

Arkansas Municipal League



Guns and Municipalities in Arkansas

May 2019

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Introduction

The Arkansas Legislature with Act 562 of the 2017 Arkansas Legislative Session expanded when people can carry concealed weapons on municipal property. It is a good time to review the law and ensure your city or town is prepared for the change.

Act 562 created a new concealed carry permit endorsement, which allows a person to carry a concealed handgun on public property with proper training. However, it is important to keep two things in mind. 1) This prohibition does not apply to open carried firearms, and 2) the city has authority to prevent concealed carry at physical locations under its control per Ark. Code Ann. § 5-73-306(18)(A).

Carrying in public buildings is not changed by the new law. Open carry is generally allowed in Arkansas, but Ark. Code Ann. § 5-73-122 prohibits carrying a loaded firearm or other deadly weapon in any publicly owned building or facility. Act 562 only provided an exception to this statute for concealed carry permit holders who have received additional training, a specific endorsement, and who are carrying a concealed weapon. See Ark. Code Ann. § 5-73-122(a)(3)(D).

Act 562 now allows a person who has completed the training and received the endorsement to carry a concealed handgun at city council meetings. However, municipalities may ban carrying a concealed handgun into any place under its control by placing at each entrance a written notice, clearly legible at not less than ten (10) feet, that “carrying a handgun is prohibited.” If the property has no roadway entrance, you must place a written notice anywhere upon the premises and post at least one (1) written notice for every three (3) acres of the property without a roadway entrance.

¹ This informational document is provided to members of the Arkansas Municipal League and is in no way to be considered legal advice. This is an educational document only.

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Carrying remains generally prohibited in public buildings

Generally, Ark. Code Ann. § 5-73-122 prohibits carrying a loaded firearm or other deadly weapon in any publically owned building or facility. It makes no distinction between concealed carry and open carry. The new amendments do not allow for open carrying if a person received the enhanced conceal carry permit. In fact, the new language states that a person who “completes a training course and obtains an endorsement ... is exempted from the prohibitions and restrictions on ... [c]arrying a firearm in a publicly owned building or facility under § 5-73-122, *if the firearm is a concealed handgun...*” Ark. Code Ann. § 5-73-322(h)(1).

Carrying “in any publicly owned building or facility” remains a Class A misdemeanor. Ark. Code Ann. § 5-73-122. Keep in mind, “‘facility’ means a municipally owned or maintained park, football field, baseball field, soccer field, or another similar municipally owned or maintained recreational structure or property.” See Ark. Code Ann. § 5-73-122.

Enhanced concealed carry in public buildings is presumed allowed unless specifically prohibited by municipal action under Ark. Code Ann. § 5-73-306(18)

Pursuant to Act 562, a person is allowed to carry a concealed weapon on public property provided they have completed the required additional training and have the requisite endorsement. Ark. Code Ann. § 5-73-322(g). Prior to Act 562, a person could not carry a concealed handgun at a “meeting place of the governing body of any governmental entity.” Ark. Code Ann. § 5-73-306(7). However, if the person obtains the proper training and endorsement under Act 562 they can carry a concealed handgun at those places. Ark. Code Ann. § 5-73-322(g),

Act 562 does not prohibit the person or entity in control of the property to ban concealed weapons pursuant to Ark. Code Ann. § 5-73-306(18). This section states that a person cannot carry a concealed handgun into any place where the person or entity exercising control over the physical location has placed at each entrance a written notice, clearly legible at not less than ten (10) feet, that “carrying a handgun is prohibited.” If the property has no roadway entrance, you must place a written notice anywhere upon the premises and post at least one (1) written notice for every three (3) acres of the property without a roadway entrance.

The attorney general has twice opined that § 5-73-306(18) applies to municipalities. See Ark. Op. Att’y Gen. No. 2013-013 (May 1, 2013) (“As reflected in the highlighted passage above, any ‘entity’ - a category I believe includes a city”); and Ark. Op. Att’y Gen. No. 2003-244 (Aug. 18, 2003) (“It is my opinion that a municipality . . . may prohibit persons who have concealed handgun permits from carrying concealed handguns in city parks, by the posting of signs”).

Summary

This area of the law is very complicated and developing. While there are no court opinions interpreting Act 562 in relationship to other related statutes, it seems that, essentially, a municipality may prohibit enhanced concealed carry on its property by placing signs as required by Ark. Code Ann. § 5-73-306(18). There is no change in the law regarding carrying in public buildings as that remains prohibited by Ark. Code Ann. § 5-73-122. Thus, either by state law or local action, concealed carry may be prohibited on municipal property and open carry remains prohibited in municipal buildings.



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