

1980 WL 120824 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 15, 1980

***1 RE: Opinion Request**

J. P. Strom
Chief
South Carolina Law Enforcement Division
P. O. Box 21398
Columbia, S.C. 29221

Dear Chief Strom:

You have asked of this Office whether an individual, having made application to your division to become a private security agency guard may, until his registration by your Office as such, exercise the powers available to a private security agency guard pursuant to Chapter 17 of Title 40 of the South Carolina Code of Laws, (1976). It is the opinion of this Office that an individual may not exercise the duties and responsibilities of a private security agency guard until being properly registered or licensed by the South Carolina State Law Enforcement Division as a private security agency guard.

The South Carolina Private Detective and Private Security Agencies Act provides for the licensing and registration of private security agency guards. Section 40-17-10, et seq. An individual wishing to engage in the private security business must apply and be granted a license by the division. Section 40-17-50 and Section 40-17-70. Any person employed by another engaged in the private security business must be registered by the division. Section 40-17-80. On proper registration, a private security agency guard is given the same power of arrest as that of a sheriff. Section 40-17-130. The latter section makes it clear that proper registration and licensing is required of a private security agency guard empowered to make arrest as set forth in Section 40-17-130, supra. The purpose of the licensing and registration is clear. The act requires that private security agency guards meet high standards of competency, character and integrity. Section 40-17-70, & Section 40-17-80. By statute, licensing and registration are not provided for until after the division satisfies itself of the qualifications of each applicant, and, therefore, the applicant's licensing or registration with the division signifies that he possesses the qualifications and responsibility required of a security guard empowered to make arrests. Of course, if the applicant does not possess the requisite qualifications, he cannot be licensed or registered.

The division is further empowered to grant to any security guard licensed or registered in accordance with the provisions of the act, a permit to carry a pistol or other firearm. Section 40-17-120. A security guard may carry a pistol only if he has proved that he is proficient in the use of firearms and has received a minimum of four (4) hours classroom instruction in the use of firearms, and is licensed or registered as a private security agency guard. Section 40-17-120.

It should be borne in mind, that a licensee who is engaged in or who has permitted an employee to engage in the private security business, where not lawfully in possession of a valid license issued under provisions of the act, may have his license suspended or revoked. Section 40-17-140. This office is advised, however, that the division has allowed licensees to engage in private security business after application has been made but prior to their licensing or registration. In those cases wherein the division has permitted such a practice, license suspension or revocation is unwarranted, however, they should be put on notice that the provisions will be enforced in the future.

*2 Therefore, it is the opinion of this office that a person may not engage in or allow an employee to be engaged in the private security agency business without being duly licensed or registered. Furthermore, private security agency guards may not carry a pistol or other firearm unless duly licensed by the division.

Sincerely,

Scott Elliott
Assistant Attorney General

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