

The State of South Carolina

3982 Library



Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE: 803-734-3970
FACSIMILE: 803-253-6283

May 30, 1990

The Honorable Carroll A. Campbell, Jr.
Governor, State of South Carolina
Post Office Box 11369
Columbia, South Carolina 29211

Dear Governor Campbell:

In a letter to this Office, you referred to the practice of the State Law Enforcement Division (SLED) maintaining copies of handgun application forms which have been acquired over the past fifteen years. You referenced that pursuant to Section 23-31-140(c) of the Code, an individual in this State is prohibited from purchasing more than one pistol during a thirty-day period. You further stated

SLED, in an effort to enforce this provision of the law, makes copies of all applications for purchase of a handgun from the retail gun dealers. SLED keeps these forms until after they have checked to insure that no individual has purchased more than one handgun during the thirty-day period.

Pursuant to subsection (A) of Section 23-31-140

(p)rior to the purchase of a pistol, the purchaser shall complete an application in triplicate in the presence of the dealer. The application to be furnished by the division must contain the applicant's (1) name; (2) residence and business address; (3) date and place of birth; (4) social security number; (5) South Carolina driver's license number or South Carolina Department of Highways and Public Transportation identification

The Honorable Carroll A. Campbell, Jr.
Page 2
May 30, 1990

card number; (6) physical description; (7) fingerprint card and photograph of applicant if applicant does not have items (4) and (5); (8) a signed sworn statement by the applicant that he is not within any classification set forth in item (a), (b), (c), or (d) of Section 16-23-30, and that he has not purchased a pistol within the previous thirty days; (9) the signatures of applicant and the dealer; (1) and such other personal identifying information as may be required by the division. 1/

Subsection (G) of such provision states:

(u)pon proper completion of the application the dealer shall submit the original application to the division, retain a copy for his records, and give a copy to the applicant upon his purchase of a pistol. The application to be submitted to the division must be accompanied by a firearm transaction record properly completed by the purchaser and the dealer.

Pursuant to Section 23-31-140(A), the General Assembly has mandated that applications executed at the time of the application are forwarded to SLED. However, the statute is ambiguous inasmuch as it does not specify for what length or period of time such records should be maintained.

Section 30-1-30 of the Code makes it a misdemeanor to unlawfully remove a public record from the office where it is usually kept, or to alter, deface, mutilate, secrete or destroy a public record. Absent specific guidance from the General Assembly authorizing the destruction of such records, we could not advise SLED to run the risk of violating Section 30-1-30. Therefore, such records could not be destroyed, unless authorization is given by the legislature.

1/ The "division" is defined by Section 23-31-110(g) of the Code as the State Law Enforcement Division.

The Honorable Carroll A. Campbell, Jr.
Page 3
May 30, 1990

If there is anything further, please advise.

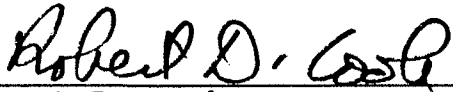
Sincerely,



Charles H. Richardson
Assistant Attorney General

CHR/nw

REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions