

Exhibit	"B"
Port Commission	Regular
Meeting of	Nov. 11, 2008

Chairman Creighton, commissioners;

My comments will be brief.

Correspondence with your senior counsel has clearly shown that Section 3, General Rule 16.a is in violation of state preemption of firearms (9.41.290 and 9.41.300(e)).

Per counsel, since this rule has not been adopted into the City of SeaTac criminal code, preemption does not apply (citing Cherry v. Municipal Metro of Seattle and (unpublished) Estes v. Vashon-Maury Fire Protection Dist 13). + *RCW 53.08.220*
Furthermore, he states that the rule could be used to form a basis for a criminal trespass charge (9A.52.080).

On October 13th, the Attorney General office published Opinion 2008 No. 8 that addresses both the applicability of preemption and the Port Rules and the notion of circumventing preemption with a threat of a criminal trespass charge. I can provide a copy of this for the clerk. Counsel focuses on a phrase in Cherry that is immaterial; "acting in a capacity comparable to that of a private party" while ignoring the key phrase from 'that ruling; "The "laws and ordinances" preempted are laws of application to the general public." Using Cherry, the commission is free to prohibit Port Employee's from possessing firearms. They are not free to apply this rule to the general public. The AG addresses the suggestion of using possession of a firearm as the foundation for a criminal trespass charge on page five.

I understand that the Attorney General cannot force you to comply with either the state law or this opinion. It does, however speak directly to this situation. I would ask that the commission give it due notice and view it in the same light that a judge would. The Port is on very thin legal ice here. Your officers are at risk for false arrest. The Port could be liable for creating a situation where a normally armed person is unarmed due to your rule and signs and suffers an attack where use of lethal force may have prevented injury or death.

Please take this opportunity to bring your rules and signage in line with state law by removing any reference to legally carried firearms outside of the restricted area as outlined in 9.41.300(e). Thank you.