

April 7, 2008

The Honorable James R. Metts
Sheriff, Lexington County
P. O. Box 639
Lexington, South Carolina 29071

Dear Jimmy:

In a letter to this office you questioned whether there is a time restriction on when handicapped parking enforcement is permissible. For example, you referenced a parking space which indicates that "handicapped parking only between the hours of 8:00 to 2:00." You questioned whether this would supersede state law and is there anything that would preclude such notice from being posted.

S.C. Code Ann. § 56-3-1960(1) states that "[a]ny person who is handicapped as defined in this article must be allowed to park in metered or timed parking places without being subject to parking fees or fines." A prior opinion of this office dated March 24, 1995 dealt with the question of whether the handicapped parking privilege extended to daily, weekly or monthly parking facilities. The opinion stated that with respect to such question:

...I would advise that it does. In an opinion, dated August 18, 1980, interpreting Section 56-3-1960, we wrote:

Code § 56-3-1960 states "[a]ny person who is handicapped as defined in this article, shall be allowed to park in metered or timed parking places without being subject to parking fees or fines." *Blacks Law Dictionary* defines a parking meter as a clock set on a post measuring time of parking. A metered parking place, therefore, would refer to those spaces which have a parking meter.

The meaning of the words "timed parking" is not as clear. Rules of statutory construction require that words used in the statute be given their usual and ordinary meaning unless otherwise indicated. *Windham v. Page*, 191 S.C. 271, 6 S.E.2d 270 (1939). Timed parking would, therefore, include those places where there is free parking for a specified duration with fines imposed thereafter or where tickets are

issued to denote the time of arrival and departure and one is charged according to the amount of time spent in the parking place.

Anyone displaying the required placard or plate would be exempt from parking fees or fines in either a metered spot or a timed spot....

Clearly, this opinion does not appear to suggest, nor do the statutes appear to contemplate, any time limitations with respect to a handicapped person being "allowed to park in metered or timed parking places without being subject to parking fees or fines." If the space is "metered or timed" as defined above, and it would appear that long-term Airport parking is "timed", it would not matter what the time restrictions on parking were -- a day, a week or a month etc. -- the statute would still exempt the handicapped from paying "parking fees or fines."

The State handicapped parking provisions referenced above do not specifically provide for limitations on handicapped parking privileges. The prior opinion referenced above also states that there is no suggestion or contemplation by the statutes to time limitations with respect to handicapped persons being allowed to park. Opinions of other Attorneys General also have construed their state statutes as indicating that physically handicapped persons are exempt from liability for parking violations. See, e.g., Op. Mich. Atty. Gen. dated December 28, 1978; Op. Tenn. Atty. Gen. dated July 27, 1988; Op. Kan. Atty. Gen. dated July 18, 1979. Consistent with such, in the opinion of this office, a time restriction on when handicapped parking enforcement is permissible would not be enforceable and I am unaware of any authority for such notice being posted.

However, an additional analysis is also warranted. S.C. Code Ann. § 56-3-1965 states that "[t]hose municipalities having marked parking spaces shall provide appropriately designated space or spaces reserved for the parking of handicapped persons." Therefore, a municipality is required to designate certain spaces as handicapped parking spaces. There is no specific requirement as to the numbers of such spaces to be provided. Consistent with such provision, depending on the facts and circumstances of a particular situation, it appears that a municipality could designate individual parking spaces as handicapped parking spaces only for certain specified periods of time as long as other spaces are designated full-time as handicapped parking spaces. For instance, parking spaces along streets at certain churches are designated as handicapped spaces on Sundays only. At all other times, any member of the public may park in such space whether handicapped or not. This practice appears to be warranted as long as there are certain spaces restricted to handicapped parking only at all times. This office is unable to make any determination factually as to how many such spaces must be provided as the Section 56-3-1965 is silent as to the number of spaces that must be reserved for handicapped parking.

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If there are any questions, please advise.

Sincerely,

Henry McMaster
Attorney General

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REVIEWED AND APPROVED BY:

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