

1977 S.C. Op. Atty. Gen. 142 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-186, 1977 WL 24528

Office of the Attorney General

State of South Carolina

Opinion No. 77-186

June 15, 1977

*1 TO: Honorable Alexander M. Sanders, Jr.

Senator

Dist. 7, Off. No. 1, Richland County

QUESTION PRESENTED:

Is the offense of possession of marijuana with intent to distribute (first offense) a misdemeanor?

STATUTE INVOLVED:

Section 32-1510.49, Code of Laws of South Carolina, as amended.

DISCUSSION:

The offense of possession of marijuana with intent to distribute is clearly a misdemeanor under Section 32-1510.49. The pertinent language of that Section is as follows:

32-1510.49. PROHIBITED acts A; penalties—(a) Except as authorized by this article it shall be unlawful for any person:

1. To manufacture, distribute, dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance; . . .
 - b. any person who violates subsection (a) with respect to: . . .

2. Any other controlled substance classified in Schedule I, II, or III shall be deemed guilty of a misdemeanor and, upon conviction, shall for a first offense, be sentenced to a term of imprisonment for not more than five years or a fine of not more than five thousand dollars, or both . . .

Marijuana is listed under Schedule I(d)10.

I am enclosing herewith a schedule showing the various drug offenses, the pertinent Section number, the penalty, and whether the crime is a felony or misdemeanor.

CONCLUSION:

First offense possession of marijuana with intent to distribute is a misdemeanor.

Joseph R. Barker

Assistant Attorney General

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