



ALAN WILSON  
ATTORNEY GENERAL

June 18, 2013

Sam W. White, Chief  
City of Union Public Safety Department  
215 Thompson Blvd.  
Union, South Carolina 29379

Dear Chief White,

You request an opinion of this Office as to the issuance of tickets for handicapped parking violations. Specifically, you ask:

- 1) Are law enforcement officers authorized to issue tickets for handicapped parking violations on parking lots that are open to the public and are not posted by signage as referenced by S.C. Code § 23-1-15?
- 2) May law enforcement officers issue uniform traffic tickets for handicapped parking violations, or are law enforcement officers required to use the tickets referenced in S.C. Code §§ 56-3-1971, -1972, and -1973?

#### Law/Analysis

As to your first question, S.C. Code § 23-1-15 provides:

Any real property which is used as a parking lot and is open to use by the public for motor vehicle traffic shall be within the police jurisdiction with regard to the unlawful operation of motor vehicles in such parking lot.

Such parking lots shall be posted with appropriate signs to inform the public that the area is subject to police jurisdiction with regard to unlawful operation of motor vehicles. The extension of police jurisdiction to such areas shall not be effective until the signs are posted.

In any such area the law enforcement agency concerned shall have the authority to enforce all laws or ordinances relating to the unlawful operation of motor vehicles which such agency has with regard to public streets and highways immediately adjoining or connecting to the parking area.

§ 23-1-15.

You ask whether your department may ticket individuals for unlawfully parking in marked handicapped parking spots in private lots which do not have postings indicating they are subject to police jurisdiction pursuant to § 21-1-15. We have explained in prior opinions that § 21-1-15 is of no consequence to certain offenses involving motor vehicles which contain no element requiring that the offense be committed on public property. See Op. S.C. Att'y Gen., 1992 WL 575651 (Aug. 14, 1992) (stating "the question of whether specific property is public or private is ... irrelevant as to certain traffic offenses" and "Section 23-1-15 would have no effect on a traffic offense in which the commission on public property is not an element, such that certain traffic offenses may be committed and are enforceable on private property regardless of whether the property is posted") (citations omitted).

The statutory provisions regulating handicapped parking are generally found in §§ 56-3-1950 to -1975. In particular, § 56-3-1970 states:

(A) It is unlawful to park any vehicle in a parking place clearly designated for handicapped persons unless the vehicle bears the distinguishing license plate or placard provided in Section 56-3-1960.

(B) It is unlawful for any person who is not handicapped or who is not transporting a handicapped person to exercise the parking privileges granted handicapped persons pursuant to Sections 56-3-1910, 56-3-1960, and 56-3-1965.

(C) A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days for each offense.

(D) The summary courts are vested with jurisdiction to hear and dispose of cases involving a violation of this section.

§ 56-3-1970.

In addition, § 56-3-1971 states, in part:

All law enforcement officers issuing tickets **on public and private property** and state law enforcement division licensed security officers of shopping centers and business and commercial establishments, which provide parking spaces designated for handicapped persons, are authorized to issue a uniform parking violations ticket to the vehicle for violations of the prescribed use of the parking spaces. The uniform parking violations ticket shall provide a means for tracking violators by tag number and recording the violations with the Department of Motor Vehicles.

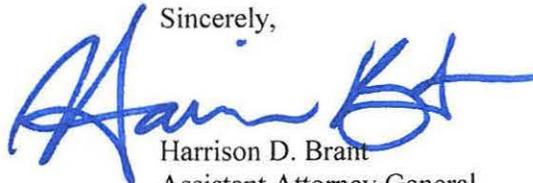
....

§ 56-3-1971 (emphasis added).

In several opinions, we have concluded that the provisions in §§ 56-3-1950 to -1975 regulating parking for handicapped persons are enforceable as to any parking spot clearly designated for handicapped persons regardless of whether the parking lot is public or private or is posted as being within police jurisdiction pursuant to § 23-1-15. See, e.g., Ops. S.C. Att'y Gen., 2008 WL 3198123 (July 9, 2008) ("State statutes providing for handicapped parking are enforceable as to any parking place which is clearly designated for handicapped persons on public or private property regardless of whether the property is posted pursuant to S.C. Code Ann. § 23-1-15) (citing Op. S.C. Att'y Gen., 1992 WL 575660 (Sept. 21, 1992)). Consistent with these opinions, we believe your department may charge an individual with unlawfully parking in a clearly marked handicapped spot in a public or private parking lot regardless of whether the lot has a posting indicated it is subject to police jurisdiction pursuant to § 23-1-15.

As to your second question, §§ 56-3-1971 to -1973 reference the use of a "uniform parking violations ticket" for the unlawful use of a handicapped parking space. As quoted above, § 56-3-1971 states that law enforcement officers "are authorized to issue a uniform parking violations ticket" for the unlawful use of a handicapped parking spot. In contrast, § 56-7-10 provides for the use of a "uniform traffic ticket" used by all law enforcement for traffic offenses and certain other enumerated offenses, none of which is unlawful parking in a clearly marked handicapped spot. However, § 56-7-15(A) states that a uniform traffic ticket "may be used by law enforcement officers to arrest a person for an offense committed in the presence of a law enforcement officer if the punishment is within the jurisdiction of magistrates court and municipal court...." Therefore, while we believe law enforcement should generally use the uniform parking violations ticket for the unlawful use of a handicapped parking spot, it appears law enforcement is not prohibited from using a uniform traffic ticket for such violations under § 56-7-15(A) which are committed within the officer's presence since pursuant to § 56-3-1970(D) such violations are within the jurisdiction of the summary courts.

Sincerely,



Harrison D. Brant  
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Solicitor General