

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

August 31, 2011

The Honorable Jim Johnson
Lee County Sheriff
510 Commerce Street
Tupelo MS 38805

RE: House Bill 506

Dear Sheriff Johnson:

Attorney General Jim Hood has received your request for an opinion and has assigned it to me for research and reply. Your letter asks the following regarding House Bill 506 of the 2011 regular session of the Legislature:

QUESTION:

Prior to House Bill 506, Mississippi Code 45-9-101 did not allow a concealed weapon to be carried in a courthouse, polling place, any meeting place of the governing body of any governmental entity, schools and other locations. It also provided that the carrying of a concealed weapon may be disallowed in the discretion of the person or entity exercising control over the physical location of such place by placing of a written notice clearly readable at a distance of not less than (10) feet that the "carrying of a pistol or revolver is prohibited."

Does any part of House Bill 506 take away the right of a person or entity exercising physical control over a location to disallow the carry of a concealed weapon? For example, can a county board of supervisors disallow the carry of concealed weapons in a county courthouse or other county property?

RESPONSE:

House Bill 506 takes away the power of the county to post the statutory written notice and thereby trigger criminal penalties under 97-37-1 et seq. against persons with the training endorsement on their firearms permit. A firearms permit holder with training endorsement will not violate Section 97-37-1 by carrying a concealed handgun into the

courthouse or other county property, even if the county posts the notice stating "carrying of a pistol or revolver is prohibited."

APPLICABLE LAW:

Section 97-37-1 of the Mississippi Code makes it a crime to carry a concealed weapon, including a pistol or revolver, "except as otherwise provided in Section 45-9-101." Section 45-9-101 authorizes the Department of Public Safety to issue licenses¹ to carry concealed weapons. Section 97-37-7 of the Code, as amended by HB 506, states in pertinent part:

A person licensed under Section 45-9-101 to carry a concealed pistol, who has voluntarily completed an instructional course in the safe handling and use of firearms offered by an instructor certified by a nationally recognized organization that customarily offers firearms training, or by any other organization approved by the Department of Public Safety, shall also be authorized to carry weapons in courthouses except in courtrooms during a judicial proceeding, and any location listed in subsection (13) of Section 45-9-101, except any place of nuisance as defined in Section 95-3-1, any police, sheriff or highway patrol station or any detention facility, prison or jail. The department shall promulgate rules and regulations allowing concealed pistol permit holders to obtain an endorsement on their permit indicating that they have completed the aforementioned course and have the authority to carry in these locations. This section shall in no way interfere with the right of a trial judge to restrict the carrying of firearms in the courtroom.

(Emphasis added).

Therefore, a holder of a permit with a training endorsement from the Department of Public Safety may carry a concealed pistol or revolver in the courthouse and same will not constitute a violation of the concealed weapons statute.

When read together, the statutes create 2 classes of permits which exempt holders of the permit from the criminal penalties of 97-37-1. A permit which does not have the endorsement created by HB 506 is not valid in any of the places listed in Section 45-9-101 (13). A permit which does have the endorsement is valid in those places listed in subsection (13)(with a few listed exceptions). Those places are:

any courthouse; any courtroom, except that nothing in this section shall preclude a judge from carrying a concealed weapon or determining who will carry a concealed weapon in his courtroom; any polling place; any

¹ or "permits" – the words appear to be used interchangeably in the statutes. Since the Department of Public Safety uses "permit", we will do the same.

meeting place of the governing body of any governmental entity; any meeting of the Legislature or a committee thereof; any school, college or professional athletic event not related to firearms; any portion of an establishment, licensed to dispense alcoholic beverages for consumption on the premises, that is primarily devoted to dispensing alcoholic beverages; any portion of an establishment in which beer or light wine is consumed on the premises, that is primarily devoted to such purpose; any elementary or secondary school facility; any junior college, community college, college or university facility unless for the purpose of participating in any authorized firearms-related activity; inside the passenger terminal of any airport, except that no person shall be prohibited from carrying any legal firearm into the terminal if the firearm is encased for shipment, for purposes of checking such firearm as baggage to be lawfully transported on any aircraft; any church or other place of worship; or any place where the carrying of firearms is prohibited by federal law. In addition to the places enumerated in this subsection, the carrying of a stun gun, concealed pistol or revolver may be disallowed in any place in the discretion of the person or entity exercising control over the physical location of such place by the placing of a written notice clearly readable at a distance of not less than ten (10) feet that the "carrying of a pistol or revolver is prohibited." No license issued pursuant to this section shall authorize the participants in a parade or demonstration for which a permit is required to carry a stun gun, concealed pistol or revolver.

(Emphasis added).

A location with a sign reading "carrying of a pistol or revolver is prohibited" is one of the locations listed in subsection (13); therefore, it is also not a violation of the concealed weapons statute for an endorsement permit holder to carry concealed weapons on county property, including the courthouse, which has such a sign posted on it.

Of course, persons with or without weapons and with or without firearms permits may be excluded from non-public areas of the courthouse, such as judges' or clerks' personal offices, areas behind the counter, etc.

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By:



Michael Lanford
Deputy Attorney General