

South Carolina Statutory Firearms Laws

These State of South Carolina gun laws were downloaded on 07/02/17, from the SLED web site as information for the South Carolina CWP Course. Changes to the law made by the General Assembly and signed by the Governor on February 11, 2014, have been incorporated into this document. The current law is on the SLED web site at <http://www.sled.sc.gov/SCStateGunLaws1.aspx?MenuID=CWP>

Title 16 - Crimes and Offenses CHAPTER 23 Offenses Involving Weapons

<http://scstatehouse.gov/code/t16c023.php>

Handguns

SECTION 16-23-10. Definitions.

When used in this article:

- (1) "Handgun" means any firearm designed to expel a projectile and designed to be fired from the hand, but shall not include any firearm generally recognized or classified as an antique, curiosity, or collector's item, or any that does not fire fixed cartridges.
- (2) "Dealer" means any person engaged in the business of selling firearms at retail or any person who is a pawnbroker.
- (3) "Crime of violence" means murder, manslaughter (except negligent manslaughter arising out of traffic accidents), rape, mayhem, kidnapping, burglary, robbery, housebreaking, assault with intent to kill, commit rape, or rob, assault with a dangerous weapon, or assault with intent to commit any offense punishable by imprisonment for more than one year.
- (4) "Fugitive from justice" means any person who has fled from or is fleeing from any law enforcement officer to avoid prosecution or imprisonment for a crime of violence.
- (5) "Subversive organization" means any group, committee, club, league, society, association, or combination of individuals the purpose of which, or one of the purposes of which, is the establishment, control, conduct, seizure, or overthrow of the government of the United States or any state or political subdivision thereof, by the use of force, violence, espionage, sabotage, or threats or attempts of any of the foregoing.
- (6) "Conviction" as used herein shall include pleas of guilty, pleas of nolo contendere, and forfeiture of bail.
- (7) "Division" means the State Law Enforcement Division.
- (8) "Purchase" or "sell" means to knowingly buy, offer to buy, receive, lease, rent, barter, exchange, pawn or accept in pawn.
- (9) "Person" means any individual, corporation, company, association, firm, partnership, society, or joint stock company.
- (10) "Luggage compartment" means the trunk of a motor vehicle which has a trunk; however, with respect to a motor vehicle which does not have a trunk, the term "luggage compartment" refers to the area of the motor vehicle in which the manufacturer designed that luggage be carried or to the area of the motor vehicle in which luggage is customarily carried. In a station wagon, van, hatchback vehicle, truck, or sport utility vehicle, the term "luggage compartment" refers to the area behind the rearmost seat.

SECTION 16-23-20. Unlawful carrying of handgun; exceptions.

It is unlawful for anyone to carry about the person any handgun, whether concealed or not, except as follows, unless otherwise specifically prohibited by law:

