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Honorable Brian A. McVeigh
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Pistol Permits – Firearms – Vehicles
– Motorcycles – Sheriffs

Under section 13A-11-73(a) of the Code of Alabama, someone openly carrying a pistol while riding on a motorcycle must possess a pistol permit.

Dear Mr. McVeigh:

This opinion of the Attorney General is issued in response to your request.

QUESTION

Must someone openly carrying a pistol while riding “on” a motorcycle possess a pistol permit under section 13A-11-73(a) of the Code of Alabama, which provides that no one shall carry a pistol while “in” any vehicle?

FACTS AND ANALYSIS

Section 13A-11-73 of the Code of Alabama states as follows:

(a) Except on land under his or her control or in his or her own abode or his or her own fixed place of business, no person shall carry a pistol *in any vehicle* or concealed on or about his or her person without a permit

(b) Except as otherwise prohibited by law, a person legally permitted to possess a pistol, but who does not possess a valid concealed weapon permit, may possess an unloaded pistol *in his or her motor vehicle* if the pistol is locked in a compartment or container that is in or affixed securely to the vehicle and out of reach of the driver and any passenger in the vehicle.

ALA. CODE § 13A-11-73 (2015) (emphasis added).

Although no Alabama case has addressed your question, a Michigan case is instructive. A defendant in Michigan who was convicted of carrying a pistol in a motor vehicle argued that he could not have carried a pistol *in* his motorcycle unless it was “kept in a closed compartment or receptacle that is either a part of the motorcycle or attached to the motorcycle (e.g., a saddlebag).” *People v. Nimeth*, 601 N.W. 2d 393, 395-96 (Mich. App. 1999). The Michigan appellate court rejected this argument, reasoning as follows:

Defendant’s argument is predicated on the erroneous premise that the word *in* can only be properly used to describe the condition of being sealed inside some type of receptacle specifically designed to hold or carry items. The word *in* is defined as meaning: ‘*l.a.* Within the limits, bounds, or area of *b.* From the outside to a point within; into’ [citation omitted]. As this definition indicates, something may be considered to be *in* an object as long as it is ‘[w]ithin the limits, bounds, or area of’ that object. Accordingly, any space created within the area of a motor vehicle, be it by design or