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Via United States and Electronic Mail

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RE: State Preemption of City of Savannah Ordinances 9-1027 and 9-1028

Dear Mr. Lovett:

This letter is written as the result of the City of Savannah's recent passage of ordinances found in sections 9-1027 and 9-1028 of the City Code. As you may be aware, this Office provides courtesy review of the written legal opinions and conclusions of counsel for local governments. We are not aware of the analysis of the ordinances by your office if any and this Office was not requested to conduct any review of advice. Had this Office been requested to do so in this matter, our analysis would have concluded that the ordinances directly conflict with, and are preempted by, state law.

The ordinances relevantly purport to impose restrictions on the possession, transportation, and carrying of firearms in motor vehicles. Under Georgia law, however, "no county or municipal corporation . . . shall regulate in any manner: (B) the possession, ownership, transport, [or] carrying . . . of firearms or other weapons." O.C.G.A. § 16-11-173(b)(1).

The Georgia Constitution provides that "no local or special law shall be enacted in any case for which provision has been made by an existing general law." Ga. Const. Art. III, § VI, Para. IV. "The doctrine of state preemption is based on the concept that statutes of the state legislature control over county ordinances." *Franklin County v. Fieldale Farms Corp.*, 270 Ga. 272, 273 (1998). Here, because the General Assembly has expressly designated the regulation of firearms

as an issue of general, state-wide concern, no local ordinance can regulate firearms.¹ *See Sturm v. City of Atlanta*, 253 Ga. App. 713, 718 (2002) (“The practical effect of the preemption doctrine is to preclude all other local or special laws on the same subject.”).

Consistent with its plain language, Georgia courts have confirmed that O.C.G.A. § 16-11-173 expressly preempts local regulations of firearms. *See Georgia Carry.Org, Inc. v. Coweta County*, 288 Ga. App. 748 (2007). In that case, Coweta County enacted an ordinance prohibiting firearms at certain recreation facilities. That ordinance, however, was invalid because “the statute and its caption expressly refer to the preemption of municipal and county ordinances and zoning regulations pertaining to . . . the carrying of firearms.” *Id.* at 749. The same analysis applies to the ordinances recently enacted by the City of Savannah. *See also Sturm*, 253 Ga. App. at 718 (“[T]he State has . . . expressly preempted the field of firearm regulation.”).

Because the City of Savannah lacks the authority to regulate the possession, ownership, and transportation of firearms, this Office’s view is that the ordinances are ultra vires and void.

We have not undertaken an analysis of the potential consequences of adoption and enforcement of ordinances that are ultra vires and void. However, at a minimum, it appears that the City should note the potential civil liability under O.C.G.A § 16-11-173(g). Given this concern alone, it appears that the City should give immediate consideration to rescinding its approval of sections 9-1027 and 9-1028.

I hope that this analysis is helpful to you in advising the City regarding how best to proceed.

Sincerely,



Christopher M. Carr
Georgia Attorney General

¹ While O.C.G.A. § 16-11-173(c)-(e) provides some exceptions to the general prohibition on municipal regulation of firearms, none of those exceptions apply to the City’s ordinances.