

DIVISION OF LICENSING
(850) 245-5500
(850) 245-5505 FAX



POST OFFICE BOX 3927
TALLAHASSEE, FLORIDA 32315-3927

2520 NORTH MONROE STREET
TALLAHASSEE, FLORIDA 32303-4052

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

January 25, 2012

James D. Phillips, Jr., Esquire
Katz & Phillips, P. A.
121 South Orange Avenue, Suite 1420
Orlando, Florida 32801

Dear Mr. Phillips:

I am writing to you today in response to your letter to Commissioner Putnam dated December 12 in which you pose certain questions concerning the provision in section 790.06(12), Florida Statutes, that restricts the carrying of firearms in establishments that dispense alcoholic beverages.

As I explained to you when we spoke on the telephone earlier this month, our Division cannot provide you with definitive answers to those questions. The simple fact is that our Division's authority is narrowly constrained under the law, and general matters concerning the ownership and possession of firearms do not fall within our jurisdiction. We cannot interpret statutes, issue opinions, or render legal advice about the legality or illegality of matters not directly related to the issuance of concealed weapon licenses.

I will be happy to share with you the provisional answer we offer in response to questions about the carrying of firearms in bars and restaurants. However, please understand that this answer does not constitute legal guidance in this matter.

There is little doubt that the language in section 790.06(12)(a)12 restricts the carrying of firearms in bars, taverns, and so on. Clearly, these are establishments that are generally licensed to dispense alcoholic beverages for consumption on the premises. However, it is the phrase that occurs at the end of subparagraph 12—"which portion of the establishment is primarily devoted to such purpose"—that appear to qualify the restriction in such a way as to allow the carrying of firearms in restaurants or similar businesses that primarily serve food but that also happen to serve alcohol as well. In other words, a restaurant may in fact have a bar where alcohol is dispensed for consumption on the premises. However, the serving area in the restaurant where patrons are dining would not constitute the part of the establishment primarily devoted to the sale and consumption of alcohol. Patrons in that restaurant who may happen to have concealed weapon licenses would, of course, be restricted from carrying their firearms in the bar of the establishment.

As I said, this is the usual, provisional response we provide to applicants, licensees, and the general public in response to inquiries concerning the carrying of firearms in bars and restaurants. In disseminating this response we are always extremely careful to advise the intended recipient that our Division does not have statutory authority in matters involving firearms ownership and possession and that the information we are providing should not be misconstrued as legal advice. We typically then refer the person making inquiry to his or her attorney or to a local law enforcement agency for proper guidance. (As you have already discovered, finding a source for proper guidance in this matter is extraordinarily difficult.)

When we spoke on the telephone, I mentioned a particular book but I thought you might find helpful. This book, Florida Firearms: Law, Use & Ownership, is the work of Mr. Jon H. Gutmacher, an Orlando attorney who is a recognized authority on firearms and self-defense law in the state of Florida. While I cannot endorse Mr. Gutmacher's book, I often recommend it because it is an excellent source of their useful information concerning state and federal firearms law. It is Mr. Gutmacher's opinion (as stated in his book) that a person can carry a firearm in a restaurant that has a bar but that the bar itself is off-limits.

I regret that I cannot be of greater assistance to you in this matter. I hope that at least some of the information I have presented here will be of some use to you. I also hope that I have adequately explained to the limitations imposed on our Division under the law.

If I can be of help in some other way, please call or write at your convenience.

Sincerely,



Ken Wilkinson
Assistant Division Director