

1977 WL 37361 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

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*1 Hon. W. A. Reel, Jr.
Member
House of Representatives
Edgefield County

QUESTION

May a regular, salaried law enforcement officer of the Town of Trenton who has attained his eighteenth birthday, but is under the age of twenty one years, carry a hand gun?

AUTHORITIES

South Carolina Constitution, Art. 17, § 1.

South Carolina Code of Laws (1976) §§ 16-23-20, 16-23-30

DISCUSSION

S. C. Code (1976) § 16-23-20 provides in part:

It shall be unlawful for anyone to carry about the person, whether concealed or not, any pistol, except as follows:

(1) Regular, salaried law enforcement officers of a municipality, county, or the State . . . when they are carrying out official duties in this state.

S. C. Code (1976) § 16-23-30 provides in part:

It shall be unlawful for any person to knowingly sell, offer to sell, exchange . . . any pistol to:

...

(c) any person under the age of twenty-one . . .

...

The foregoing statutory provisions were enacted in 1965. Since then the South Carolina Constitution was amended so that persons eighteen years and older, not otherwise disqualified are sui juris. S. C. Constitution Article 17, § 1. Without reaching the question whether this Constitutional provision effectively amends 1976 Code § 16-23-30, it is this office's opinion that a person who has attained his eighteenth birthday is not disqualified by reason of age from becoming a police officer. This is not to say that the State, a county, or a municipality may not for good reason establish a higher age requirement.

It is axiomatic that in construing legislation, absurd results are to be avoided. Hence, if an eighteen year old is a police officer, he is not violating Code (1976) § 16-23-30(c) by carrying a handgun in the discharge of his official duties, by reason of the exemption in Code (1976) § 16-23-20(1).

CONCLUSION

It is the opinion of this office that an eighteen year old who is a regular, salaried police officer of a municipality may carry a handgun in the discharge of his duties, notwithstanding Code (1976) § 16-23-30(c).

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