

1976 S.C. Op. Atty. Gen. 138 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4319, 1976 WL 22938

Office of the Attorney General

State of South Carolina

Opinion No. 4319

April 6, 1976

\*1 Mr. Mike Gullledge

Post Office Box 36

Abbeville, South Carolina 29620

Dear Mr. Gullledge:

Your recent inquiry related to the possession of a machine gun by a peace officer pursuant to the provisions of Section 16-121 of the Code of Laws, 1962, as amended.

That section prohibits the possession, etc., of machine guns, etc., by any person except certain classes of people. The exceptions include peace officers of the State 'when required in the performance of their duties.' I am informed that you hold the commission as constable without compensation, and under the duties of the Supreme Court of South Carolina you occupy the status of a peace officer. The statutes do not require the approval or consent of the head of the department in which a peace officer may be employed. In my opinion, the determination of whether the possession of a machine gun is or is not required in the performance of your duties as a constable without compensation is one which, in my opinion, is addressed to the discretion of the South Carolina Law Enforcement Division. If that agency determines that the possession of a machine gun is required in the performance of your duties, then they may issue a license to you for its possession. Your application for permission to keep a machine gun should be forwarded to the South Carolina Law Enforcement Division which can then make the determination referred to.

With best wishes,

Very truly yours,

Daniel R. McLeod

Attorney General

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