

1978 S.C. Op. Atty. Gen. 118 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-92, 1978 WL 22571

Office of the Attorney General

State of South Carolina

Opinion No. 78-92

May 11, 1978

***1 SUBJECT: Law Enforcement Officer, Weapons**

(1) Unless exempted by a specific exception as indicated in [Section 23-23-40, Code of Laws of South Carolina](#), 1976, a law enforcement officer in a municipality of more than two thousand five hundred persons or which has at least five full-time police officers must be at least twenty-one (21) years of age in order to be able to perform the full duties of a law-enforcement officer.

(2) An individual under twenty-one (21) years of age, eligible by means of a particular exception to become a law enforcement officer, would be prohibited by [Section 16-23-30, Code of Laws of South Carolina](#), 1976 from possessing or acquiring a pistol in his capacity as a law enforcement officer.

TO: Thomas C. Dillard, Esquire
City Attorney

QUESTIONS:

1. May an individual under twenty-one years of age serve as a law enforcement officer?
2. May an individual under twenty-one years of age serving as a law enforcement officer possess or acquire a pistol in his capacity as a law enforcement officer?

STATUTES:

[Section 23-23-50, Code of Laws of South Carolina](#), 1976; [Section 23-23-80, Code of Laws of South Carolina](#), 1976; [Section 16-23-30, Code of Laws of South Carolina](#), 1976; [Section 23-23-40, Code of Laws of South Carolina](#), 1976; [Section 16-23-20, Code of Laws of South Carolina](#), 1976.

DISCUSSION:

1. In reference to your question as to the minimum age requirements for police officers in this State, please be informed that there are no specific prohibitions against the hiring of persons age eighteen to twenty-one as police officers. Furthermore, you indicated that there would not be any problem with any bonding requirements inasmuch as a bond could be furnished for an individual in the aforementioned age group.

However, a factor that must be considered is a particular law enforcement officer's compliance with the requirement of [Section 23-23-50\(7\), Code of Laws of South Carolina](#), 1976, which states that as to candidates for certification as to compliance and qualification through training by the South Carolina Law Enforcement Training Council, certification must be provided which indicates that a particular candidate's age is not less than twenty-one years. In association with this, [Section 23-23-40, Code of Laws of South Carolina](#), states in part that:

'No law-enforcement officer below the level of chief, employed or appointed on or after January 1, 1972, by any public law-enforcement agency in this State shall be empowered or authorized to enforce the laws or ordinances of this State or any political subdivision thereof unless he has, within one year after his date of appointment, successfully completed the minimum basic training requirements established pursuant to this article.'

A few qualified exceptions as to particular individuals are provided by [Section 23-23-40](#), *supra*, in that

*2 'Exceptions to the one-year rule may be granted by the Council in these cases: (a) military leave or injury occurring during that first year which would preclude the receiving of training within the usual period of time, or (b) in the event of the filing of application for training, which application, under circumstances of time and physical limitations, cannot be honored by the training academy within the prescribed period, or (c) upon presentation of documentary evidence that the officer-candidate has successfully completed equivalent training in one of the other states which by law regulate and supervise the quality of police training and which require a minimum basic or recruit course of duration and content at least equivalent to that provided in this article or by standards set by the South Carolina Law Enforcement Training Council.'

Furthermore, certain municipalities are excluded in that [Section 23-23-80](#), [Code of Laws of South Carolina](#), 1976, states: 'The provisions of this article shall not apply to any municipality having a population of less than two thousand five hundred persons or which does not have at least five full-time police officers.'

Therefore, unless the situation involving a particular individual comes within one of the aforementioned exceptions or the officer serves in a municipality which is within the provisions of [Section 23-23-80](#), *supra*, the individual must be twenty-one in order to complete the basic training requirements mandated and thereby be authorized to perform the full duties of a law enforcement officer.

2. You also asked whether [Section 16-23-20](#), [Code of Laws of South Carolina](#), 1976, was applicable to an eighteen year old individual, eligible by means of a particular exception to become a law enforcement officer, in light of the provisions of [Section 16-23-30](#), [Code of Laws of South Carolina](#). This latter section states that:

'It shall be unlawful for any person to knowingly sell, offer to sell, deliver, lease, rent, barter, exchange, or transport for sale into this State any pistol to:

...

(c) Any person under the age of twenty-one but this shall not apply to the issue of pistols to members of Armed Forces of the United States, active or reserve, National Guard, State Military or R.O.T.C., when on duty or training or the temporary loan of pistols for instruction under the immediate supervision of a parent or adult instructor.

...

(e) it shall be unlawful for any person covered in . . . (c) . . . to possess or acquire pistols within this State.' [Section 16-23-30](#), [Code of Laws of South Carolina](#), 1976.

While the foregoing section does state that it is unlawful for any person under twenty-one to possess or acquire a pistol, unless specifically exempted as above indicated, [Section 16-23-20](#), [Code of Laws of South Carolina](#), 1976, states in part that:

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

*3 (1) Regular, salaried law-enforcement officers of a municipality, county, or the State. . .' (Emphasis added).

Thus, while law enforcement officers are permitted by [Section 16-23-20](#), *supra*, to carry a weapon, there is no provision in [Section 16-23-30](#), *supra*, which, exempts law enforcement officers from the requirements that an individual be twenty-one years of age to possess or acquire a pistol. Therefore, it is the opinion of this Office that [Section 16-23-30](#), *supra*, would control as to prevent an individual under twenty-one, who by virtue of various exceptions above referenced is a qualified law enforcement officer, from possessing or acquiring a pistol.

CONCLUSION:

1. Unless exempted by a specific exception as indicated in [Section 23-23-40](#), [Code of Laws of South Carolina](#), 1976, a law enforcement officer in a municipality of more than two thousand five hundred persons or which has at least five full-time police officers must be at least twenty-one (21) years of age in order to be able to perform the full duties of a law-enforcement officer.
2. An individual under twenty-one (21) years of age, eligible by means of a particular exception to become a law enforcement officer, would be prohibited by [Section 16-23-30](#), [Code of Laws of South Carolina](#), 1976, from possessing or acquiring a pistol in his capacity as a law enforcement officer.

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