- (1) regular, salaried law enforcement officers, and reserve police officers of a state agency, municipality, or county of the State, uncompensated Governor's constables, law enforcement officers of the federal government or other states when they are carrying out official duties while in this State, deputy enforcement officers of the Natural Resources Enforcement Division of the Department of Natural Resources, and retired commissioned law enforcement officers employed as private detectives or private investigators;
- (2) members of the Armed Forces of the United States, the National Guard, organized reserves, or the State Militia when on duty;
- (3) members, or their invited guests, of organizations authorized by law to purchase or receive firearms from the United States or this State or regularly enrolled members, or their invited guests, of clubs organized for the purpose of target shooting or collecting modern and antique firearms while these members, or their invited guests, are at or going to or from their places of target practice or their shows and exhibits;
- (4) licensed hunters or fishermen who are engaged in hunting or fishing or going to or from their places of hunting or fishing while in a vehicle or on foot;
- (5) a person regularly engaged in the business of manufacturing, repairing, repossessing, or dealing in firearms, or the agent or representative of this person, while possessing, using, or carrying a handgun in the usual or ordinary course of the business;
- (6) guards authorized by law to possess handguns and engaged in protection of property of the United States or any agency of the United States;
- (7) members of authorized military or civil organizations while parading or when going to and from the places of meeting of their respective organizations;
- (8) a person in his home or upon his real property or a person who has the permission of the owner or the person in legal possession or the person in legal control of the home or real property;
- (9) a person in a vehicle if the handgun is:
 - (a) secured in a closed glove compartment, closed console, closed trunk, or in a closed container secured by an integral fastener and transported in the luggage compartment of the vehicle; however, this item is not violated if the glove compartment, console, or trunk is opened in the presence of a law enforcement officer for the sole purpose of retrieving a driver's license, registration, or proof of insurance. If the person has been issued a concealed weapon permit pursuant to Article 4, Chapter 31, Title 23, then the person also may secure his weapon under a seat in a vehicle, or in any open or closed storage compartment within the vehicle's passenger compartment; or
 - (b) concealed on or about his person, and he has a valid concealed weapons permit pursuant to the provisions of Article 4, Chapter 31, Title 23;
- (10) a person carrying a handgun unloaded and in a secure wrapper from the place of purchase to his home or fixed place of business or while in the process of changing or moving one's residence or changing or moving one's fixed place of business;
- (11) a prison guard while engaged in his official duties;
- (12) a person who is granted a permit under provision of law by the State Law Enforcement Division to carry a handgun about his person, under conditions set forth in the permit, and while transferring the handgun between the permittee's person and a location specified in item (9);
- (13) the owner or the person in legal possession or the person in legal control of a fixed place of business, while at the fixed place of business, and the employee of a fixed place of business, other than a business subject to Section

16-23-465, while at the place of business; however, the employee may exercise this privilege only after: (a) acquiring a permit pursuant to item (12), and (b) obtaining the permission of the owner or person in legal control or legal possession of the premises;

(14) a person engaged in firearms-related activities while on the premises of a fixed place of business which conducts, as a regular course of its business, activities related to sale, repair, pawn, firearms training, or use of firearms, unless the premises is posted with a sign limiting possession of firearms to holders of permits issued pursuant to item (12);

(15) a person while transferring a handgun directly from or to a vehicle and a location specified in this section where one may legally possess the handgun.

(16) Any person on a motorcycle when the pistol is secured in a closed saddlebag or other similar closed accessory container attached, whether permanently or temporarily, to the motorcycle.

SECTION 16-23-30. Sale or delivery of handgun to and possession by certain persons unlawful; stolen handguns.

(A) It is unlawful for a person to knowingly sell, offer to sell, deliver, lease, rent, barter, exchange, or transport for sale into this State any handgun to:

(1) a person who has been convicted of a crime of violence in any court of the United States, the several states, commonwealths, territories, possessions, or the District of Columbia or who is a fugitive from justice or a habitual drunkard or a drug addict or who has been adjudicated mentally incompetent;

(2) a person who is a member of a subversive organization;

(3) a person under the age of eighteen, but this shall not apply to the issue of handguns to members of the Armed Forces of the United States, active or reserve, National Guard, State Militia, or R. O. T. C., when on duty or training or the temporary loan of handguns for instructions under the immediate supervision of a parent or adult instructor; or

(4) a person who by order of a circuit judge or county court judge of this State has been adjudged unfit to carry or possess a firearm, such adjudication to be made upon application by any police officer, or by any prosecuting officer of this State, or sua sponte, by the court, but a person who is the subject of such an application is entitled to reasonable notice and a proper hearing prior to any such adjudication.

(B) It is unlawful for a person enumerated in subsection (A) to possess or acquire handguns within this State.

(C) A person shall not knowingly buy, sell, transport, pawn, receive, or possess any stolen handgun or one from which the original serial number has been removed or obliterated.

SECTION 16-23-50. Penalties; disposition of fines; forfeiture and disposition of handguns.

(A)(1) A person, including a dealer, who violates the provisions of this article, except Section 16-23-20, is guilty of a felony and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than five years, or both.

