



ALAN WILSON  
ATTORNEY GENERAL

July 22, 2022

The Hon. Shane Martin  
South Carolina Senate  
PO Box 142  
Columbia, SC 29202

Dear Senator Martin:

We received your request for an opinion regarding signs placed at all Charleston County parks prohibiting the carrying of concealable weapons. This opinion sets out our Office's understanding of your question and our response.

**Issue (as quoted from your letter):**

It was brought to my attention that signs have been placed at all Charleston County parks prohibiting the carrying of concealable weapons.

Section 23-31-510 of the South Carolina Code of Laws prohibits political subdivisions from regulating the possession of firearms and I believe these permanent signs in the Charleston County parks violate this law.

In addition, while the recently amended Section 23-31-520 outlines that “a governing body of a county, municipality, or political subdivision may temporarily restrict the otherwise lawful open carrying of a firearm on public property” they may only do so “when a governing body issues a permit to allow a public protest, rally, fair, parade, festival, or other organized event [the] 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.”

In short, any signs posted may only prohibit open carry of a firearm and may only be issued when accompanied by a specific event permit that outlines the temporary nature of the restriction.

I understand Charleston County has responded that they believe they are not in violation of the law and will not remove the signs.

I am, therefore, bringing this matter to your attention and request an opinion from your office about this situation to help remove any confusion municipalities may have resulting from the passing of the Open Carry with Training Act in 2021.

**Law/Analysis:**

Several prior opinions of this Office have concluded that a local measure which expressly purports to criminalize or otherwise regulate possession of a firearm conflicts with Section 23-31-510 of the South Carolina Code of Laws which preempts all such local regulations. See, e.g., Op. S.C. Att'y Gen., 2017 WL 6940255 (December 29, 2017); S.C. Code Ann. §§ 23-31-510 (Supp. 2019) & -520 (2007). This conclusion has been reiterated numerous times, and we refer the reader to the cited opinions for a full discussion of the legal foundation. *See id.*

For our purposes here, it suffices to say that “our Office consistently has construed Sections 23-31-510 and -520 to mean the General Assembly intended that state law expressly occupy the entire field of South Carolina firearm regulation and preempt any local ordinance on the same subject, except where local regulation are expressly permitted by those same statutes.” See, e.g., *Ops. S.C. Att’y Gen.*, 2019 WL 6794777 (December 2, 2019); 2019 WL 6794778 (December 2, 2019).

In 2021 the General Assembly amended section 23-31-520, and it now reads in full:

(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.

S.C. Code Ann. § 23-31-520. In summary, section 23-31-520 has been amended so as to allow a local government to restrict temporarily the open carry of firearms when specific criteria are met as set out in the statute. *See id.*

Consistent with a long line of prior opinions of this Office, we believe this 2021 amendment set out one specific circumstance “where local regulation [is] expressly permitted by [sections 23-31-510 & -520].” *Op. S.C. Att’y Gen.*, 2019 WL 6794777 (December 2, 2019). To the extent that a local government strictly complies with section 23-31-520, the General Assembly has empowered that local government to “temporarily restrict the otherwise lawful open carrying of a firearm on public property.” S.C. Code Ann. § 23-31-520. To the extent that a local government might seek to exceed this or another express exception, such action would be preempted, consistent with our prior opinions.

As to a local government purporting to restrict firearm possession in a public park, we refer the reader to two prior opinions of this Office. First, an opinion dated December 7, 2010 concluded that “a local governing body, such as a county, may not enact any regulation dealing with the carrying of concealed weapons, such as in a county park.” *Op. S.C. Att’y Gen.*, 2010 WL 5578965 (December 7, 2010). Second, an opinion dated September 30, 2014 reached a similar result with respect to municipal parks. *Op. S.C. Att’y Gen.*, 2014 WL 5073495 (September 30, 2014). “Traditionally, this Office does not overrule a prior opinion unless there has been a change in the law or where there is clear error.” *Op. S.C. Att’y Gen.*, 2017 WL 1528200 (April 13, 2017) (internal citations omitted). Consistent with our discussion above, section 23-31-520 has been amended so as to allow a local government to restrict temporarily the open carry of firearms when specific criteria are met as set out in the statute. *See discussion supra.* Outside of those particular circumstances, the 2010 and 2014 opinions continue to stand for the general rule that, otherwise, local regulation of firearms in parks is preempted.

#### **Conclusion:**

In conclusion, section 23-31-520 has been amended so as to allow a local government to restrict temporarily the open carry of firearms when specific criteria are met as set out in the statute. S.C. Code Ann. § 23-31-520. Consistent with a long line of prior opinions of this Office, we believe this is one circumstance “where local regulation [is] expressly permitted by [sections 23-31-510 & -520].” *Op. S.C. Att’y Gen.*, 2019 WL 6794777 (December 2, 2019). To the extent that a local government strictly complies with section 23-31-520, the General Assembly has

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empowered that local government to “temporarily restrict the otherwise lawful open carrying of a firearm on public property.” S.C. Code Ann. § 23-31-520. To the extent that a local government might seek to exceed this or another express exception, such action would be preempted, consistent with our prior opinions.

Outside of those particular circumstances, two prior opinions of this Office, dated December 7, 2010 and September 30, 2014, continue to stand for the general rule that, otherwise, local regulation of firearms in parks is preempted. *Ops. S.C. Att’y Gen.*, 2010 WL 5578965 (December 7, 2010); 2014 WL 5073495 (September 30, 2014).

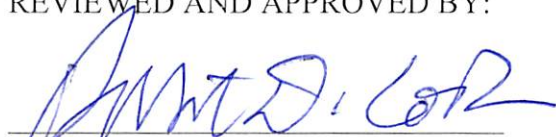
Our Office consistently has construed Sections 23-31-510 and -520 to mean that the General Assembly intended that State law expressly occupy the entire field of South Carolina firearm regulation and preempt any local ordinance on the same subject, except where local regulation are expressly permitted by those same statutes. *See, e.g., Op. S.C. Att’y Gen.*, 2017 WL 6940255 (December 29, 2017); *see also* S.C. Code Ann. §§ 23-31-510 (Supp. 2019) & -520 (2007). The 2021 amendment to section 23-31-520 simply set out one express exception, as contemplated in our prior opinions. We hope this clarification and the two prior opinions cited above remove any possible confusion in this area.

This Office has reiterated in numerous opinions that it strongly supports the Second Amendment and the right of citizens to keep and bear arms. *See, e.g., Op. S.C. Att’y Gen.*, 2015 WL 4596713 (July 20, 2015); *see also D.C. v. Heller*, 554 U.S. 570 (2008); *McDonald v. Chicago*, 561 U.S. 742 (2010); *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 142 S.Ct. 2111 (2022).

Sincerely,

  
David S. Jones  
Assistant Attorney General

REVIEWED AND APPROVED BY:

  
Robert D. Cook  
Solicitor General