

The State of South Carolina



Opinion No. 274

P22

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

January 15, 1987

The Honorable David Lyle
Judge, Rock Hill Municipal Court
City of Rock Hill Law Center
Post Office Box 10984
Rock Hill, South Carolina 29730

Dear Judge Lyle:

In a letter to this Office you referenced an ordinance of the City of Rock Hill which provides as follows:

(i)t shall be unlawful for any person to carry about his person, whether concealed or not, any pistol except as provided by state law, or any dirk, dagger, slingshot, metal knuckles, razor or other deadly weapon usually used for the infliction of personal injury.

An exception is made for peace officers in the discharge of their duties and to the carrying and keeping of pistols by persons on their own premises. Such provision is very similar to State Code Section 16-23-460.

You indicated that you are having difficulty in determining what constitutes an unlawful weapon and to what extent it may be carried on the person. You particularly asked whether having a weapon in an automobile is considered as having it on the person.

Both the Rock Hill ordinance and Section 16-23-460 refer to particular weapons which are categorized as "deadly weapons usually used for the infliction of personal injury". In an opinion of this Office dated May 19, 1978 the term "deadly weapon" was defined as "any instrument which, when used in the ordinary manner contemplated by its design and construction will, or is likely to, cause death or great bodily harm."

In the opinion it was also stated that whether an item would constitute a deadly weapon for purposes of Section 16-23-460 would depend upon the particular circumstances prevailing at the time and that no

The Honorable David Lyle
January 15, 1987
Page Two

precise answer could be given as to what would constitute a "deadly weapon" in all instances so as to render it unlawful pursuant to such provision. For instance, as noted in such opinion, whether a pocket knife would fall within the proscription of such provision would depend on the circumstances prevailing when the knife was used. However, a switchblade knife would fall within the definition of a "dirk" as used in Section 16-23-460. See also: Opinion of the Attorney General dated May 13, 1974 and August 25, 1978 (No authority for classifying a knife as a deadly weapon solely on the basis of the length of the blade. The deadly character of a given weapon is dependent on the circumstances of each case made.)

Referencing the above, the question of what constitutes a deadly weapon, other than the items specifically listed in your ordinance, is a factual question dependent upon the circumstances when the item is carried. Further assistance for determining the circumstances when an individual may lawfully carry a pistol may be found in Section 16-23-20 of the Code which provides the exceptions to the general prohibition against carrying a pistol about the person. Such statute is also useful in responding to your question as to whether having a weapon in an automobile is considered as having it on the person. Section 16-23-20(9) specifically authorizes the placing of a pistol securely in a closed glove compartment or closed trunk.

With best wishes, I am

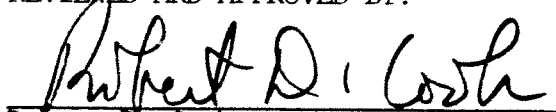
Very truly yours,



Charles H. Richardson
Assistant Attorney General

CHR/rhm

REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions