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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

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Municipalities – Firearms – Hunters
and Hunting – Etowah County

Generally, the City of Glencoe can regulate the discharge of firearms, other than handguns, within its corporate limits. A city may adopt an ordinance making a violation of a state handgun law a violation of a municipal ordinance. It may designate the areas within the city limits where firearms may be discharged and may regulate the times and places a firearm can be discharged for hunting and nonhunting purposes, provided such ordinance or regulation is not inconsistent with state laws and regulations.

Dear Mr. Turnbach:

This opinion of the Attorney General is issued in response to your request on behalf of the City of Glencoe.

QUESTION

In view of sections 11-45-1.1 and 11-80-11 of the Code of Alabama, what is the authority of the City of Glencoe to regulate the discharge of firearms within its city limits?

FACTS AND ANALYSIS

The following facts are given in your request:

It would be the intent of the City of Glencoe to reasonably regulate the discharge of firearms by placing certain reasonable distance limitations from the point of discharge of a weapon to adjoining properties and adjoining dwellings. It would also grandfather organized hunting clubs that are in existence and that are of such a size that the discharge of high-powered rifles do not appear to impose a threat to properties not located within the hunting club properties.

Section 11-80-11 of the Code of Alabama was adopted in 2000 to bar a county or municipality from filing a lawsuit against the manufacturers, trade associations, and dealers of firearms under certain circumstances and to reserve that right to the State. This section reads as follows:

(a) No county or municipal corporation, instrumentality, or political subdivision thereof, by ordinance, resolution, or other enactment, shall regulate in any manner gun shows, the possession, ownership, transport, carrying, transfer, sale, purchase, licensing registration or use of firearms, ammunition, components of firearms, firearm dealers, or dealers in firearm components.

(b)(1) *Subsection (a) does not affect the authority a municipality has under law to regulate the discharge of firearms within the limits of the municipality* or the authority a county has under law enacted prior to August 1, 2000, to regulate the discharge of firearms within the jurisdiction of the county.

ALA. CODE § 11-80-11 (Supp. 2004) (emphasis added).

The fundamental rule of statutory construction is to ascertain and give effect to the intent of the Legislature in enacting the statute. *Norfolk S. Ry. Co. v. Johnson*, 740 So. 2d 392, 396 (Ala. 1999). The legislative intent may be gleaned from the language used, the reason and necessity for the act, and the purpose sought to be obtained by its passage. *Id.* at 396. A reading of section 11-80-11(b)(1) evidences that the Legislature intended to reserve the power that municipalities have under current law to regulate the discharge of firearms within the corporate limits.

In general, municipalities have the power to enact ordinances, not inconsistent with state law, to provide for the safety, health, and welfare of its citizens. ALA. CODE § 11-45-1 (1989). Municipalities also have the specific authority to “license, tax, regulate, restrain or prohibit . . . shooting galleries . . . when in the opinion of the council or other governing body, the public good or safety demands it . . . “ ALA. CODE § 11-51-102 (1994).

Section 11-45-1.1 of the Code of Alabama, relating to handguns, provides as follows:

No incorporated municipality shall have the power to enact any ordinance, rule, or regulation which shall tax, restrict, prevent, or in any way affect the possession or ownership of handguns by the citizens of this state. The entire subject matter of handguns is reserved to the State Legislature. This section shall not be construed to limit or restrict the power of a municipality to adopt ordinances which make the violation of a state handgun law a violation of a municipal ordinance to the same extent as other state law violations, or to limit or restrict the power of a municipal court to exercise concurrent jurisdiction with the district court over violations of state handgun laws which may be prosecuted as breaches of a municipal ordinance.

ALA. CODE §11-45-1.1 (Supp.2004). According to section 11-45-1.1, laws on the subject matter of handguns is reserved to the State. A municipality, however, may adopt ordinances making a violation of a state handgun law a violation of a municipal ordinance. This Office has opined that this section prohibits a city from adopting any kind of policy or ordinance that prohibits the possession of handguns, except the adoption of ordinances

making a violation of a state handgun law a violation of a municipal ordinance. Opinion to Honorable Kenneth E. Smith, Personnel Director, City of Decatur Personnel Board, dated August 28, 2001, A.G. No. 2001-267.

This Office determined in an opinion of the Attorney General to Honorable Morgan Reynolds, Attorney at Law, Clanton, dated June 4, 1992, A.G. No. 92-00281, that the City of Clanton could adopt an ordinance designating certain areas within the city and certain times when a firearm could be discharged for hunting purposes, provided such law is not inconsistent with state hunting laws and regulations. That opinion noted that section 11-45-1.1 prohibits a municipality from enacting ordinances or regulations involving the possession or ownership of handguns. *Id.* at 3.

This Office has also stated that, under section 11-51-102 of the Code, a city may license a firing range and provide reasonable regulations regarding its operation. Opinion of the Attorney General to Honorable B.J. Meeks, Mayor, City of Childersburg, dated November 12, 1992, A.G. No. 93-00062. That opinion also noted that section 11-51-102 was limited by section 11-45-1.1; thus, the city's regulation of firing ranges could not apply to handguns.

This Office has not specifically addressed whether a city may regulate the discharge of firearms for nonhunting purposes within the city. Under a city's general authority to enact ordinances to provide for the safety, health, and welfare of its citizens, however, it is the opinion of this Office that a city has the authority to regulate the discharge of firearms other than handguns, for both hunting and nonhunting purposes, within its corporate limits. Accordingly, a city may regulate the areas within the city limits where firearms may be discharged and may regulate the times and places a firearm can be discharged for hunting and nonhunting purposes, provided the ordinance or regulation is not inconsistent with state laws and regulations.

CONCLUSION

Generally, the City of Glencoe can regulate the discharge of firearms, other than handguns, within its corporate limits. A city may adopt an ordinance making a violation of a state handgun law a violation of a municipal ordinance. It may designate the areas within the city limits where firearms may be discharged and may regulate the times and places a firearm can be discharged for hunting and nonhunting purposes, provided

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the ordinance or regulation is not inconsistent with state laws and regulations.

I hope this opinion answers your question. If this Office can be of further assistance, please contact me.

Sincerely,

TROY KING
Attorney General

By:

A handwritten signature in cursive script that reads "Brenda F. Smith".

BRENDA F. SMITH
Chief, Opinions Division

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