

# OFFICE OF THE ATTORNEY GENERAL



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STATE OF ALABAMA

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Honorable Grady Rose  
Sheriff of Lawrence County  
Courthouse Annex  
Moulton, AL 35650

Sheriffs - Firearms - Hunters  
and Hunting

Section 9-11-304 does not  
apply to firearms carried on  
public rights-of-way or  
private property.

Dear Sheriff Rose:

This opinion is issued in response to your request for  
an opinion from the Attorney General.

## QUESTION

Section 9-11-304, Code of Alabama  
1975, appears to prohibit the carrying or  
possession of firearms within a wildlife  
management area. How does this statute  
relate to the constitutional right to keep  
and bear arms, particularly in regard to  
the possession of hunting and/or personal  
protection firearms on a wildlife  
management area by citizens who reside  
within such area, the possession of  
personal protection firearms for those  
citizens whose employment, trade or  
occupation requires their being within the  
management area on a regular basis, and  
possession of a personal protection  
firearm by any citizen present but not  
hunting within a wildlife management area?

FACTS, LAW AND ANALYSIS

Amendment 2 to the Constitution of the United States provides: "a well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed." The 1901 Constitution of Alabama carries forward from the 1875 Constitution and, from previous Constitutions, the provision in Section 26, "that every citizen has a right to bear arms in defense of himself and the state."

Section 9-11-304, provides:

"The carrying or possession of firearms within any wildlife management area, except while in possession of a valid permit allowing this privilege, is prohibited; provided, that the provisions of this section shall not apply to any authorized law enforcement officer nor to any officer of the United States Forest Service, the United States Bureau of Biological Survey, or the Alabama Department of Conservation and Natural Resources while in the pursuit of his official duty." (Emphasis supplied.)

We have consulted with officials of the Department of Conservation who inform us that their policy is that § 9-11-304 does not apply on the public roads through wildlife management areas nor on privately held property contiguous to or surrounded by such an area.

Thus, possession of a firearm by a person driving on a public road through a wildlife management area does not constitute a violation of Section 9-11-304. By the same token the possession of a hunting or personal protection firearm by a person residing on private property surrounded by a wildlife management area is not a violation of Section 9-11-304.

The primary thrust of Section 9-11-304 of the Code is to prevent unlicensed hunting of wildlife within the management area. The statute, by its express terms, does not apply to authorized law enforcement officers, officers of the United States Forest Service, or the Bureau of Biological Survey, or the Alabama Department of Conservation and Natural Resources.

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CONCLUSION

Section 9-11-304, Code, does not apply to firearms carried on public rights-of-way or private property which pass through or are surrounded by a wildlife management area.

I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

JIMMY EVANS  
Attorney General  
By:



JAMES R. SOLOMON, JR.  
Chief, Opinions Division

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