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SLED GUIDANCE ON THE OPEN CARRY WITH TRAINING ACT LOCATIONS

On May 17, 2021 Governor Henry D. McMaster signed the Open Carry with Training Act (formerly House Bill 3094) into law. This Act has a 90-day implementation delay, so this law does not go into effect until **August 15, 2021**. However, on that date, several changes in South Carolina law related to where an individual can carry will take effect.

As an initial matter, this law redefines **“Concealable Weapon”** to encompass open carry for valid permit holders. However, open or concealed carry must be done in accordance with South Carolina’s existing CWP and other firearm statutes. Specifically, S.C. Code Ann. § 23-31-210(5) now redefines a “Concealable Weapon” in South Carolina and provides,

“Concealable weapon” means a firearm having a length of less than twelve inches measured along its greatest dimension **that may be carried openly on one’s person or in a manner that is hidden from public view in normal wear of clothing** except when needed for self defense, defense of others, and the protection of real or personal property. (emphasis added).

As such, South Carolina’s existing laws governing where an individual can carry a concealable weapon apply subject to the few limited exceptions that are discussed below.

Vehicles

With regard to carrying handguns in vehicles, S.C. Code Ann. § 16-23-20(9) will provide that a person in a vehicle can carry a handgun as follows:

(a) secured in a closed glove compartment, closed console, closed trunk, or in a closed container secured by an integral fastener and transported in the luggage compartment of the vehicle; however, this item is not violated if the glove compartment, console, or trunk is opened in the presence of a law enforcement officer for the sole purpose of retrieving a driver’s license, registration, or proof of insurance. **If the person has been issued a concealed weapon permit pursuant to Article 4, Chapter 31, Title 23, then the person also may secure his weapon under a seat in a vehicle, or in any open or closed storage compartment within the vehicle’s passenger compartment; or**

(b) carried openly or concealed on or about his person, and he has a valid concealed weapons permit pursuant to the provisions of Article 4, Chapter 31, Title 23;”



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Employers and Property Owners

When it takes effect, this law also reaffirms the rights of public and private employers and property owners regarding the allowance or prohibition of weapons. Specifically, S.C. Code Ann. § 23-31-220 provides

(A) Nothing contained in this article shall in any way be construed to limit, diminish, or otherwise infringe upon:

(1) the right of a public or private employer to prohibit a person who is licensed under this article from carrying a concealable weapon, **whether concealed or openly carried**, upon the premises of the business or work place or while using any machinery, vehicle, or equipment owned or operated by the business;

(2) the right of a private property owner or person in legal possession or control to allow or prohibit the carrying of a concealable weapon, **whether concealed or openly carried**, upon his premises.

(B) The posting by the employer, owner, or person in legal possession or control of a sign stating '**NO CONCEALABLE WEAPONS ALLOWED**' shall constitute notice to a person holding a permit issued pursuant to this article that the employer, owner, or person in legal possession or control requests that concealable weapons, whether concealed or openly carried, not be brought upon the premises or into the work place. A person who brings a concealable weapon, whether concealed or openly carried, onto the premises or work place in violation of the provisions of this paragraph may be charged with a violation of Section 16-11-620. In addition to the penalties provided in Section 16-11-620, a person convicted of a second or subsequent violation of the provisions of this paragraph must have his permit revoked for a period of one year. The prohibition contained in this section does not apply to persons specified in Section 16-23-20, item (1).

(C) In addition to the provisions of subsection (B), a public or private employer or the owner of a business may post a sign regarding the prohibition or allowance on those premises of concealable weapons, whether concealed or openly carried, which may be unique to that business. (emphasis added).

Sign Requirements

In addition, South Carolina's sign requirements set forth in S.C. Code Ann. § 23-31-235 will be slightly modified and will provide the following:

(A) Notwithstanding any other provision of this article, any requirement of or allowance for the posting of signs prohibiting the carrying of a concealable weapon, whether concealed or openly carried, upon any premises shall only be satisfied by a sign expressing the prohibition in both written language and universal sign language.

(B) All signs must be posted at each entrance into a building where a concealable weapon permit holder is prohibited from carrying a concealable weapon, whether concealed or openly carried, and must be:

- (1) clearly visible from outside the building;
- (2) eight inches wide by twelve inches tall in size;
- (3) contain the words 'NO CONCEALABLE WEAPONS ALLOWED' in black one-inch tall uppercase type at the bottom of the sign and centered between the lateral edges of the sign;
- (4) contain a black silhouette of a handgun inside a circle seven inches in diameter with a diagonal line that runs from the lower left to the upper right at a forty-five degree angle from the horizontal;
- (5) a diameter of a circle; and
- (6) placed not less than forty inches and not more than sixty inches from the bottom of the building's entrance door.

(C) If the premises where concealable weapons are prohibited does not have doors, then the signs contained in subsection (A) must be:

- (1) thirty-six inches wide by forty-eight inches tall in size;
- (2) contain the words 'NO CONCEALABLE WEAPONS ALLOWED' in black three-inch tall uppercase type at the bottom of the sign and centered between the lateral edges of the sign;
- (3) contain a black silhouette of a handgun inside a circle thirty-four inches in diameter with a diagonal line that is two inches wide and runs from the lower left to the upper right at a forty-five degree angle from the horizontal and must be a diameter of a circle whose circumference is two inches wide;
- (4) placed not less than forty inches and not more than ninety-six inches above the ground;
- (5) posted in sufficient quantities to be clearly visible from any point of entry onto the premises.

(D) Nothing in this section prevents a public or private employer or owner of a business from posting a sign regarding the prohibition or allowance on those premises of concealable weapons, whether concealed or openly carried, which may be unique to that business.

Church Services on School Property

This law will also clarify the carrying of a concealable weapon at church services conducted on school property. In that regard, S.C. Code Ann. § 23-31-232 will provide,

(A) Notwithstanding any other provision of law, upon express permission given by the appropriate church official or governing body, a person who holds a valid permit issued pursuant to this article may carry a concealable weapon, whether concealed or openly carried, on the leased premises of an elementary or secondary school if a church leases the school premises or areas within the school for church services or official church activities.

(1) The provisions contained in this section apply:

- (a) only during those times that the church has the use and enjoyment of the school property pursuant to its lease with the school; and
- (b) only to the areas of the school within the lease agreement, any related parking areas, or any reasonable ingress or egress between these areas.

(2) A school district may request that a church utilizing school property for its services disclose and notify the school district if persons are, or may be, carrying concealed weapons on the school property.

(3) The provisions of this section do not apply during any time students are present as a result of a curricular or extracurricular school-sponsored activity that is taking place on the school property.

(B) For the purposes of the Federal Gun-Free School Zone Act (18 U.S.C. Section 921(a)), the buildings and grounds of a school that are leased to a church are not considered a school during the hours that the church has the use and enjoyment of the school property pursuant to this section.

Restrictions on Open Carry During Certain Organized Events

This law will also provide local governments with the ability to restrict open carrying on public property during public protests, rallies, fairs, parades, festivals, or other organized events for which a permit is issued. Specifically, S.C. Code Ann. § 23-31-520 will state,

(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.