

1974 WL 27915 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 13, 1974

*1 George D. Hamilton
Commissioner
State Human Affairs Commission
Post Office Drawer 11526
Columbia, SC 29211

Dear Mr. Hamilton:

Thank you for your letter of August 7, 1974, which has been referred to me for consideration and reply. You have requested information pertaining to the requisite qualifications for carrying a firearm, specifically a handgun, by uniformed guards in certain places of business.

The carrying of handguns, whether openly or concealed, is forbidden in this State, with certain exceptions. The exceptions with which you would be concerned would be found in two separate chapters of the South Carolina Code. § 16-129.1 allows weapons to be carried by guards of common carriers, financial institutions or Federal agencies, owners in one's own place of business and any nightwatchman. The right to carry such arms is limited to the time periods in which the individual is actively engaged in such an activity. An opinion of this office has been issued concerning subsection 8 of § 16-129.1 which holds that only the owner of the business may carry the weapon, not an employee.

Section 56-646.1, et seq. of the South Carolina Code of 1962, as amended, known as the South Carolina Private Detectives and Private Security Agencies, Act, further addresses these issues. § 56-646.2 defines 'Private Security Agency' as one ' . . . accepting employment as a private patrol, watchman or guard service for consideration on a private contractual basis and not as an employee. Private security business shall not include persons employed exclusively and regularly by only one employer in connection with the affairs of such employer only and where there exists an employer-employee relationship unless the employer is in the private security business.' Other sections provide the criteria for licensing as an owner of a private security agency and its employees (§ 56-646.7, § 56-646.8), and further licensing these individuals to carry firearms. (§ 56-646.12)

Private companies may maintain their own security guards, as employees, under certain conditions. § 56-646.10 requires in subsection (2) that the employer, whether private individual or corporation, have a 'competent training officer' and an 'adequate training program' with a curriculum approved by SLED or that training be obtained elsewhere from an acceptable source. These guards could qualify to carry weapons under § 56-646.12. Apparently, only the larger institutions could afford to maintain such training officers and programs, leaving the average store or business the options of sending an employee to a training facility or contracting with a licensed Private Security Agency for their services.

I enclose (§ 16-129, et seq., the 'PISTOL LAW' and § 56-646.1, et seq. in their entireties for your inspection and reference.

Very truly yours,

W. Davies Merry, III
Assistant Attorney General

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