



**STATE OF ARKANSAS**  
**THE ATTORNEY GENERAL**  
**DUSTIN McDANIEL**

Opinion No. 2014-002

May 1, 2014

The Honorable John T. Vines  
State Representative  
123 Market Street  
Hot Springs, Arkansas 71901-5308

The Honorable Bruce Cozart  
State Representative  
420 Rock Creek Road  
Hot Springs, Arkansas 71913

Dear Representatives Vines and Cozart:

You have requested my opinion regarding A.C.A. § 5-73-306, which specifies certain locations where concealed-carry licensees cannot carry their handguns. Your question pertains specifically to subsection 5-73-306(3), which states:

No license to carry a concealed handgun issued pursuant to this subchapter authorizes any person to carry a concealed handgun into:

\* \* \*

(3)(A) Any building of the Arkansas State Highway and Transportation Department or onto grounds adjacent to any building of the Arkansas State Highway and Transportation Department.

(B) However, subdivision (3)(A) of this section does not apply to a rest area or weigh station of the Arkansas State Highway and Transportation Department[.]

You state that this subsection “appears to apply to privately owned and privately controlled property adjacent to any [Arkansas State Highway and Transportation Department, hereinafter “Department”] building, with the exception of ‘rest area or weigh station’ property specifically excluded in -306(3)(B).” You then ask:

Is this a correct reading? Specifically, does this statute prohibit the carrying of a concealed handgun onto the private property that is

adjacent to the large complex that constitutes the state headquarters of the Department on Interstate 30 in Little Rock? Moreover, if the Department were to purchase a property containing a building that was adjacent to private property, would that effectively disallow the carrying of a concealed handgun on that private property?

## RESPONSE

In my opinion, A.C.A. § 5-73-306(3)(A) is properly interpreted as applying to grounds that are owned or controlled by the Department and that are adjacent to a Department building. I must therefore disagree with your reading of this subsection. In response to your specific questions, it is my opinion that subsection 5-73-306(3) does not prohibit the carrying of a concealed handgun onto private property based simply on that property's proximity to the Department headquarters or other property owned by the Department.

## DISCUSSION

Your inquiry focuses on a subsection that is one of nineteen in A.C.A. § 5-73-306 specifying certain locations where concealed handguns may not be carried even with a license. The subsection at issue addresses the Arkansas State Highway and Transportation Department. In sum, with the exception of a Department "rest area or weigh station," it identifies the prohibited locations as any "building of the [Department]" and "grounds adjacent to any building of the [Department]." Your inquiry centers on this latter reference to adjacent grounds, and specifically whether it applies to private property.

In resolving that question, we are guided by well-established principles of statutory interpretation. Of course, the cardinal rule is to give full effect to the General Assembly's intent.<sup>1</sup> The first step to achieving that goal is to examine the ordinary meaning of the statute's wording.<sup>2</sup> The statute must be read as a whole, ensuring that no word is left void or superfluous.<sup>3</sup> When ascertaining the meaning of a word or phrase, the language must be considered in the context of the statute

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<sup>1</sup> *Flowers v. Norris*, 347 Ark. 760, 68 S.W.3d 289 (2002).

<sup>2</sup> *Yamaha Motor Corp. v. Richard's Honda Yamaha*, 344 Ark. 44, 52, 38 S.W.3d 356 (2001).

<sup>3</sup> *Ford v. Keith*, 338 Ark. 487, 494, 996 S.W.2d 2 (1999).

as a whole.<sup>4</sup> If this reading indicates that the statute is ambiguous — which occurs when the statute is open to two or more plausible readings — only then do we resort to the rules of statutory construction. Under these rules, we assess (among other things) the statute’s amendatory history, language, subject matter, and statements of legislative intent.<sup>5</sup>

Applying these principles, I read the phrase “grounds adjacent to any building of the [Department]” in A.C.A. § 5-73-306(3)(A) to mean grounds that are either owned or controlled by the Department. This reasonably follows, in my opinion, from a reading of the phrase in the context of both -306(3) and the statute as a whole, which is essential to determine its meaning.<sup>6</sup> With one exception, the other prohibited places listed in the statute are all publicly accessible and owned or controlled by the person or entity providing the particular service or function, whether that be governmental, recreational, educational, religious, or otherwise generally related to the public.<sup>7</sup> This includes both the prohibited places as well as the exceptions to the concealed-carry prohibitions.<sup>8</sup> The one exception to this common theme of public access is the subsection pertaining generally to “[a]ny place” within the “control” of a “person or entity.”<sup>9</sup> Carrying a handgun is prohibited if the person or entity “exercising control over the physical location of the place” posts a notice that effect.<sup>10</sup> This provision presumably extends to privately-owned places, but it clearly echoes the “control” element common to the other specified locations and thus further supports the conclusion that “grounds

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<sup>4</sup> *Green v. Mills*, 339 Ark. 200, 205, 4 S.W.3d 493 (1999).

<sup>5</sup> *Macsteel v. Arkansas Oklahoma Gas Corp.*, 363 Ark. 22, 30, 210 S.W.3d 878(2005).

<sup>6</sup> *Compare* Op. Att’y Gen. 2013-013 (Addressing the meaning of the word “place” as used in § 5-73-306 and, based on a reading of the statute as a whole, questioning whether a city sidewalk is a place of the sort generally subject to -306(19)(A), which authorizes a prohibition of handguns by posting).

<sup>7</sup> -306(3)(B), (1), (2), (4) – (10), (15), (17) (governmental); (11) – (13), (18) (recreational); (14) (educational); (15) (travel); (16) (religious) (17) (federally-related).

<sup>8</sup> -306(3)(B) (exception for a Department “rest area or weigh station.”); (6)(B) (judge’s determination); (14)(B)(religious-affiliated schools exception); (15) (legal firearm encased for shipment via air transport); (16)(B) (church determination).

<sup>9</sup> -306(19)(A)(i).

<sup>10</sup> *Id.* at (i) – (ii).

The Honorable John T. Vines  
The Honorable Bruce Cozart  
State Representatives  
Opinion No. 2014-002  
Page 4

adjacent to any [Department] building” means grounds within the Department’s ownership or control.

In response to your specific questions, therefore, it is my opinion that your reading of A.C.A. § 5-73-306(3) is incorrect and that this subsection does not prohibit the carrying of a concealed handgun onto private property based simply on the property’s proximity to the Department headquarters or other property owned by the Department.

Deputy Attorney General Elisabeth A. Walker prepared the foregoing opinion, which I hereby approve.

Sincerely,



DUSTIN MCDANIEL  
Attorney General

DM:EAW/cyh