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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES M. CONDON
ATTORNEY GENERAL

January 5, 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.

By way of back ground 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.

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

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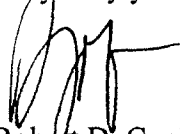
Section 23-31-220, employers need only post a sign stating "No Concealable Weapons Allowed" to give notice to their employees of the prohibition. However, these provisions apply only to those carrying a firearm pursuant to a concealable weapons permit. The Act specifically states that "[n]othing in this 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.

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 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.

This letter is an informal opinion only. It has been written by a designated Senior Assistant Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General not officially published in the manner of a formal opinion.

With kind regards, I remain

Very truly yours,



Robert D. Cook
Assistant Deputy Attorney General