(2) A person violating the provisions of Section 16-23-20 is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

(B) In addition to the penalty provided in this section, the handgun involved in the violation of this article must be confiscated. The handgun must be delivered to the chief of police of the municipality or to the sheriff of the county if the violation occurred outside the corporate limits of a municipality. The law enforcement agency that receives the confiscated handgun may use it within the agency, transfer it to another law enforcement agency for the lawful use of that agency, trade it with a retail dealer licensed to sell handguns in this State for a handgun or any other equipment approved by the agency, or destroy it. A weapon must not be disposed of in any manner until the results of any legal proceeding in which it may be involved are finally determined. If the State Law Enforcement

Division seized the handgun, the division may keep the handgun for use by its forensic laboratory. Records must be kept of all confiscated handguns received by the law enforcement agencies under the provisions of this article.

SECTION 16-23-55. Procedure for returning found handgun.

(A) A handgun that is found and turned over to a law enforcement agency must be held for a period of ninety days. During that period, the agency shall make a diligent effort to determine:

- (1) if the handgun is stolen;
- (2) if the handgun has been used in the commission of a crime; and (3) the true owner of the handgun.

(B) At least twice during the ninety-day holding period, the agency shall advertise the handgun with its full description in a newspaper having general circulation in the county where the handgun was found.

(C) After the ninety days have elapsed from publication of the first advertisement, and upon request of the individual who found and turned over the handgun, the agency shall return the handgun to this person if the individual fully completes the application process as described in Section 23-31-140 and in federal law, and pays all advertising and other costs incidental to returning the handgun. No handgun may be returned until the individual fully completes the application.

(D) Upon proper completion of the application, the law enforcement agency shall provide copies of the application in compliance with Section 23-31-140.

SECTION 16-23-60. Construction.

Provisions of this article must not be construed to grant any additional police powers not authorized by law, and do not in any manner affect the powers of constables commissioned by the Governor.

Machine Guns, Sawed-off Shotguns and Rifles

SECTION 16-23-210. Definitions.

When used in this article:

(a) "Machine gun" applies to and includes any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any combination or parts designed and intended for use in converting a weapon into a machine gun, and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.

(b) "Sawed-off shotgun" means a shotgun having a barrel or barrels of less than eighteen inches in length or a weapon made from a shotgun which as modified has an overall length of less than twenty-six inches or a barrel or barrels of less than eighteen inches in length.

(c) "Shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each pull of the trigger. The term includes any such weapon which may be readily restored to fire a fixed shotgun shell but does not include an antique firearm as defined in this section.

(d) "Sawed-off rifle" means a rifle having a barrel or barrels of less than sixteen inches in length or a weapon made from a rifle which as modified has an overall length of less than twenty-six inches or a barrel or barrels of less than sixteen inches in length.

(e) "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger. The term includes any such weapon which may be readily restored to fire a fixed cartridge but does not include an antique firearm as described in this section.

(f) "Antique firearm" means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(g) "Military firearm" means any military weapon, firearm, or destructive device, other than a machine gun, that is manufactured for military use by a firm licensed by the federal government pursuant to a contract with the federal government and does not include a pistol, rifle, or shotgun which fires only one shot for each pull of the trigger.

See <http://scstatehouse.gov/code/t16c023.php> for full text for the following sections 16-23-220 to 16-23-280:

SECTION 16-23-220. Unlawful transportation of machine gun, military firearm, or sawed-off shotgun or rifle within State.

SECTION 16-23-230. Unlawful storing, keeping, or possessing of machine gun, military firearm, or sawed-off shotgun or rifle.

SECTION 16-23-240. Unlawful sale, rental, or giving away of machine gun, military firearm, or sawed-off shotgun or rifle; exceptions.

SECTION 16-23-250. Exceptions to application of article.

SECTION 16-23-260. Penalties.

SECTION 16-23-270. Article not applicable to antique firearms.

SECTION 16-23-280. Manufacture and sale of machine guns by licensed manufacturer.

Miscellaneous Offenses

SECTION 16-23-405. Definition of "weapon"; confiscation and disposition of weapons used in commission or in furtherance of crime.

