

1976 WL 30645 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 5, 1976

*1 The Honorable T. Ed Garrison
State Senator
The State House
Columbia, South Carolina

Dear Senator Garrison:

I regret very much that there has been a delay in answering your letter which was forwarded to me sometime ago. The reason for the delay was that the matter was referred to Mr. Coleman, who was involved in a serious automobile accident at that time and has just returned to work. I hope that your constituent has not suffered any inconvenience from the delay.

He requested an interpretation of Sections 16-125 and 16-126 of the Code.

These statutes refer to the sale or disposition of machine guns. Such sale or disposition is prohibited generally by Section 1-124. By an amendment adopted in 1975 (75 Acts 136) it is made unlawful to sell or otherwise dispose of any machine gun, sawed-off shotgun or sawed-off rifle.

Section 1-125 permits the following to acquire machine guns, sawed-off shotguns or sawed-off rifles:

The Army, Navy or Air Force of the United States, the National Guard or organizations authorized by law to purchase or receive machine guns, sawed-off shotguns or sawed-off rifles;

Any peace officer of the State or political subdivision;

State constable;

Member of the Highway Patrol;

Railway policeman or warden;

Superintendent, head keeper or deputy of any state, county or city prison; and

Persons on duty in the postal service of the United States or of a common carrier while transporting direct to any police department or any person authorized to possess and use a machine gun, sawed-off shotgun or sawed-off rifle.

Section 1-126 permits the persons authorized to possess a machine gun, sawed-off shotgun or sawed-off rifle to file with the State Law Enforcement Division an application sworn to before the sheriff of the county, giving details required on the form, and describing the serial number of the machine gun, sawed-off shotgun or sawed-off rifle which is desired to be possessed. The State Law Enforcement Division is then authorized to issue a license for such purpose which expires on December 31 of the year in which it is issued.

The 1975 amendment defines 'machine gun' as meaning generally a weapon which can shoot automatically more than one shot without manual reloading by a single function of the trigger.

A 'sawed-off shotgun' means a shotgun having a barrel of less than eighteen inches in length or a weapon made from a shotgun which as modified has the overall length of less than twenty-six inches or a barrel of less than eighteen inches.

A 'sawed-off rifle' is defined to mean a weapon having a barrel of less than sixteen inches in length or an overall length of less than twenty-six inches or a barrel of less than sixteen inches.

There is also exempted from the law antique firearms and weapons kept for display as relics which are rendered harmless and not usable.

A copy of the statute as last amended is enclosed herewith. I am also enclosing a copy of an opinion directed to the Secretary of the Greenville County Legislative Delegation on March 25, 1969, and a copy of an opinion dated March 4, 1969, directed to the Business Manager of Bob Jones University which may be of some interest. At that time, the statute provided that the Secretary of State should issue permits for purchase of machine guns but the statute has been changed since that date.

*2 I hope that the foregoing will be a sufficient answer but, if not, I will be more than happy to respond to any other specific inquiries your constituent may have.

I again apologize for the delay in responding to your inquiry and I hope you understand that it was due solely to the unfortunate accident sustained by Mr. Coleman of this Office.

With best wishes,
Cordially,

Daniel R. McLeod
Attorney General

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