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February 24, 2012

ATTORNEY GENERAL OPINION NO. 2012- 7

Michael C. Brown
City Attorney
P.O. Box 330
507 North 2nd Avenue
Mulvane, KS 67110

Re: State Departments, Public Officers and Employees—Firearms—Restrictions
on Carrying Concealed Handgun on Certain Property; Exceptions

Synopsis: A city may limit the concealed carry of firearms by persons licensed under the Personal and Family Protection Act only by posting buildings as premises where carrying a concealed handgun is prohibited and/or by personnel policies. A city council may not allow *only* city council members to carry concealed handguns into city council meetings. Cited herein: K.S.A. 75-401; K.S.A. 2011 Supp. 75-7c10; 75-7c17.

* * *

Dear Mr. Brown:

As City Attorney for the City of Wellington (“the City”), you inquire whether members of a local governing body who are licensed to carry concealed handguns may do so at public meetings or work sessions conducted in a city-owned building, when such building is posted as premises where carrying a concealed handgun is prohibited, and when city personnel policies prohibit city employees from carrying concealed weapons while on duty or while on city premises. Specifically, you ask whether *only* city council members, but not members of the public or other city employees who hold concealed carry licenses, may carry concealed handguns into city council meetings. We believe the answer is no.

Your question requires an analysis of the Personal and Family Protection Act (“the Act”).¹ The Act allows holders of concealed carry licenses (“licensees”) to carry concealed firearms for the purposes of self-defense, except as otherwise provided by the Act.² Cities and counties may not regulate, restrict or prohibit licensees from carrying concealed weapons except as provided by K.S.A. 2011 Supp. 75-7c10(b).³

K.S.A. 2011 Supp. 75-7c10(b) provides two mechanisms by which a city may prohibit concealed carry in buildings in which city council meetings take place. First, a city may prohibit concealed carry in city buildings by posting such buildings as premises in which concealed carry is prohibited. K.S.A. 2011 Supp. 75-7c10(b) states in relevant part:

“Nothing in this act shall be construed to prevent:

. . .
(2) any private business or city, county or political subdivision from restricting or prohibiting persons licensed or recognized under this act from carrying a concealed handgun within a building or buildings of such entity, provided that the premises are posted in accordance with rules and regulations adopted by the attorney general . . . as premises where carrying a concealed handgun is prohibited.”

You note in your letter that the building in which Wellington City Council meetings take place is posted pursuant to the above statute.⁴ The Act does not authorize a private business or city, county or political subdivision to prohibit only *selected* concealed carry licensees from carrying concealed firearms into a building posted pursuant to K.S.A. 2011 Supp. 75-7c10(b)(2). By posting a building in this manner, a city has indicated that “*no license* issued pursuant to or recognized by this act shall authorize the licensee to carry a concealed handgun”⁵ into such building. In other words, a posted building prohibits *all* concealed carry licensees from carrying concealed weapons into the building, and in the absence of such posting all licensees are permitted to carry into the building. The only exceptions to this rule do not apply in this case.⁶

The second means by which a city may limit concealed carry on city premises is by personnel policies prohibiting employees licensed to carry concealed weapons from

¹ K.S.A. 2011 Supp. 75-7c01 *et seq.*

² See, e.g., K.S.A. 2011 Supp. 75-7c10(a) (listing certain buildings which may be posted as premises where carrying a concealed handgun is prohibited), and K.S.A. 2011 Supp. 75-7c12 (carrying a concealed handgun while under the influence of alcohol or drugs prohibited).

³ K.S.A. 2011 Supp. 75-7c17(a).

⁴ For the purposes of this opinion, we assume that such building is posted in accordance with rules and regulations adopted by the Attorney General (K.A.R. 16-11-7).

⁵ K.S.A. 2011 Supp. 75-7c10(a) (emphasis added).

⁶ K.S.A. 2011 Supp. 75-7c10(c)(2) (“...it is not a violation of this section for the United States attorney for the district of Kansas, the attorney general, any district attorney or county attorney, any assistant United States attorney if authorized by the United States attorney for the district of Kansas, any assistant attorney general if authorized by the attorney general, or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed, to possess a handgun within any of the buildings described in K.S.A. 2011 Supp. 75-7c10(a) or (b), subject to any restrictions or prohibitions imposed in any courtroom by the chief judge of the judicial district....”).

carrying such weapon while on the premises of the employer's business, or while the employee is on duty.⁷ The City of Wellington's personnel policy states that the City reserves the right to search an employee's office, desk, file cabinets and lockers for firearms.⁸ City policy further states that "possession of *unauthorized* firearms or other lethal weapons while on the job" is grounds for discipline.⁹ By these provisions, it appears that the City intended to prohibit the carrying of concealed firearms by employees pursuant to K.S.A. 2011 Supp. 75-7c10(b)(1).¹⁰

In conclusion, the Personal and Family Protection Act does not authorize cities or counties to limit concealed carry rights other than by posting buildings and/or by personnel policies pursuant to K.S.A. 2011 Supp. 75-7c10(b). The Act establishes a uniform right to carry for all licensees, subject to limited exceptions. In this case, it is not clear whether the City intended through its personnel policies to limit concealed carry by employees. However, because the city building in which Wellington City Council meetings are held is posted as prohibiting concealed carry, *no* concealed carry licensee may carry a firearm into such building. A city council may not selectively exclude licensees from carrying concealed firearms into city council meetings.

Sincerely,

Derek Schmidt
Kansas Attorney General

Sarah Fertig
Assistant Attorney General

DS:AA:SF:ke

⁷ K.S.A. 2011 Supp. 75-7c10(b)(1).

⁸ *Personnel Policies and Procedures Manual*, City of Wellington, § 8.5, p. 8-2 (December 2011).

⁹ *Id.* at § 11.4, p. 11-3 (emphasis added).

¹⁰ However, we note that the City's personnel policy does not define "unauthorized firearm." Because our opinion is limited to questions of law, we do not speculate as to the types of firearms the City intended to define as "unauthorized" or whether any firearms are in fact "authorized." If a city adopts a personnel policy that defines "unauthorized firearm" to exclude concealed firearms carried by employees who are licensees, such employees would still be subject to penalties pursuant to K.S.A. 2011 Supp. 75-7c10(c)(1) for carrying concealed firearms into any building posted as premises where concealed carry is prohibited.