

1973 WL 26637 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 28, 1973

\*1 Honorable Thomas Dewey Wise  
State Senator  
23 Broad Street  
Charleston, South Carolina 29401

Dear Senator Wise:

Thank you for your letter of February 21, 1973, requesting my opinion as to whether or not it is legal to sell in this State a weapon described in the accompanying documents forwarded with your letter. The device has the trade name 'paralyzer' and advertising material associated with it describes the same as a 'tear gas aerosol chemical defense weapon.' The proposed distributor states that at the time Section 16-147, Code of Laws, 1962, was enacted, it contemplated CN gas being utilized in devices prohibited by the statute, and that his device utilizes CS gas.

Section 16-147 prohibits the possession, sale, etc., of any tear gas machine or gun or any ammunition or shells or equipment that may be used in a tear gas gun or machine.

It is my opinion that the weapon, as I understand it from the description submitted, comes within the scope of this statute and is, accordingly, unlawful unless purchased, used, etc., by a duly authorized law enforcement officer.

Tear gas has no specific definition but is a broad term commonly contemplating and meaning a gas having a lachrymose effect. CS is such a gas.

The device described appears to be of a pen shape, similar in appearance and method of operation to the Mace weapon commonly used by police officers and, in my opinion, constitutes a tear gas machine or gun. I am in agreement with Solicitor Wallace that the sale, etc., of this weapon to other than police officers or for other than rodent control is contrary to the statute referred to above.

The fact that the device inquired about emits an aerosol spray rather than discharging a pellet does not, in my opinion, alter its status as a tear gas machine or gun.

Cordially,

Daniel R. McLeod  
Attorney General

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