

July 9, 2008

The Honorable Robert W. Harrell, Jr.
Speaker of the House
South Carolina House of Representatives
P. O. Box 11867
Columbia, South Carolina 29211

Dear Speaker Harrell:

In a letter to this office you requested an opinion regarding parking for handicapped persons. You referenced that pursuant to S.C. Code Ann. § 56-3-1960,

[a]ny person who is handicapped as defined in this article must be allowed to park in metered or timed parking spaces without being subject to parking fees or fines. This section has no application to those areas or during those times in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles. (emphasis added).

You questioned whether the provision regarding “time parking” includes event parking. You indicated that many parking facilities and lots charge a fee for parking while an entertainment event is occurring.

Generally, as determined in a prior opinion of this office dated September 21, 1992, State statutes providing for handicapped parking are enforceable as to any parking place which is clearly designated for handicapped persons on public or private property regardless of whether the property is posted pursuant to S.C. Code Ann. § 23-1-15. Such provision typically requires property used as a private parking lot to be posted so as to inform the public that the lot is subject to police jurisdiction before law enforcement authorities may enforce laws relating to the unlawful operation of motor vehicles on such property.

An opinion of this office dated March 24, 1995 dealt with the question of whether the handicapped parking privilege authorized by Section 56-3-1960 extended to daily, weekly or monthly parking facilities. The opinion referenced an opinion dated August 18, 1980 which noted that as to Section 56-5-1960,

[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

The Honorable Robert W. Harrell, Jr.
Page 2
July 9, 2008

construction require that words used in the statute be given their usual and ordinary meaning unless otherwise indicated...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.... (emphasis added).

The 1995 opinion stated that “[c]learly, 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’,...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.’” That opinion concluded that if a handicapped individual uses a commercial lot, the individual pays a fee to parking in a “timed” spot. It stated further that “[s]o long as a ‘fee’ is charged or a ‘fine’ is assessed for parking in a ‘timed’ space, the intent of the General Assembly is that ‘[a]nyone displaying the required placard or plate would be exempt...therefrom.” Op. Atty. Gen. dated August 18, 1980.

In the situation you addressed, that of “event parking” where parking facilities and lots charge a fee for parking while an entertainment event is occurring, in the opinion of this office, unless the parking facility or lot is a “timed” spot, i.e., parking is allowed for a specified duration with fines imposed thereafter or where tickets are issued to denote the time or arrival and departure and one is charged according to the amount of time spent in the parking place, handicapped persons would not be allowed to park in such locations unless they pay a fee to park.

If there are any questions, please advise.

Sincerely,

Henry McMaster
Attorney General

By: Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:

Robert D. Cook
Deputy Attorney General