
STATE OF MICHIGAN

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CONCEALED WEAPONS:

FIREARMS:

LAW ENFORCEMENT:

MUNICIPALITIES:

POLICE:

Outdoor park as "entertainment facility" constituting gun-free zone established by Concealed Pistol Licensing Act

A municipal outdoor recreation park does not, by itself, constitute an "entertainment facility" within the meaning of section 5o(1)(f) of the Concealed Pistol Licensing Act, and thus is not a gun-free zone as established by that statute.

Opinion No. 7120

December 4, 2002

Honorable Mike Kowall
State Representative
The Capitol
Lansing, Michigan 48913

You have asked whether a municipal outdoor recreation park, by itself, constitutes an "entertainment facility" within the meaning of section 5o(1)(f) of the Concealed Pistol Licensing Act that creates gun-free zones.

We understand that by the use of the term "outdoor recreation park" you mean a natural area of land and water, consisting of lawns, trees, gardens, picnic tables, baseball diamonds, tennis courts, ponds, lakes, or rivers.

The Concealed Pistol Licensing Act, 1927 PA 372, MCL 28.421 *et seq,* regulates the possession and carrying of concealed pistols. The Act prohibits persons from carrying a concealed pistol unless they have been licensed in accordance with the provisions of that Act. Amendatory 2000 PA 381 made significant changes to the Act. Section 5b(7) sets forth specific qualifications a person must possess in order to receive a license to carry a concealed pistol and further provides that a county concealed weapon licensing board "shall issue a license" to an applicant who meets those requirements. The Act also provides that a person who is issued a license under the Act may carry a concealed pistol "anywhere in this state" except in certain

designated classes of locations listed in section 5o of the Act. Section 5c(2). Those excepted locations, commonly referred to as "gun free zones," include the following:

> (f) An entertainment facility that the individual knows or should know has a seating capacity of 2,500 or more individuals or that has a sign above each public entrance stating in letters not less than 1-inch high a seating capacity of 2,500 or more individuals.

The statutory term "entertainment facility" is not defined by the Legislature. The question therefore arises whether a municipal outdoor park, as described in your request, constitutes an entertainment facility for purposes of the gun-free zones created by section 5o(1)(f) of the Act. Words not defined by the Legislature are to be given their generally understood meaning consistent with the intent of the Legislature. *Royal Globe Ins Co v Frankenmuth Mutual Ins Co,* 419 Mich 565, 573; 357 NW2d 652 (1984). Courts will consult dictionaries to ascertain the meaning of undefined statutory terms unless the legislative intent may be discerned from the statute itself. *People v Stone,* 463 Mich 558, 563; 621 NW2d 702 (2001). The term "entertainment" is defined as an act to divert, amuse or to cause someone's time to pass agreeably, such as a concert. *Webster's Third New International Dictionary, Unabridged* (1964). The term "facility" is defined as something built or constructed to perform some particular function. *Id.*

A reading of all the words contained in section 5o(1)(f) of the Act supports the conclusion that the Legislature intended that the term "entertainment facility" constitute a structure or building that has a known seating capacity of 2,500 or more persons, or that has signs above each public entrance stating that the facility has a seating capacity of 2,500 or more persons. Since the Legislature has not required that an entertainment facility be totally self-enclosed, such a facility could consist of a bandshell, amphitheater, or similar structure, provided it has the required, known seating capacity noted above or has appropriate signage above each public entrance indicating a seating capacity of 2,500 or more. This reading of section 5o(1)(f) is supported by the legislative history of 2000 HB 4530, enacted as 2000 PA 231. Both House Legislative Analyses, HB 4530, June 8, 1999, and January 4, 2001, state that HB 4530 would "[p]rohibit a licensee from carrying a concealed weapon in certain public places, such as a school, theater, sports arena, library, or hospital." There is no mention in either bill analysis that an outdoor recreation park, by itself, would constitute a gun-free zone. It is appropriate to rely on the legislative history because of the ambiguity in the statutory language. *Luttrell v Dep't of Corr,* 421 Mich 93, 103; 365 NW2d 74 (1985).

While the Legislature could certainly have included municipal and other outdoor recreation parks within the Act's list of gun-free zones, it chose not to do so. An entertainment facility having a seating capacity of 2,500 or more persons clearly refers to a building or other structure. Accordingly, if an outdoor recreation park includes a band shell, amphitheater, or similar structure that has the required seating capacity, that portion of the park would constitute a gun-free zone under section 5o(f) of the Act.

Finally, section 5o of the Act is a penal statute that must be strictly construed unless the Legislature indicates otherwise. MCL 750.2; *People v Gilbert,* 414 Mich 191, 211; 324 NW2d 834 (1982). There is nothing in the Concealed Pistol Licensing Act or in its legislative history to suggest that this statute be construed in a manner different from the plain language adopted by the Legislature.

It is my opinion, therefore, that a municipal outdoor recreation park does not, by itself, constitute an "entertainment facility" within the meaning of section 5o(1)(f) of the Concealed Pistol Licensing Act, and thus is not a gun-free zone as established by that statute.

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