

1980 WL 121058 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 21, 1980

**\*1 Re: Opinion Request**

Vernon L. Boatwright  
Chief of Police  
West Columbia Police Department  
P. O. Box 44  
West Columbia, S.C., 29169

Dear Chief Boatwright:

You have inquired of this office whether your department may enforce the handicapped parking provision of [§ 56-3-1970, South Carolina Code](#) of Laws, (1976) regardless of whether the property is posted informing the public that the area is subject to police jurisdiction. It appears as though that your department may enforce parking provisions [§ 56-3-1970](#) provided the provisions of that section were met.

[Section 56-3-1970](#) provides in part:

It shall be unlawful to park any vehicle in a parking place clearly designated for handicapped persons unless the vehicle bears the distinguishing license plate or placard provided in [§ 56-3-1960](#).

'Handicapped' individuals are 'any person who has an obvious physical disability that requires the use of a wheel chair, braces, walkers, or crutches, and those who have lost the use of one or both legs, and those who suffer from lung disease to such an extent that they are unable to walk without the aid of a respirator.' Section 56-3-1950. Handicapped persons is defined by the sections quoted above may, with the appropriate license plate attached to their vehicle as provided for in [§ 56-3-1960\(1\)](#), be allowed to park in metered or timed parking places without being subject to fees or fines. Of course, this section is not applicable to these areas or during those times in which all parking is prohibited. Section 56-3-1960(2) provides that any person who is handicapped as described above they also apply to the South Carolina Department of Highway and Public Transportation for a special distinguishing placard describing the vehicle on which it is affixed as that of a vehicle belonging to a handicapped person. The placard may be used in lieu of the license plate described above and when displayed on the drivers side of the dashboard of the vehicle it extends all parking rights and privileges to the driver of that vehicle as that of the license plate. Only those vehicles bearing the license plate described in [§ 56-3-1960\(1\)](#) or the placard as defined in [§ 56-3-1960\(2\)](#) may park in a parking place clearly designated for handicapped persons.

It 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. 1969 Attorney General's No. 2738, at p. 206 (citing 3 [Wharton](#), Criminal Law and Procedure § 997 at 170.) That Opinion goes to provide that:

Depending on the Statute, therefore, a traffic offense may be committed by driving or operating an automobile otherwise than on a [public] highway or thoroughfare. For example, one could violate [§ 46-142 \[now 56-19-40\]](#) South Carolina Code of Laws by recklessly driving an automobile on a parking lot of a privately owned business; but a person could not violate late [§ 46-356 \[now § 56-5-1590\]](#) by engaging in a race on that same property. *Id.*

\*2 Section 23-1-15 provides that any property which is used as a parking lot and is open for use by the public is within police jurisdiction with regard to the unlawful operation of a motor vehicle on such parking lot. This authority is conditioned, however, upon the posting of appropriate signs informing the public that the parking lot is subject to police jurisdiction. Note that the effect of this statute upon the example contained within the Opinion quoted above, is to provide that the offense of racing as prescribed by § 56-5-1590 would then be enforceable by virtue of the power extended to the police agency by § 23-1-15. However, § 23-1-15 has no affect on § 56-19-40 prohibiting reckless driving for, by the terms of the statute, the offense of reckless driving may be committed anywhere in this State, not simply on a public highway.

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

Therefore is the opinion of this office that your department may enforce provisions of § 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 § 23-1-15. Sincerely,

Scott Elliott  
State Attorney

1980 WL 121058 (S.C.A.G.)

---

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.