(A) Except for the provisions relating to rifles and shotguns in Section 16-23-460, as used in this chapter, "weapon" means firearm (rifle, shotgun, pistol, or similar device that propels a projectile through the energy of an explosive), a blackjack, a metal pipe or pole, or any other type of device, or object which may be used to inflict bodily injury or death.

(B) A person convicted of a crime, in addition to a penalty, shall have a weapon used in the commission or in furtherance of the crime confiscated. Each weapon must be delivered to the chief of police of the municipality or to the sheriff of the county if the violation occurred outside the corporate limits of a municipality. The law enforcement agency that receives the confiscated weapon may use it within the agency, transfer it to another law enforcement agency for the lawful use of that agency, trade it with a retail dealer licensed to sell pistols in this State for a pistol or other equipment approved by the agency, or destroy it. A weapon may not be disposed of until the results of all legal proceedings in which it may be involved are finally determined. A firearm seized by the State Law Enforcement Division may be kept by the division for use by its forensic laboratory.

SECTION 16-23-410. Pointing firearm at another person.

It is unlawful for a person to present or point at another person a loaded or unloaded firearm.

A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years. This section must not be construed to abridge the right of self-defense or to apply to theatricals or like performances.

SECTION 16-23-415. Taking firearm or other weapon from law enforcement officer.

An individual who takes a firearm, stun gun, or taser device from the person of a law enforcement officer or a corrections officer is guilty of a felony and, upon conviction, must be imprisoned for not more than five years, or

fined not more than five thousand dollars, or both, if all of the following circumstances exist at the time the firearm is taken:

- (1) the individual knows or has reason to believe the person from whom the weapon is taken is a law enforcement officer or a corrections officer;
- (2) the law enforcement officer or corrections officer is performing his duties as a law enforcement officer or a corrections officer, or the individual's taking of the weapon is directly related to the law enforcement officer's or corrections officer's professional responsibilities;
- (3) the individual takes the weapon without consent of the law enforcement officer or corrections officer;
- (4) the law enforcement officer is authorized by his employer to carry the weapon in the line of duty; and
- (5) the law enforcement officer or corrections officer is authorized by his employer to carry the weapon while off duty and has identified himself as a law enforcement officer.

SECTION 16-23-420. Possession of firearm on school property; concealed weapons.

(A) It is unlawful for a person to possess a firearm of any kind on any premises or property owned, operated, or controlled by a private or public school, college, university, technical college, other post-secondary institution, or in any publicly owned building, without the express permission of the authorities in charge of the premises or property. The provisions of this subsection related to any premises or property owned, operated, or controlled by a private or public school, college, university, technical college, or other post-secondary institution, do not apply to a person who is authorized to carry a concealed weapon pursuant to Article 4, Chapter 31, Title 23 when the weapon remains inside an attended or locked motor vehicle and is secured in a closed glove compartment, closed console, closed trunk, or in a closed container secured by an integral fastener and transported in the luggage compartment of the vehicle.

(B) It is unlawful for a person to enter the premises or property described in subsection (A) and to display, brandish, or threaten others with a firearm.

(C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both.

(D) This section does not apply to a guard, law enforcement officer, or member of the armed forces, or student of military science. A married student residing in an apartment provided by the private or public school whose presence with a weapon in or around a particular building is authorized by persons legally responsible for the security of the buildings is also exempted from the provisions of this section.

(E) For purposes of this section, the terms "premises" and "property" do not include state or locally owned or maintained roads, streets, or rights-of-way of them, running through or adjacent to premises or property owned, operated, or controlled by a private or public school, college, university, technical college, or other post-secondary institution, which are open full time to public vehicular traffic.

(F) This section does not apply to a person who is authorized to carry concealed weapons pursuant to Article 4, Chapter 31 of Title 23 when upon any premises, property, or building that is part of an interstate highway rest area facility.

SECTION 16-23-430. Carrying weapon on school property; concealed weapons.

(A) It shall be unlawful for any person, except state, county, or municipal law enforcement officers or personnel authorized by school officials, to carry on his person, while on any elementary or secondary school property, a knife, with a blade over two inches long, a blackjack, a metal pipe or pole, firearms, or any other type of weapon, device, or object which may be used to inflict bodily injury or death.

