

1978 WL 34621 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 13, 1978

***1 RE: 'Guardian' Self-Protection Device**

David Jackson Cooper, Jr., Esquire
Suite 402
The Five Points Building
Columbia, SC 29205

Dear Mr. Cooper:

In response to your question concerning whether possession of 'Guardian' personal protection spray is a violation of any State statutes, please be advised that based upon our examination of this particular device and its contents, it would appear that possession of such would be a violation of [Section 16-23-470, Code of Laws of South Carolina](#), 1976. This particular section states in part that:

It shall be unlawful for anyone except duly authorized law enforcement officers to have in possession, use, transport, sell or buy any tear-gas machine or gun or any part thereof . . .

A previous opinion of this Office, 1973 Ops. Att'y. Gen. No. 3546, p. 183 indicated that possession or sale of a particular device named 'Sheriff 50,' which contained a mixture of oleoresin capsicum which was suspended in mineral oil and propelled by Freon 11 and 12, was a violation of the above-referenced code section. That particular opinion defined tear gas as a 'solid, liquid, or gaseous substance that on dispersion in the atmosphere blinds the eyes with tears but does not damage them.'

This Office has been informed that 'Guardian' also contains as its active ingredient oleoresin capsicum and is designed to disable temporarily. Therefore based on the information as supplied, it would appear that possession of 'Guardian' would also be a violation of [Section 16-23-470, supra](#).

If there is anything further, do not hesitate to contact me.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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