

1977 WL 37213 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 6, 1977

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Executive Director
South Carolina Wildlife and Marine Resources Department

QUESTION PRESENTED:

Are employees of the Department, such as biologists, area managers, and license coordinators, who are not assigned to the Law Enforcement Division and whose primary job responsibilities are not in the area of law enforcement, required to attend the eight-week training program at the Criminal Justice Academy?

STATUTE INVOLVED:

§ 53-44, 1962 Code of Laws of South Carolina, as amended (1976 Supp.)

DISCUSSION OF ISSUE:

Section 53-44, 1962 Code of Laws of South Carolina, as amended, (1976 Supp.) provides, in pertinent part, that no law enforcement officer below the level of chief who is employed or appointed on or after January 1, 1972, shall be empowered to enforce the laws or ordinances of this State or any subdivision thereof unless he meets the basic training requirements of the Act. If officers falling within the class covered by this Act fail to meet these requirements within the prescribed time then they cannot ‘. . . perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest.’

Under the foregoing language of the statute it seems clear that the personnel about whom you inquired would be required to take the basic training course only if they perform ‘law enforcement duties’ as described above. If they do not take the course they could still perform the non-law enforcement functions of their jobs but could not engage in the ‘control and direction’ of the public or in exercising the power of arrest.

CONCLUSION:

Non law enforcement employees of the Department are not required to attend the Criminal Justice Academy's Basic Training Course.

Joseph R. Barker
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