

# GrassRoots GunRights

P.O. Box 2446 Lexington, SC 29071 <http://www.scfirearms.org>

January 31, 2007

The Honorable Scott Talley  
South Carolina House of Representatives  
P.O. Box 11867  
Columbia, SC 29211

Re: H. 3310

Dear Rep. Talley:

GrassRoots GunRights has significant concerns both about the need for H.3310 and about H. 3310 as currently written. GrassRoots relies upon a South Carolina Attorney General's opinion to question the need for H. 3310. Also, as currently written, H. 3310 would most likely negatively impact female concealed weapon permit (CWP) holders. Thus, H. 3310 either needs to be tabled to let die, or amended to ensure that female CWP holders are not discriminated against.

The SC Attorney General has already addressed the issue of CWP carry in vehicles in an informal opinion issued April 19, 1999, in response to a request from James A. Preacher, Jr., Chief of Police of the Norway Police Department. The AG opinion states in part:

"In this instance, therefore, 16-23-20(12), which exempts from the pistol law, any person granted a permit by SLED to carry the pistol (defined for purposes of this exemption as the CWP permit authorized pursuant to 23-31-210 et seq.), must be given equal weight as 16-23-20(9) and cannot be interpreted as limited by Subsection (9). Accordingly, applying the rule of construction that penal laws are strictly construed, as well as the other rules of construction referenced above, and based upon the same analysis as used in *Barwick* [*State v. Barwick*, (Unpublished Opinion No. 96-UP-208 filed July 18, 1996)], it is my opinion that a CWP permittee is not limited by 16-23-20(9). The result is that the permittee does not have to keep the concealable weapon as required by 16-23-20(9) while in an automobile, but may carry such weapon as permitted by the Law Abiding Citizens Self-Defense Act of 1996. In other words, if a person has a CWP permit under the Law Abiding Citizens Self-Defense Act of 1996, that permit is not limited by the fact that the permittee is in an automobile. The permittee may carry the concealable weapon in the same way as is authorized by the Law Abiding Citizens Self-Defense Act of 1996." 1999 WL 387043 (S.C.A.G.).

As can be seen from the above opinion, H. 3310 is not needed since CWP holders are

already allowed to carry in vehicles.

Unfortunately, as currently written, H. 3310 will most likely negatively impact female CWP holders because the express language of H. 3310 requires that a CWP holder in a vehicle must carry the handgun "concealed on his person". This is a more stringent requirement than now exists. Currently, according to a SC Attorney General opinion dated October 9, 1998, CWP holders may carry their concealed handgun in a purse or briefcase. See 1998 WL 940262 (S.C.A.G.). But, if H. 3310 was to pass as currently written, the courts would most likely rule that a CWP holder could not carry her handgun in her purse or briefcase while in a vehicle. Instead, a CWP holder would be forced to remove the handgun from the purse or briefcase and put the handgun either on her person (which would most likely not happen because she would have already had the handgun on her person if that was her desired way to carry) or into a glove box, console, or trunk. Since females are the CWP holders most likely to use a purse as a means to conceal their handguns, this bill would disproportionately negatively impact female CWP holders.

If H. 3310 must be passed - and GrassRoots does not believe there is any real need to do so, then H. 3310 must be amended to protect female CWP holders so as not to discriminate against women and their means of carrying their self-defense sidearms.

GrassRoots proposes the following language to replace the proposed Section 16-23-20(9)(b) found in H. 3310:

"(b) Notwithstanding any other law, concealed on or about his person, and he has a valid concealed weapon permit pursuant to the provisions of Article 4, Chapter 31, Title 23;"

The GrassRoots proposed language would accomplish the same goal as the current language of H. 3310, but without the discrimination towards our female CWP holders found in the current wording of H. 3310.

GrassRoots believes that H. 3310 is not needed and should be tabled to let die. In fact, H. 3310 is actually harmful to the rights of female CWP holders. If a version of H. 3310 must get passed, then GrassRoots has provided alternative language that will protect the rights of our female CWP holders. We urge you to use the GrassRoots proposed alternative language.

Sincerely,

A handwritten signature in black ink that reads "R.D. Butler". The signature is written in a cursive, slightly slanted style.

Robert D. Butler, J.D.  
Vice President  
GrassRoots GunRights SC