1. This act may be cited as the “South Carolina Constitutional Carry Act of 2015”.

SECTION 2. Section 10‑11‑320 of the 1976 Code is amended to read:

“Section 10‑11‑320. (A) It is unlawful for any person or group of persons to:

(1) carry or have readily accessible to the person upon the capitol grounds or within the capitol building any firearm or dangerous weapon; or

(2) discharge any firearm or to use any dangerous weapon upon the capitol grounds or within the capitol building.

(B) This section does not apply to a person who possesses a ~~concealable weapons’ permit pursuant to Article 4, Chapter 31, Title 23~~ firearm and is authorized to park on the capitol grounds or in the parking garage below the capitol grounds. The firearm must remain locked in the person’s vehicle while on or below the capitol grounds and must be stored in a place in the vehicle that is not readily accessible to any person upon entry to or below the capitol grounds.”

SECTION 3. Section 16‑23‑20 of the 1976 Code amended to read:

“Section 16‑23‑20. (A) It is unlawful for anyone to carry about the person any handgun, whether concealed or not, except as follows, unless otherwise specifically prohibited by law:

(1) regular, salaried law enforcement officers, and reserve police officers of a state agency, municipality, or county of the State, uncompensated Governor’s constables, law enforcement officers of the federal government or other states when they are carrying out official duties while in this State, deputy enforcement officers of the Natural Resources Enforcement Division of the Department of Natural Resources, and retired commissioned law enforcement officers employed as private detectives or private investigators;

(2) members of the Armed Forces of the United States, the National Guard, organized reserves, or the State Militia when on duty;

(3) members, or their invited guests, of organizations authorized by law to purchase or receive firearms from the United States or this State or regularly enrolled members, or their invited guests, of clubs organized for the purpose of target shooting or collecting modern and antique firearms while these members, or their invited guests, are at or going to or from their places of target practice or their shows and exhibits;

(4) licensed hunters or fishermen who are engaged in hunting or fishing or going to or from their places of hunting or fishing while in a vehicle or on foot;

(5) a person regularly engaged in the business of manufacturing, repairing, repossessing, or dealing in firearms, or the agent or representative of this person, while possessing, using, or carrying a handgun in the usual or ordinary course of the business;

(6) guards authorized by law to possess handguns and engaged in protection of property of the United States or any agency of the United States;

(7) members of authorized military or civil organizations while parading or when going to and from the places of meeting of their respective organizations;

(8) a person in his home or upon his real property or a person who has the permission of the owner or the person in legal possession or the person in legal control of the home or real property;

(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~~ is not prohibited by state law from possessing the weapon, 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) 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~~ provided he is not prohibited by state law from possessing the weapon;

(10) a person carrying a handgun unloaded and in a secure wrapper from the place of purchase to his home or fixed place of business or while in the process of changing or moving one’s residence or changing or moving one’s fixed place of business;

(11) a prison guard while engaged in his official duties;

(12) a person who is granted a permit under provision of law by the State Law Enforcement Division to carry a handgun about his person, under conditions set forth in the permit, and while transferring the handgun between the permittee’s person and a location specified in item (9);

(13) the owner or the person in legal possession or the person in legal control of a fixed place of business, while at the fixed place of business, and the employee of a fixed place of business, other than a business subject to Section 16‑23‑465, while at the place of business; however, the employee may exercise this privilege only after~~: (a) acquiring a permit pursuant to item (12), and (b)~~ obtaining the permission of the owner or person in legal control or legal possession of the premises;

(14) a person engaged in firearms‑related activities while on the premises of a fixed place of business which conducts, as a regular course of its business, activities related to sale, repair, pawn, firearms training, or use of firearms, unless the premises is posted with a sign limiting possession of firearms to holders of permits issued pursuant to item (12);

(15) a person while transferring a handgun directly from or to a vehicle and a location specified in this section where one may legally possess the handgun~~.~~;

(16) Any person on a motorcycle when the pistol is secured in a closed saddlebag or other similar closed accessory container attached, whether permanently or temporarily, to the motorcycle~~.~~; or

(17) a person who is at least twenty‑one years of age and who is not prohibited from possessing firearms under state and federal law, whether or not the person is a resident of the State.

(B) Unless a person first obtains authorization to possess a handgun from a person with the apparent authority to grant it, nothing in subsection (A)(17) authorizes carrying of a handgun into any location prohibited under Section 23‑31‑215(M).”

SECTION 4. Section 16‑23‑420 of the 1976 Code amended to read:

“Section 16‑23‑420. (A) It is unlawful for a person to possess a firearm of any kind on any premises or property owned, operated, or controlled by a private or public school, college, university, technical college, other post‑secondary institution, or in any publicly owned building, without the express permission of the authorities in charge of the premises or property. The provisions of this subsection related to any premises or property owned, operated, or controlled by a private or public school, college, university, technical college, or other post‑secondary institution, do not apply to a person who ~~is authorized to carry a concealed weapon pursuant to Article 4, Chapter 31, Title 23~~ lawfully is carrying a weapon when the weapon remains inside an attended or locked motor vehicle and is 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.

(B) It is unlawful for a person to enter the premises or property described in subsection (A) and to display, brandish, or threaten others with a firearm.

(C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both.

(D) This section does not apply to a guard, law enforcement officer, or member of the armed forces, or student of military science. A married student residing in an apartment provided by the private or public school whose presence with a weapon in or around a particular building is authorized by persons legally responsible for the security of the buildings is also exempted from the provisions of this section.