(B) This section does not apply to a person who is authorized to carry a concealed weapon pursuant to Article 4, Chapter 31, Title 23 when the weapon remains inside an attended or locked motor vehicle and is secured in a

closed glove compartment, closed console, closed trunk, or in a closed container secured by an integral fastener and transported in the luggage compartment of the vehicle.

(C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than five years, or both. Any weapon or object used in violation of this section may be confiscated by the law enforcement division making the arrest.

SECTION 16-23-440. Discharging firearms at or into dwellings, structures, enclosures, vehicles or equipment; penalties.

(A) It is unlawful for a person to discharge or cause to be discharged unlawfully firearms at or into a dwelling house, other building, structure, or enclosure regularly occupied by persons. A person who violates the provisions of this subsection is guilty of a felony and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than ten years, or both.

(B) It is unlawful for a person to discharge or cause to be discharged unlawfully firearms at or into any vehicle, aircraft, watercraft, or other conveyance, device, or equipment while it is occupied. A person who violates the provisions of this subsection is guilty of a felony and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than ten years, or both.

SECTION 16-23-450. Placing loaded trap gun, spring gun or like device.

It shall be unlawful for any person to construct, set or place a loaded trap gun, spring gun or any like device in any manner in any building or in any place within this State, and any violation of the provisions of this section shall constitute a misdemeanor and be punished by a fine of not less than one hundred dollars nor more than five hundred dollars or by imprisonment of not less than thirty days nor more than one year or by both fine and imprisonment, in the discretion of the court.

SECTION 16-23-460. Carrying concealed weapons; forfeiture of weapons.

(A) A person carrying a deadly weapon usually used for the infliction of personal injury concealed about his person is guilty of a misdemeanor, must forfeit to the county, or, if convicted in a municipal court, to the municipality, the concealed weapon, and must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned not less than thirty days nor more than ninety days.

(B) The provisions of this section do not apply to:

(1) A person carrying a concealed weapon upon his own premises or pursuant to and in compliance with Article 4, Chapter 31 of Title 23; or

(2) peace officers in the actual discharge of their duties.

(C) The provisions of this section also do not apply to rifles, shotguns, dirks, slingshots, metal knuckles, knives, or razors unless they are used with the intent to commit a crime or in furtherance of a crime.

SECTION 16-23-465. Additional penalty for unlawfully carrying pistol or firearm onto premises of business selling alcoholic liquor, beer or wine for on-premises consumption; exceptions.

(A) In addition to the penalties provided for by Sections 16-11-330, 16-11-620, 16-23-460, 23-31-220, and Article 1, Chapter 23, Title 16, a person convicted of carrying a firearm into a business which sells alcoholic liquor, beer, or wine for consumption on the premises is guilty of a misdemeanor, and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than two years, or both.

In addition to the penalties described above, a person who violates this section while carrying a concealable weapon pursuant to Article 4, Chapter 31, Title 23 must have his concealed weapon permit revoked for a period of five years.

(B)(1) This section does not apply to a person carrying a concealable weapon pursuant to and in compliance with Article 4, Chapter 31, Title 23; however, the person shall not consume alcoholic liquor, beer, or wine while carrying the concealable weapon on the business' premises. A person who violates this item may be charged with a violation of subsection (A).

(2) A property owner, holder of a lease interest, or operator of a business may prohibit the carrying of concealable weapons into the business by posting a "NO CONCEALABLE WEAPONS ALLOWED" sign in compliance with Section 23-31-235. A person who carries a concealable weapon into a business with a sign posted in compliance with Section 23-31-235 may be charged with a violation of subsection (A).

(3) A property owner, holder of a lease interest, or operator of a business may request that a person carrying a concealable weapon leave the business' premises, or any portion of the premises, or request that a person carrying a concealable weapon remove the concealable weapon from the business' premises, or any portion of the premises. A person carrying a concealable weapon who refuses to leave a business' premises or portion of the premises when requested or refuses to remove the concealable weapon from a business' premises or portion of the premises when requested may be charged with a violation of subsection (A).

