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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES M. CONDON
ATTORNEY GENERAL

March 8, 2000

The Honorable Mike Fair
Senator, District No. 6
P.O. Box 14632
Greenville, South Carolina 29610

Dear Senator Fair,

Thank you for your letter of December 7, 1999, to Attorney General Condon, which has been referred to me for a response. You ask for an opinion on the validity of an employer forbidding its employees to carry firearms in their cars. Subsequently, additional questions along these same lines have been raised and are being clarified herein.

By way of background you inform us that the Department of Corrections prohibits all employees, including uniformed officers, from having firearms in their vehicles. Any employee violating this prohibition will be fired.

South Carolina Code Section 16-23-20, which provides exceptions to the unlawful carrying of pistols, states in part:

It is unlawful for anyone to carry about the person any pistol, whether concealed or not, except as follows:

...

(9) Any person in a vehicle where the pistol is secured in a closed glove compartment, closed console, or closed trunk.

This provision specifically grants to all citizens the right to carry a firearm in their vehicle in certain locations, regardless of their standing as law enforcement officials or as holders of a concealed weapon permit. Department of Corrections employees are entitled to the same rights as any citizens of South Carolina. Thus, for purposes of this analysis, the status of the employee is irrelevant.

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The "Law Abiding Citizens Self Defense Act of 1996," codified at S.C. Code Ann. Section 23-31-205, et seq., does allow a public or private employer to prohibit a person licensed to carry a concealable weapon from bringing the weapon onto the premises of the employer. Pursuant to Section 23-31-220, employers need only post a sign stating "No Concealable Weapons Allowed" to give notice to their employees of the prohibition. However, these provisions apply only to those carrying a firearm pursuant to a concealable weapons permit. The Act specifically states that "[n]othing in this article shall affect the provisions of Section 16-23-20." See S.C. Code Ann. § 23-31-217. Thus, the statute does not apply to those carrying a weapon in manner allowed by Section 16-23-20.

Nor does § 16-23-420(A) change this conclusion. Section 16-23-420(A) makes it unlawful for a person "to carry onto any premises or property owned, operated or controlled by a private or public school, college, university, technical college, other post-secondary institution, or any publicly-owned building a firearm of any kind without the express permission of the authorities in charge of the premises or property." While this provision is somewhat awkwardly worded a careful reading makes it evident that the first part of the phrase used relates to educational or school property and that only the portion "any publicly-owned building" has any relevance to the situation at hand. However, obviously, the firearm is not being carried into a "publicly-owned building" in this instance, but remains secured in the glove compartment, console or trunk pursuant to § 16-23-20(9). Thus, this provision is not applicable here.

For the same reason, a citizen is not prohibited from carrying a pistol secured in the glove compartment, console or trunk of his or her vehicle when in the parking lot of a business "which sells alcoholic liquor, beer, or wine for consumption on the premises ..." under § 16-23-465. While the term "premises" is not defined in § 16-23-465, clearly such statute must be read in conjunction with § 16-23-20(9). All statutes must be construed together and implied repeals are disfavored. Accordingly, reading § 16-23-465 together with § 16-23-20(9), it is our opinion that the term "premises" should not be read to limit the rights of a citizen to carry a pistol secured in the glove compartment, console or trunk of his or her vehicle. Otherwise, § 16-23-465 would be given precedence over a statute, § 16-23-20(9) which is of equal weight. Accordingly, the citizen may carry a pistol as provided in § 16-23-20(9) when in the parking lot of an establishment covered by § 16-23-465.

A state agency is powerless to prohibit that which the State authorizes, directs, requires, licenses, or expressly permits. See generally Law v. City of Spartanburg, 148 S.C. 229, 146 S.E. 12 (1928) (striking as void a city ordinance that conflicted with state law). Because the

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General Assembly specifically granted, through the enactment of Section 16-23-20, the right to carry a firearm in the closed glove compartment, closed console, or closed trunk of an automobile, the Department of Correction's prohibition against an employee's having a weapon in his locked motor vehicle would be without authority and inconsistent with state law.

South Carolina has long recognized the right of a citizen to carry a pistol secured in the glove compartment, console or trunk of his or her vehicle. That right is unaffected by whether the citizen has a Concealed Weapons Permit. In conclusion, neither a state agency's policy, nor the provisions discussed herein alter or undermine this right.

With kind regards, I remain

Very truly yours,



Robert D Cook
Assistant Deputy Attorney General