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## Prohibited areas and signage: The hidden issues that remain for local governments with concealed carry

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Local governments are highly advised to understand the nuances of restricted areas for carrying concealed weapons pursuant to the Concealed Carry Act.[1] Some locations that the Act enumerates as restricted areas for concealed carry come as little surprise, such as classrooms, daycare centers, and courthouses, and these locations also prohibit firearms from being brought into the parking areas of those facilities.[2] Municipal parks are also areas where firearms may not even be brought to the parking area.[3] Therefore, all local government designated park property is automatically a restricted area for concealed carry, although there is a narrow exception that allows a person traveling through a park on a trail or bike path to carry a concealed firearm.[4]

Municipally owned or controlled buildings, however, are treated differently. While municipal *buildings* are prohibited areas, licensees must be allowed to carry a concealed weapon while driving to those buildings and to secure the firearm in their vehicles in the parking areas.[5] Furthermore, the Act only specifies that the buildings themselves are restricted areas, implicitly suggesting that the actual outside premises is not a restricted area for concealed carry and that a licensee could stroll around a municipal building (a police station for example) with a concealed weapon so long as it is not brought inside the threshold of the building.[6] An argument could certainly be made that such was not the intention of the Act, and that the ability to carry a weapon only extends to allow the licensee to drive with a weapon to the premises and leave the weapon in the vehicle. A pure reading of the statutory language, however, does not indicate such a restriction if it was indeed intended.

To further complicate this nuance regarding municipal property, the Act expressly preempts a unit of local government from enacting any further prohibitions on licensees than what is restricted within the Act.[7] What this means is that a local government could not pass its own ordinance banning *all* firearms in the open spaces of municipal property, although the local government could pass such an ordinance so long as it was not applicable to licensees. An absurdity may well exist with this preemption because while the owner of private property could choose to restrict licensees from leaving their vehicles with firearms anywhere on private property,[8] local governments do not have the same ability to require licensees to keep firearms in their vehicles only.

With this basic understanding of how the restricted areas work for municipal property, another soft area in the Act becomes visible regarding signage. On one hand, the prohibited areas under the Act are expected to be understood and obeyed by licensees. Violations of the restricted areas are criminal in nature and may result in the revocation of the concealed carry license for the violator.[9] On the other hand, the Act also provides that restricted signage must be "conspicuously" posted at the entrance of any area that prohibits concealed carry.[10] The Act does not specifically address whether a licensee who brings a concealed firearm onto unmarked park property, for example, would still be criminally liable for the action.

There is a "knowing" *mens rea* requirement for licensee violations of restricted areas, which leaves a gray area as to what would put a licensee on reasonable notice that an area is restricted.[11] Again, a licensee is expected to know and understand the law regarding concealed carry, which includes the listing of prohibited areas.[12] A good argument could be made that bringing a concealed handgun into a courthouse, school, or municipal building would presumptively satisfy the *mens rea* requirement, because a licensee is expected to know those are restricted areas before the license is issued. The counter-argument would also be good in that the Act requires the owner of prohibited property to post clearly visible signage to that effect, and thus there is a requisite for an owner of any such property to post signage if the law is going to be enforced against a violator.[13] A well-reasoned view of this potential conflict may conclude, as with a good law school exam answer, that it depends. The court system may well need to resolve these arguments in different factual scenarios before the answer is clear.

The best practice would be to err on the side of posting too many signs. Park property should have signage posted at all entrances for all types of vehicles, as well as where people are likely to enter by foot. Considering the bike path exception, described above, it is also advisable to post a sign anywhere a bike traveler would exit the path while in the park, such as by restrooms. Municipal

buildings should also have signs posted by all public entrances. Parking areas may also make reference to the fact that firearms are not allowed in the buildings, but an attempt to restrict licensees from carrying firearms in the parking or open areas of the property may well be challenged and ruled to be invalid.

Another concept, if local governments are concerned with the open space exception under the Act, would be to consider making the outside of certain municipal buildings designated park areas. Keeping in mind that the Concealed Carry Act was enacted in large part on the basis of the Second Amendment, a municipality is well-advised to not choose this option frivolously as a way to "bullet-proof" all municipal property from allowing handguns, but where the space has a nexus with a true park purpose, whether recreational or aesthetic. ■

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1. Public Act 098-0063, *codified in part as* 430 ILCS 66.
2. 430 ILCS 66/65.
3. Sec. 65(a)(13).
4. *Id.*
5. Sec. 65(a)(5) and Sec. 65(b).
6. Sec. 65(a)(5).
7. Sec. 90 ("Any ordinace or regulation, or portion thereof . . . that purports to impose regulations on licensees or handguns . . . in a manner inconsistent with this Act shall be invalid in its application to licensees under this Act . . . .").
8. Secs. 65(a-10), (b).
9. Secs. 65(a), 70.
10. Sec. 65(a). The Act also requires that the signage be 3" x 5" in size and in accordance with Illinois State Police standards, but as of the time this article is written, the Illinois State Police have not issued these standards. Verbiage, font size, font type, and color of the signage is yet to be determined.
11. Sec. 65(a) ("A licensee . . . shall not knowingly carry a firearm on or into [restricted areas].").
12. Sec. 75(b)(4).
13. Sec. 65(a).