

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

January 5, 2012

Hank M. Bounds
Commissioner of Higher Education
3825 Ridgewood Road
Jackson MS 39211

Re: Firearms and Permits on Campus

Dear Commissioner:

Attorney General Jim Hood has received your request for an Official opinion and has assigned it to me for research and reply. We set out your questions followed by our response.

Question No. 1: Can university police departments, institutional security officers, and other Mississippi law enforcement officials continue to enforce Section 97-37-17 notwithstanding the amendment of Section 97-37-7?

Answer: Yes, but not against a holder of a firearms permit with the training endorsement. See discussion below.

Question No. 2: Since Section 97-37-17 is not ambiguous, should not the statute be applied according to its plain meaning or terms, thus allowing university police department, institutional security officers, and other law enforcement officials to enforce that statute as to all persons notwithstanding the issuance of a permit license with endorsement?

Answer: No. When statutes deal with the same subject matter, as here, there must be applied the well-established rule that statutes *in pari materia*, although in apparent conflict, should, so far as reasonably possible, be construed in harmony with each other so as to give force and effect to each. *Greaves v. Hinds County*, 166 Miss. 89, 145 So. 900 (1933).

Section 97-37-17 broadly prohibits possession of a firearm on any educational property, which includes property owned, used or operated by any university. Several exceptions exist, including one for "any person as authorized in Section 97-37-7 while in the

performance of his official duties.” We believe that this exception is limited to those persons listed in 97-37-7 having official duties inherent in their position, and does not apply to “enhanced permit” holders. Nevertheless, the language of 97-37-7 itself creates the exception for enhanced permit holders:

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.

(Emphasis added). Listed in subsection (13) of Section 45-9-101 is “any junior college, community college, college or university facility” as well as “any school, college or professional athletic event not related to firearms,” as well as meetings of the Legislature, elementary and secondary schools, and airport terminals.

The prohibition against possession of firearms applies to all educational property owned, used or operated by a university. The exception is somewhat less broad, being limited to any university facility and athletic event. In any case, Section 97-37-17 continues to operate against all persons, with endorsement permit holders being excepted therefrom. As stated in *White v. Lowry*, 162 Miss. 751, 758, 139 So. 874, 876 (1932), “Where a statute contains both a particular and a general enactment, and the general enactment in its most comprehensive sense would include what is embraced in the particular one, the latter must be given effect as to all cases which fall within the particular provision, and the general enactment must be taken to embrace only such cases within its general language as are not within the provisions of the particular enactment.”

Reading the statutes together, it is our opinion that Section 97-37-7 of the Mississippi Code constitutes an exception to Section 97-37-17.

Question No. 3: Section 45-9-101(13) provides in part “. . . 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.’” Under applicable law, does a university have the option of preventing weapons on its campus, notwithstanding the amendment to Section 97-37-7, by posting notices as authorized by Section 45-9-101(13)?

Answer: No. See MS AG Op., Johnson (Aug. 31, 2011)(Sheriff may not outlaw endorsement permit holders by erecting sign forbidding firearms in courthouse since the exception applies to places where signs are erected).

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Question No. 4: If Section 97-37-7 allows persons with a valid license with endorsement to carry a pistol, revolver or weapon onto a university campus, can university police departments or institutional security officers require permitted individuals to visit the police or security department upon entering campus for the purpose of producing the license with endorsement and thereby verifying lawful authority to possess and carry pursuant to the license?

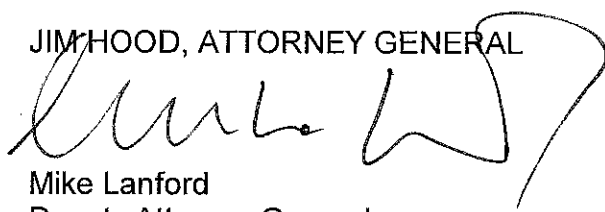
Answer: No. However, the "licensee must carry the license, together with valid identification, at all times in which the licensee is carrying a stun gun, concealed pistol or revolver and must display both the license and proper identification upon demand by a law enforcement officer." Miss. Code Ann. Section 45-9-101 (1)(b) (emphasis added). It is our opinion that this statute only requires the licensee to produce the license where the licensee is found, upon individual demand. The licensee cannot be required to visit a police department. We note that the University may restrict the general public, including persons with or without firearms and with or without permits, from entering non-public areas and buildings of the University. See MS AG Op., Johnson (Aug. 31, 2011).

The above opinion addresses the application of Mississippi's criminal statutes to persons visiting or otherwise present on university campuses. It does not prohibit IHL or the various universities from adopting admissions, employment or resident hall policies which administratively address the possession of firearms by enrolled students, university employees, dormitory residents etc. See Miss. Constitution of 1890, Section 213-A (Board of Trustees for the Institutions of Higher Learning has Constitutional authority to manage and control the various universities; and Section 37-101-15 (IHL to supervise university buildings and grounds and to prescribe rules and regulations for policing same).

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By:


Mike Lanford
Deputy Attorney General