

1975 WL 29670 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 7, 1975

***1 In Re: Proposed Bill to Permit Carrying of Firearms by Magistrates' Constables**

Stephen T. Draffin, Esquire
Legislative Counsel
The State House
Columbia, South Carolina

Dear Steve:

You have referred to this Office a bill [No. 34] that would permit magistrates' constables to carry firearms, together with the request of Honorable Robert E. Kneece for comments from this Office on the bill.

After a thorough discussion of the bill with Chief Strom, it is the feeling of this Office, if it is desired that magistrates' constables be exempt from the State's pistol law, that minor changes in the areas indicated might be desirable:

Definition of Full-Time Constables

It is felt that definition of 'full-time constables' should be set forth by the General Assembly rather than by SLED. If done by the latter, Chief Strom would no doubt be under constant pressure to change the definition or to relax it to include a particular individual. Secondly, we feel that it is important that this bill clearly exclude persons appointed for a 'one-shot' service of process, and those appointed purely on a fee basis.

Change 'Firearms' to 'Pistols'

Since magistrates' constables have no reason to carry anything except pistols, it is felt that the term 'firearms' is too broad. Its use could involve questions of sawed-off shotguns and rifles, as well as other firearms for which a constable would have no use in any event.

Permit Cancellation of Privilege by SLED Rather Than Requiring Approval by SLED

There are so many magistrates' constables that approval by SLED would be a routine matter. Approval could not be withheld without cause in any event. It is believed that it would be more workable to substitute procedures whereby SLED could withdraw the privilege for cause after a due process hearing.

For convenience, I have drafted the suggested changes into bill form, a copy of which is enclosed.

Bill No. 33, relating to fraudulent checks, could involve constitutional issues. For this reason, I shall need a few days for research on it.

Very truly yours,

Joseph C. Coleman
Deputy Attorney General

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