

01-080

CRIMES AND OFFENSES GENERALLY: CRIMES INVOLVING HEALTH AND SAFETY – OTHER
ILLEGAL WEAPONS.

CONSERVATION: PARKS AND RECREATION – STATE PARKS — GENERAL PROVISIONS –
DEPARTMENT OF CONSERVATION AND RECREATION.

**Person with concealed weapons permit is prohibited from carrying
concealed weapon onto property within territorial scope of Virginia State
Parks Regulations.**

The Honorable Richard H. Black
Member, House of Delegates
December 6, 2001

You ask whether the firearms regulation contained in the Virginia State Parks
Regulations¹ duly adopted by the Department of Conservation and Recreation
conflicts with § 18.2-308 of the *Code of Virginia*.

You advise that a hunter education instructor for the Department of Game and
Inland Fisheries believes that a conflict exists between § 18.2-308 and the
regulation. The instructor advises that the firearms regulation prohibits individuals
with a valid concealed weapon permit from bringing firearms on the lands
controlled by the Department of Conservation and Recreation.

Section 18.2-308 sets forth the prerequisites for carrying concealed weapons.
Specifically, § 18.2-308(O) provides that the granting of a concealed weapons
permit does not authorize the possession of such weapons "on property or in
places where such possession is otherwise prohibited by law." Consequently, the
Attorney General concludes in a 1995 opinion that a concealed handgun permit
allows the holder to carry a handgun in an area *not otherwise prohibited*,
because the granting of a concealed handgun permit merely exempts an
individual from the general prohibition.² Similarly, a 2000 opinion notes that,
where the carrying of a concealed weapon is otherwise prohibited by law, the
authority under § 18.2-308 to carry a concealed weapon is negated.³

The firearms regulation adopted by the Department of Conservation and
Recreation provides:

No person except employees, police officers, or officers of the
department [of Conservation and Recreation] shall carry or
possess firearms of any description, or airguns, within [a state]
park. This regulation shall not apply in areas designated for
hunting by the Department of Conservation and Recreation.^[4]

Additionally, the territorial scope of the Virginia State Parks Regulations

shall be effective within and upon all state parks, historical and
natural areas, roads, sites and other recreational areas in the
Commonwealth which may be under the jurisdiction of the

Department of Conservation and Recreation and shall regulate the use thereof by all persons.^[5]

The Department of Conservation and Recreation is the state agency responsible for the management of all state parks.⁶ Section 10.1-104(A)(4) authorizes the Department "[t]o prescribe rules and regulations necessary or incidental to the performance of duties or execution of powers conferred by law." Therefore, the Department clearly and unambiguously is charged with both the responsibility and the authority to regulate the property at issue.

Thus, in accordance with the prior opinions of the Attorney General on this subject and in light of the properly promulgated regulations of the Department of Conservation and Recreation, I am required to conclude that a person with a concealed weapons permit is prohibited from carrying a concealed weapon onto property falling within the purview of these regulations.

¹4 VAC 5-30-10 to 5-30-400 (Law. Coop. 1996).

²1995 Op. Va. Att'y Gen. 118, 119 (concluding that person who possesses concealed weapons permit is still prohibited from carrying concealed handgun into business that serves alcoholic beverages on premises).

³2000 Op. Va. Att'y Gen. 100, 101 (concluding that person who possesses concealed weapons permit is still prohibited from possessing firearms on school property or school buses).

⁴4 VAC 5-30-200.

⁵4 VAC 5-30-30.

⁶See Va. Code Ann. §§ 10.1-200 to 10.1-205 (Michie Repl. Vol. 1998 & Supp. 2001).

[Back to December Index](#)