



HENRY McMASTER
ATTORNEY GENERAL

September 4, 2008

Eddie Briggs, Assistant Chief
Lander University Police
320 Stanley Avenue
Greenwood, South Carolina 29649

Dear Assistant Chief Briggs:

In an email to this office you raised questions regarding S.C. Code Ann. § 23-1-225 which states that “[u]pon retirement, state law enforcement officers may retain their commissions in retired status with all rights and privileges, including the right to retain their service weapons issued while serving in active duty status.” Referencing such, you have questioned what is the definition of “state law enforcement officer” for purposes of that statute.

The term “state law enforcement officer” is not separately defined for purposes of such statute. However, an opinion of this office dated June 6, 2002 construed such provision as being applicable to a State Forestry Commission law enforcement officer. Another opinion of this office dated July 17, 2002 construed such provision as being applicable to an officer associated with the State Department of Public Safety. Consistent with such, in the opinion of this office, the term “state law enforcement officer” should be read as including any law enforcement officer associated with a state agency, including Lander University.

You also questioned what is meant by the term “may” as used in Section 23-1-225. You asked whether the use of such term leaves an agency the option of giving a retired officer his or her duty weapon and whether the officer has to ask for the weapon at the time of his or her retirement or can ask at any time thereafter. Generally, when interpreting the meaning of a statute, certain basic principles must be observed. The cardinal rule of statutory interpretation is to ascertain and give effect to legislative intent. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). Typically, legislative intent is determined by applying the words used by the General Assembly in their usual and ordinary significance. Martin v. Nationwide Mutual Insurance Company, 256 S.C. 577, 183 S.E.2d 451 (1971). Resort to subtle or forced construction for the purpose of limiting or expanding the operation of a statute should not be undertaken. Walton v. Walton, 282 S.C. 165, 318 S.E.2d 14 (1984). Courts must apply the clear and unambiguous terms of a statute according to their literal meaning and statutes should be given a reasonable and practical construction which is consistent

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with the policy and purpose expressed therein. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991); Jones v. South Carolina State Highway Department, 247 S.C. 132, 146 S.E.2d 166 (1966).

As set forth by Section 23-1-225 “[u]pon retirement, state law enforcement officers may retain their commissions...including the right to retain their service weapons...” In the opinion of this office, it would be a matter within the discretion of the officer as to whether or not he or she wishes to retain his or her service weapon and it would not be a matter within the discretion of the agency as to whether such is offered. Also, inasmuch as the provision states that “upon retirement” such retention may be exercised, in the opinion of this office, the option must be exercised at the time of retirement and not at some later period.

If there are any questions, please advise.

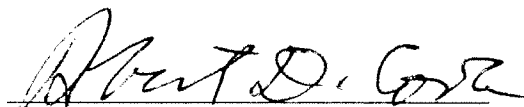
Sincerely,

Henry McMaster
Attorney General



By: Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Deputy Attorney General