SECTION 16-23-470. Illegal possession of tear-gas gun or ammunition.

(A) It is unlawful for anyone except an authorized law enforcement officer to possess, use, transport, sell, or buy a tear-gas machine or gun, or its parts, or any ammunition, shells, or equipment that may be used in a tear-gas gun or machine. It is lawful for a person for self-defense purposes only to possess, use, transport, sell, or buy a tear-gas machine or gun, or its parts, or ammunition, shells, or equipment for a tear-gas machine or gun, but the capacity of a tear-gas cartridge, shell, or container shall not exceed fifty cubic centimeters nor shall a tear-gas machine or gun have the capability of shooting a cartridge, shell, or container of more than fifty cubic centimeters.

(B) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years or fined not more than five thousand dollars, or both.

(C) Except as permitted above, nothing in this section prohibits the purchase, sale, transportation, or use of tear gas for the destruction of insects or rodents if tear gas is not in containers or shells suitable for use in a tear-gas gun, equipment, or machine and if the purchaser has written authority for the purchase and use of tear gas from the county agent of the county in which he resides.

SECTION 16-23-480. Manufacture or possession of article designed to cause damage by fire or other means.

It is unlawful for a person to manufacture, cause to be manufactured, or possess any object or article which is designed to cause damage by fire or any other means to person or property either by ignition, detonation, or other means. It is unlawful for a person to possess any object or article solely for the purpose of causing damage by fire or other means to person or property either by ignition, detonation, or other means.

A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both.

SECTION 16-23-490. Additional punishment for possession of firearm or knife during commission of, or attempt to commit, violent crime.

(A) If a person is in possession of a firearm or visibly displays what appears to be a firearm or visibly displays a knife during the commission of a violent crime and is convicted of committing or attempting to commit a violent crime as defined in Section 16-1-60, he must be imprisoned five years, in addition to the punishment provided for the principal crime. This five-year sentence does not apply in cases where the death penalty or a life sentence without parole is imposed for the violent crime.

(B) Service of the five-year sentence is mandatory unless a longer mandatory minimum term of imprisonment is provided by law for the violent crime. The court may impose this mandatory five-year sentence to run consecutively or concurrently.

(C) Except as provided in this subsection, the person sentenced under this section is not eligible during this five-year period for parole, work release, or extended work release. The five years may not be suspended and the person may not complete his term of imprisonment in less than five years pursuant to good-time credits or work credits, but may earn credits during this period. The person is eligible for work release, if the person is sentenced for voluntary manslaughter (Section 16-3-50), kidnapping (Section 16-3-910), carjacking (Section 16-3-1075), burglary in the second degree (Section 16-11-312(B)), armed robbery (Section 16-11-330(A)), or attempted armed robbery (Section 16-11-330(B)), the crime did not involve any criminal sexual conduct or an additional violent crime as defined in Section 16-1-60, and the person is within three years of release from imprisonment.

(D) As used in this section, "firearm" means any machine gun, automatic rifle, revolver, pistol, or any weapon which will, or is designed to, or may readily be converted to expel a projectile; "knife" means an instrument or tool consisting of a sharp cutting blade whether or not fastened to a handle which is capable of being used to inflict a cut, slash, or wound.

(E) The additional punishment may not be imposed unless the indictment alleged as a separate count that the person was in possession of a firearm or visibly displayed what appeared to be a firearm or visibly displays a knife during the commission of the violent crime and conviction was had upon this count in the indictment. The penalties prescribed in this section may not be imposed unless the person convicted was at the same time indicted and convicted of a violent crime as defined in Section 16-1-60.

SECTION 16-23-500. Unlawful possession of a firearm by a person convicted of violent offense; confiscation; return of firearm to innocent owner.

(A) It is unlawful for a person who has been convicted of a violent crime, as defined by Section 16-1-60, that is classified as a felony offense, to possess a firearm or ammunition within this State.

(B) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than five years, or both.

