

1974 S.C. Op. Atty. Gen. 61 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3707, 1974 WL 21226

Office of the Attorney General

State of South Carolina

Opinion No. 3707

February 8, 1974

*1 Sgt. Albert J. Krau
Narcotics Officer
Walterboro Police Department
Hampton Street
Walterboro, South Carolina 29488

Dear Sgt. Krau:

(1) You have asked whether you may be subjected to civil suit if you arrest outside the city, within the county. You stated that you are a city policeman but have an identification card signed by the county sheriff.

Since you are a city police officer it is the opinion of this office that you may not also be a county peace officer, as this would be in contravention of the constitution prohibition against dual office holding. See Constitution of South Carolina, Article XVII Section 1A. So if you are to make an arrest, it would probably be under color of your municipal authority. Section 17-254 (1971 Cum. Supp.) gives you statutory power to arrest within a radius of three miles of the corporate limits when in pursuit of an offender who has committed an offense against the state or municipality within the corporate limits. Therefore, to protect yourself from civil suit it would appear more proper to assist the sheriff's office in an arrest, unless you are in hot pursuit.

(2) You also asked the question whether a person not going to, or coming from hunting, and not having a hunting license can lawfully carry a loaded shotgun in the front seat of his car.

I have found no state prohibition against such an act, but would advise that you check your local statute.

(3) You also asked whether a fisherman on his way to or from his place of fishing can go in a restaurant with a pistol strapped to his side.

Section 16-129.1 (1971 Cum. Supp.) prohibits anyone from carrying a pistol on his person, but there are some exceptions. Subsection (4) allows licensed hunters and fishermen to carry a pistol while engaged in hunting or fishing and while going to and from such activity. This office has previously taken the position that while hunters or fishermen are in a vehicle, subsection (9) applies and the pistol must be kept in a closed glove compartment or trunk. See Opinion No. 2919, 1969-70 at 166. In keeping with this interpretation of the statute, it appears obvious that a pistol would be in the glove compartment or trunk of a vehicle in which the pistol owner was traveling, and therefore should not be taken in a restaurant.

If I can be of any further assistance, please do not hesitate to contact me.

Very truly yours,

Hutson S. Davis, Jr.
Assistant Attorney General

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