(E) For purposes of this section, the terms ‘premises’ and ‘property’ do not include state or locally owned or maintained roads, streets, or rights‑of‑way of them, running through or adjacent to premises or property owned, operated, or controlled by a private or public school, college, university, technical college, or other post‑secondary institution, which are open full time to public vehicular traffic.

(F) This section does not apply to a person ~~who is authorized to carry concealed weapons pursuant to Article 4, Chapter 31 of Title 23~~ when upon any premises, property, or building that is part of an interstate highway rest area facility.”

SECTION 5. Section 16‑23‑430(B) of the 1976 Code amended to read:

“(B) This section does not apply to a person who ~~is authorized to carry a concealed weapon pursuant to Article 4, Chapter 31, Title 23~~ lawfully is carrying a weapon when the weapon remains inside an attended or locked motor vehicle and is 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.

(C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than five years, or both. Any weapon or object used in violation of this section may be confiscated by the law enforcement division making the arrest.”

SECTION 6. Section 16‑23‑460(C) of the 1976 Code amended to read:

“(C) The provisions of this section also do not apply to handguns, rifles, shotguns, dirks, slingshots, metal knuckles, knives, or razors unless they are used with the intent to commit a crime or in furtherance of a crime.”

SECTION 7. Section 51‑3‑145(G) of the 1976 Code is amended to read:

“(G) Possessing any firearm, airgun, explosive, or firework except by duly authorized park personnel, law enforcement officers, or persons using areas specifically designated by the department for use of firearms, airguns, fireworks, or explosives. Licensed hunters may have firearms in their possession during hunting seasons provided that such firearms are unloaded and carried in a case or the trunk of a vehicle except that in designated game management areas where hunting is permitted, licensed hunters may use firearms for hunting in the manner authorized by law. This subsection shall not apply to a person carrying a concealable weapon ~~pursuant to Article 4, Chapter 31, Title 23,~~ as defined in Section 23‑31‑210(5) and the concealable weapon and its ammunition.”

SECTION 8. Sections 23‑31‑215(M), (N), and (O) of the 1976 Code are amended to read:

“(M) ~~A~~ Unless an individual first obtains authorization to possess a concealable weapon from a person with the apparent authority to grant it, a permit issued pursuant to this section does not authorize a permit holder to carry a concealable weapon into a:

(1) law enforcement, correctional, or detention facility;

(2) courthouse or courtroom;

(3) polling place on election days;

(4) office of or the business meeting of the governing body of a county, public school district, municipality, or special purpose district;

(5) school or college athletic event not related to firearms;

(6) daycare facility or preschool facility;

(7) place where the carrying of firearms is prohibited by federal law;

(8) church or other established religious sanctuary unless express permission is given by the appropriate church official or governing body;

(9) hospital, medical clinic, doctor’s office, or any other facility where medical services or procedures are performed unless expressly authorized by the employer; or

(10) place clearly marked with a sign prohibiting the carrying of a concealable weapon on the premises pursuant to Sections 23‑31‑220 and 23‑31‑235. Except that a property owner or an agent acting on his behalf, by express written consent, may allow individuals of his choosing to enter onto property regardless of any posted sign to the contrary. A person who violates a provision of this item, whether the violation is wilful or not, only may be charged with a violation of Section 16‑11‑620 and must not be charged with or penalized for a violation of this subsection.

Except as provided for in item (10), a person who wilfully violates a provision of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars or imprisoned not more than one year, or both, at the discretion of the court ~~and have his permit revoked for five years~~.

Nothing contained in this subsection may be construed to alter or affect the provisions of Sections 10‑11‑320, 16‑23‑420, 16‑23‑430, 16‑23‑465, 44‑23‑1080, 44‑52‑165, 50‑9‑830, and 51‑3‑145.

(N) Valid out‑of‑state permits to carry concealable weapons held by a resident of a reciprocal state must be honored by this State, provided, that the reciprocal state requires an applicant to successfully pass a criminal background check and a course in firearm training and safety. A resident of a reciprocal state carrying a concealable weapon in South Carolina is subject to and must abide by the laws of South Carolina regarding concealable weapons. SLED shall maintain and publish a list of those states as the states with which South Carolina has reciprocity.

(O) A permit issued pursuant to this article is not required for a person:

(1) specified in Section 16‑23‑20~~, items (1) through (5) and items (7) through (11)~~;

(2) carrying a self‑defense device generally considered to be nonlethal including the substance commonly referred to as ‘pepper gas’; or

(3) carrying a concealable weapon in a manner not prohibited by law.”

SECTION 9. Section 23‑31‑220 of the 1976 Code is amended to read:

“Section 23‑31‑220. 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~~, whether the person is licensed under this article or not, from carrying a concealable weapon upon the premises of the business or work place or while using any machinery, vehicle, or equipment owned or operated by the business; or

(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 upon his premises.

The posting of a sign 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 not be brought upon the premises or into the work place. A person who brings a concealable weapon 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~~(A)(1).”

SECTION 10. Section 23‑31‑225 of the 1976 Code is amended to read:

“Section 23‑31‑225. No person ~~who holds a permit issued pursuant to Article 4, Chapter 31, Title 23~~ may carry a concealable weapon into the residence or dwelling place of another person without the express permission of the owner or person in legal control or possession, as appropriate. A person who violates this provision is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars or imprisoned for not more than one year, or both, at the discretion of the court ~~and have his permit revoked for five years~~.”

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; and

(12) active workers’ compensation commissioners.”

SECTION 12. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 13. This act takes effect upon approval by the Governor.

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