

The State of South Carolina

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Office of the Attorney General

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July 31, 1986

C. Anthony Harris, Jr., Esquire
Cheraw Town Attorney
222 Market Street
Cheraw, South Carolina 29520

Dear Mr. Harris:

In a letter to this Office you questioned the proper procedure for disposing of guns confiscated by the Cheraw Police Department. You particularly referenced Sections 16-23-40, 16-23-50, and 16-23-500 of the Code and noted what you considered to be conflicting provisions in such statutes.

During this past legislative session, the General Assembly enacted legislation, specifically R623, dealing with weapons violations. Such legislation repealed and amended several prior provisions dealing with confiscated or forfeited weapons. In particular, Section 16-23-40, which you noted, was repealed. Section 16-23-50 was amended to provide that as to pistols confiscated for the violation of such provision

... (t)he pistol must be delivered to the chief of police of the municipality or to the sheriff of the county, if the violation occurred outside the corporate limits of a municipality. The law enforcement agencies that receive the confiscated pistols may use them within their department, transfer them to another law enforcement agency for their lawful use, transfer them to the clerk of court or mayor who shall dispose of them as provided by Section 16-23-500 or trade them with a retail dealer licensed to sell pistols in this State for a pistol approved

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by the agency. If the State Law Enforcement Division seized the pistol, it may keep it for use by its forensic laboratory. Records must be kept of all confiscated pistols received by the law enforcement agencies under the provisions of this article.

Section 16-23-500, which deals with the sale by a mayor or clerk of court of confiscated or forfeited weapons, was also amended. The exact provisions of such amended statute are spelled out in the copy of R623 which I am enclosing.

In light of the recent amendments, it appears that any prior conflicting provisions noted by you have been resolved. As to the sale to Palmetto Distributors, if the confiscated weapons were transferred pursuant to Section 16-23-50 to the mayor, a sale could be conducted in accordance with the provisions of Section 16-23-500. As provided by such statute, certain limitations on such sales are specifically set forth and should be noted.

If there is anything further, please advise.

Sincerely,

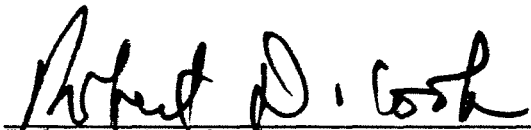


Charles H. Richardson
Assistant Attorney General

CHR/an

Enclosure

REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions