

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

Attorney General Issues Opinion to Clarify Gun Carry

December 5, 2013

Contact: Jan Schaefer
Public Information Officer
601-359-2002
jscha@ago.state.ms.us

Jackson, MS- An opinion released by Attorney General Jim Hood outlines where concealed stun guns, revolvers and pistols can be carried by enhanced permit holders on public property even where the state or local governmental entity has posted signage prohibiting the carrying of weapons. While the Office of the Attorney General seldom does press releases on opinions released from the Opinions Division, Attorney General Jim Hood hopes the opinion will provide the public with a more definitive list of where they can and cannot carry with the enhanced permit.

"Our office has been asked to issue a series of opinions regarding the open carry, concealed carry and enhanced carry of firearms," said Attorney General Hood. "I think this most recent opinion was a good effort to summarize our convoluted gun laws, and particularly our enhanced carry statutes. It contains a concise list of places a person with an enhanced carry permit may carry. I hope it will serve as a guide to advanced permittees, public officials and law enforcement."

The opinion, written to the City of Corinth, outlines the following places where the Mississippi statutes authorize a person with an enhanced permit to carry regardless of signage posted by a state governmental entity:

1. Any polling place. – (Other than the Section 45-9-101(13) prohibiting regular permit holders from carrying in polling places, Mississippi Code Sections 23-15-895 (relating to armed candidates) and 97-13-29 (military officer keeping armed troops within one mile of an election) are the only other state law restrictions regarding firearms in polling places.)
2. Any meeting place of the governing body of any governmental entity. – (It is the opinion of this office that the phrase meeting place means the room in which a meeting transpires as opposed to the entire building. Thus, although an enhanced permit holder would be entitled to carry a concealed pistol or revolver into a meeting place, that individual would not have unfettered gun carrying access to places within the building that are not generally open to the general public. See MS AG Op. Cantrell (Oct. 1, 2013)).
3. Any meeting of the Legislature or a committee thereof. – (Notwithstanding this language, it is the understanding of this office that the House and the Senate have each passed rules or regulations restricting the right of individuals to carry weapons at meetings of the Legislature or its committees.)

4. Any school, college or professional athletic event not related to firearms. – (This provision authorizes an enhanced permit holder to carry a stun gun, concealed pistol or revolver into non-firearm related events even if signage is posted pursuant to Section 45-9-101(13). However, if signage were posted relating to a **firearm related** school, college or professional event, enhanced permit holders would not be authorized to carry their weapons.)
5. Any portion of an establishment, licensed to dispense alcoholic beverages for consumption on the premises, that is primarily devoted to dispensing alcoholic beverages. -- (This provision would only have applicability to governmental entities to the extent that such entities owned an establishment that was primarily devoted to consuming alcoholic beverages.)
6. Any portion of an establishment in which beer or light wine is consumed on the premises, that is primarily devoted to such purpose. -- (This provision would only have applicability to governmental entities to the extent that such entities owned an establishment that was primarily devoted to consuming beer or light wine.)
7. Any elementary or secondary school facility. – (See MS AG Op. Cantrell (Oct. 1, 2013)).
8. Any junior college, community college, college or university facility.
9. Inside the passenger terminal of any airport. – (Any person may bring a weapon into a passenger terminal if brought in for the purposes of properly lawfully checking or shipping such weapon. An enhanced permit holder could of course still be arrested under federal law for possessing a weapon in areas prohibited by federal law.)
10. Any church or other place of worship. (Practically speaking this provision would not apply to public entities who do not own or control places of worship. This provision has little practical value because private land owners can generally always allow or disallow anyone from carrying a weapon on their private property regardless of whether the state has granted a license. – See MS AG Op. Cantrell (Oct. 1, 2013)).
11. Any place where the carrying of firearms is prohibited by federal law. – (This provision can only be read to mean that an enhanced permit holder carrying a weapon on prohibited federal property would not be subject to prosecution for state law violations. The federal government certainly could and probably would prosecute anyone bringing a weapon into an unauthorized area regardless of the person’s possession of a state permit.).
12. In a parade or demonstration for which a permit is required.
13. In courthouses except in courtrooms during a judicial proceeding. -- (The right to carry in courthouses except in courtrooms during judicial proceedings is granted to enhanced permit holders expressly by Section 97-37-7 without reference to Section 45-9-101(13). Section 45-9-101(13) states that regular permit holders may not carry in “courthouses” or “courtrooms” with the caveat that nothing contained therein precludes a judge from determining who “will” carry a weapon “in his courtroom.” Presumably under this authority, a judge has authority to determine who will, who can and who cannot carry a weapon in his courtroom. However, the governing authority of the jurisdiction, whether municipal or county could restrict a regular permit holder from initial entry into the courthouse, as opposed to the courtroom, by posting a sign. However, such signage could not prevent an enhanced permit holder from entry into the courthouse. Under no interpretation of the law would either a regular or enhanced permit holder be authorized to carry a firearm into a courtroom during a judicial proceeding unless authorized by the judge. Likewise, as noted above, an individual would not have unfettered gun carrying access to places within the building that are not generally open to the general public. See MS AG Op. Cantrell (Oct. 1, 2013).

This opinion does not affect the rights of property owners or custodians as follows:

1. Private landowners may post signs or otherwise prevent carrying of onto weapons onto their private property.
2. State or local governmental entities may prohibit concealed carry by enhanced permit holders into areas posted with no weapons signage if the place is not one of the 13 enumerated places above.
3. Federal installations and buildings can prohibit the carrying of weapons regardless of these state statutes.

The opinion likewise points out that an enhanced permit holder who carries a weapon onto property in a place not listed in the 13 places above in violation of a posted sign could be charged for criminal trespass

The following list identifies places which by statute you cannot carry regardless of the type of permit you have:

1. Any place of nuisance defined in Section 95-3-1 which would include "any place . . . in or upon which lewdness, assignation or prostitution is conducted, permitted, continued or exists or any other place . . . or upon which a controlled substance as defined in section 41-29-105 . . . is unlawfully used, possessed, sold or delivered and the personal property and contents used in conducting or maintaining any such place for any such purpose. See Miss. Code Ann. Section 95-3-1 (as amended).
2. Any police, sheriff or highway patrol station.
3. Any detention facility, prison or jail

A full copy of this opinion is attached and can also be found at www.agjimhood.com.

###