

1978 S.C. Op. Atty. Gen. 185 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-151, 1978 WL 22619

Office of the Attorney General

State of South Carolina

Opinion No. 78-151

August 9, 1978

***1 SUBJECT: Constables, Weapons**

An individual eighteen years of age or older serving as a magistrate's constable may carry a pistol provided he has received the training at the Criminal Justice Academy required by [Section 22-9-190](#) and [22-9-200 of the 1976 Code of Laws](#), as amended.

TO: Neal Forney
Assistant Director
South Carolina Court Administration

QUESTION:

Can a magistrate's constable who is under age 21 lawfully carry a pistol pursuant to [Section 22-9-180](#) if he has received the required training by the South Carolina Law-Enforcement Division?

STATUTES:

[Sections 22-9-180, 22-9-190, Code of Laws of South Carolina, 1976](#), as amended; [Sections 16-23-30, 22-9-20, Code of Laws of South Carolina, 1976](#); and [Article XVII, Section 14, South Carolina Constitution](#).

DISCUSSION:

[Section 22-9-180, Code of Laws of South Carolina, 1976](#), as amended provides in part that:

Notwithstanding any other provision of law, magistrates' constables who have received the required training by the South Carolina Law-Enforcement Division as set forth in [Section 22-9-190](#) and [22-9-200](#), shall be authorized to carry pistols on and about their persons when on official duty as such constables and when going to and from their places of residence.

Furthermore, [Section 22-9-190, Code of Laws of South Carolina, 1976](#), as amended provides that:

Notwithstanding any other provision of law, all full-time magistrates' constables shall attend the South Carolina Criminal Justice Training Academy within one year from June 29, 1976, or within one year from initial date of employment after June 29, 1976.

Therefore, pursuant to the above sections, magistrates' constables are authorized to carry pistols upon successful completion of training at the Criminal Justice Academy.

In stating your question you asked whether a constable under twenty-one years of age who has received the above referenced training may lawfully carry a pistol in light of the provisions of [Section 16-23-30, Code of Laws of South Carolina, 1976](#) which makes it unlawful for a person under twenty-one to be sold a pistol or for that particular individual to possess a pistol. In the opinion of this Office, [Section 16-23-30](#), *supra*, is irrelevant inasmuch as [Section 22-9-180](#),

supra, specifically states that ‘notwithstanding any other provision of law,’ magistrates constables who have received the required training may carry pistols. Furthermore, an individual eighteen years of age may serve as a magistrate's constable inasmuch as he would be able to meet the qualifications of that office, and more particularly the requirement of a bond which is required by [Section 22-9-20, Code of Laws of South Carolina](#), 1976, by virtue of [Article XVII, Section 14 of the South Carolina Constitution](#) which gives certain legal rights to eighteen year olds.

CONCLUSION:

An individual eighteen years of age or older serving as a magistrate's constable may carry a pistol provided he has received the training at the Criminal Justice Academy required by [Section 22-9-190](#) and [22-9-200 of the 1976 Code](#) of Laws, as amended.

***2 Charles H. Richardson**
Assistant Attorney General

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