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October 25, 2013

ATTORNEY GENERAL OPINION NO. 2013- 17

Gary E. Rebenstorf, City Attorney
City of Wichita
City Hall, 13th Floor
445 North Main St.
Wichita, KS 67202-1635

Re: Cities and Municipalities–Miscellaneous Provisions–Firearms and
Ammunition; Regulation by City or County, Limitations

Synopsis: A city or county may not require persons licensed to carry concealed
handguns to completely encase long guns in a container when
transporting such long guns by vehicle. Cited herein: K.S.A. 2013 Supp.
12-16,124; 75-7c01.

* * *

Dear Mr. Rebenstorf:

As the Wichita City Attorney, you ask us to interpret K.S.A. 2013 Supp. 12-16,124(b)(4), which is an exception to the general rule that a city or county may not adopt any ordinance, resolution or regulation governing the transporting of firearms or ammunition.¹ That statute states in relevant part:

Nothing in this section shall:

. . .

¹ See K.S.A. 2013 Supp. 12-16,124(a) (“No city or county shall adopt any ordinance, resolution or regulation . . . governing the purchase, transfer, ownership, storage or transporting of firearms or ammunition, or any component or combination thereof”). See also Attorney General Opinion Nos. 2013-13; 2012-2; 2011-24; and 2011-006.

prohibit a city or county from adopting an ordinance, resolution or regulation requiring a firearm transported in any air, land or water vehicle to be unloaded and encased in a container which completely encloses the firearm . . . *provided such ordinance, resolution or regulation shall not apply to persons licensed or recognized under the personal and family protection act.*²

In your letter, you note that a license issued under the Personal and Family Protection Act (PFPA)³ authorizes the licensee to carry concealed handguns but has no effect on the carrying of long guns. You ask whether the italicized language above is intended to apply to the transportation of long guns by concealed carry licensees.

The fundamental rule to which all other rules are subordinate is that the intent of the legislature governs if that intent can be ascertained. An appellate court must give effect to that intent, which the legislature is initially presumed to have expressed through the language it used. When language is plain and unambiguous, there is no need to resort to statutory construction.⁴

In this case, the language of K.S.A. 2013 Supp. 12-16,124(b)(4) is plain and unambiguous: a city or county may adopt an ordinance, resolution or regulation requiring a firearm transported in any vehicle to be unloaded and encased in a container, but such ordinance, resolution or regulation shall not apply to concealed carry licensees.

The term “firearm” is not defined in K.S.A. 2013 Supp. 12-16,124, so we apply its ordinary meaning.⁵ Ordinary definitions of firearm include “a rifle, pistol, or other portable gun”⁶ and “a weapon from which a shot is discharged by gunpowder.”⁷ The ordinary meaning of firearm clearly includes long guns as well as handguns.

It is of no legal consequence that the PFPA only authorizes a license holder to carry concealed handguns. The plain language of K.S.A. 2013 Supp. 12-16,124(b)(4) restricts cities and counties from applying any local ordinance, resolution or regulation requiring long guns transported by vehicle to be encased in a container to any concealed carry licensee.

² Emphasis added.

³ K.S.A. 2013 Supp. 75-7c01 *et seq.*

⁴ *Steffes v. City of Lawrence*, 284 Kan. 380, Syl. ¶ 2 (2007).

⁵ See, e.g., *Boatright v. Kansas Racing Com'n*, 251 Kan. 240, 245 (1992) (“ . . . in construing a statute, ordinary words are to be given their ordinary meaning . . .”).

⁶ “Firearm.” Oxford Dictionaries. Oxford University Press.

<http://www.oxforddictionaries.com/definition/english/firearm> (accessed October 23, 2013).

⁷ “Firearm.” Merriam-Webster.com. <http://www.merriam-webster.com/dictionary/firearm> (accessed October 23, 2013).

Gary E. Rebenstorf
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Sincerely,

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