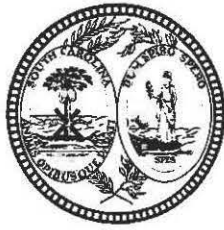


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The State of South Carolina  
**OFFICE OF THE ATTORNEY GENERAL**

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

October 8, 1996

Wendal E. Jenkins, Chief of Police  
City of Pickens  
Post Office Box 217  
Pickens, South Carolina 29671

Re: Informal Opinion

Dear Chief Jenkins:

You have requested an opinion "regarding the issuance of a traffic summons for handicapped parking violations on private property." You are "uncertain if a municipal police department has the authority to charge violators on private property."

Your question is addressed by prior opinions of this Office which are enclosed for your information. These opinions consistently conclude that laws relating to handicapped parking may be enforced on private property regardless of whether the property is posted pursuant to Section 23-1-15. In an Opinion, dated May 21, 1980, we reference S. C. Code Ann. Sec. 56-3-1970 which makes it unlawful to park any vehicles in a parking place clearly designated for handicapped persons unless the vehicle bears the distinguishing license plate or placard provided in Section 56-3-1960. Construing Section 56-3-1970, we stated in the May 21, 1980 Opinion:

[i]t is the opinion of this office that any parking place clearly designated for handicapped persons falls within the police jurisdiction of any given municipal, county, or state law enforcement agency. Presence on a public highway is not an element of any traffic offense unless clearly provided for by the Statute which creates the offense. ...

[Section] 56-3-1970 prohibiting parking of certain vehicles in a parking place clearly designated for handicapped persons refers to any parking place properly designated. The statute

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speaks broadly enough to prohibit all such improper parking and is not limited to parking places on public highways or thoroughfares.

Therefore [it] is the opinion of this Office that your department may enforce provisions of [Section] 56-3-1970 on property considered public or private, such as the parking lot of a department store, regardless of whether the parking lot is posted as required by [Section] 23-1-15: [emphasis added].

We have reaffirmed this 1980 Opinion on a number of occasions. See, Op. Atty. Gen., Op. No. 92-54 (September 21, 1992) ["... State statutes providing for handicapped parking are enforceable as to any parking place clearly designated for handicapped persons on public or private property regardless of whether the property is posted pursuant to S.C. Code § 23-1-15."]; Op. No. 92-45 (August 14, 1992) ["We have determined that Section 23-1-15 would have no effect on a traffic offense in which the commission on public property is not an element, such that certain traffic offenses may be committed and are enforceable on private property regardless of whether the property is posted. ... A violation of the handicapped parking provision may occur on private property which is not posted because presence on a public highway is not an element of the offense."] Op. Atty. Gen., May 11, 1989 [laws relating to handicapped parking applicable to public or private property].

Accordingly, in accord with the May 21, 1980 Opinion a police department "may enforce provisions of [Section] 56-3-1970 on property considered public or private, such as the parking lot of a department store, regardless of whether the parking lot is posted as required by [Section] 23-1-15."

This letter is an informal opinion only. It has been written by a designated Assistant Deputy Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I am

Very truly yours,



Robert D. Cook  
Assistant Deputy Attorney General

RDC/ph  
Enclosures