(C)(1) In addition to the penalty provided in this section, the firearm or ammunition involved in the violation of this section must be confiscated. The firearm or ammunition must be delivered to the chief of police of the municipality or to the sheriff of the county if the violation occurred outside the corporate limits of a municipality. The law enforcement agency that receives the confiscated firearm or ammunition may use it within the agency, transfer it to another law enforcement agency for the lawful use of that agency, trade it with a retail dealer licensed to sell firearms or ammunition in this State for a firearm, ammunition, or any other equipment approved by the agency, or destroy it. A firearm or ammunition must not be disposed of in any manner until the results of any legal proceeding in which it may be involved are finally determined. If the State Law Enforcement Division seized the firearm or ammunition, the division may keep the firearm or ammunition for use by its forensic laboratory. Records must be kept of all confiscated firearms or ammunition received by the law enforcement agencies under the provisions of this section.

(2) A law enforcement agency that receives a firearm or ammunition pursuant to this section shall administratively release the firearm or ammunition to an innocent owner. The firearm or ammunition must not be released to the innocent owner until the results of any legal proceedings in which the firearm or ammunition may be involved are finally determined. Before the firearm or ammunition may be released, the innocent owner shall provide the law enforcement agency with proof of ownership and shall certify that the innocent owner will not release the firearm or ammunition to the person who has been charged with a violation of this section which resulted in the confiscation of the firearm or ammunition. The law enforcement agency shall notify the innocent owner when the firearm or ammunition is available for release. If the innocent owner fails to recover the firearm or ammunition within thirty days after notification of the release, the law enforcement agency may maintain or dispose of the firearm or ammunition as otherwise provided in this section.

(D) The judge that hears the case involving the violent offense, as defined by Section 16-1-60, that is classified as a felony offense, shall make a specific finding on the record that the offense is a violent offense, as defined by Section 16-1-60, and is classified as a felony offense. A judge's failure to make a specific finding on the record does

not bar or otherwise affect prosecution pursuant to this subsection and does not constitute a defense to prosecution pursuant to this subsection.

SECTION 16-23-520. Use, transportation, manufacture, possession, purchase, or sale of teflon-coated ammunition.

It is unlawful for a person to use, transport, manufacture, possess, distribute, sell, or buy any ammunition or shells that are coated with polytetrafluoroethylene (teflon).

A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than five thousand dollars, or both.

SECTION 16-23-530. Firearms; possession by or sale to unlawful alien; penalties.

(A) It is unlawful for an alien unlawfully present in the United States to possess, purchase, offer to purchase, sell, lease, rent, barter, exchange, or transport into this State a firearm.

(B) It is unlawful for a person to knowingly sell, offer to sell, deliver, lease, rent, barter, exchange, or transport for sale into this State a firearm to a person knowing that such person is not lawfully present in the United States.

(C) A person violating the provisions of subsection (A) of this section is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than ten years, or both.

(D) A person violating the provisions of subsection (B) of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than three years, or both.

Bombs, Destructive Devices, and Weapons of Mass Destruction

See <http://scstatehouse.gov/code/t16c023.php> for full text for the following sections 16-23-220 to 16-23-280:

SECTION 16-23-710. Definitions.

SECTION 16-23-715. Possession, threatened or attempted use of weapon of mass destruction for act of terrorism; penalty.

SECTION 16-23-720. Use, counseling or soliciting others to use, possessing, or threatening to use destructive device; harboring terrorist.

SECTION 16-23-730. Hoax device or replica of destructive device or detonator; manufacture, possession or transport; threat to use; penalties.

SECTION 16-23-740. Hindering explosive ordinance technician or law enforcement official while detecting or disarming destructive device; penalty.

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SECTION 16-23-760. Admissibility of photographic evidence of destructive devices; custody of inert devices introduced into evidence.

SECTION 16-23-770. Forfeiture of property used or intended for use in violation of article; storage and destruction; exceptions.

SECTION 16-23-780. Reporting existence and location of destructive device or weapon of mass destruction.

Title 23 - Law Enforcement and Public Safety

CHAPTER 31

Firearms

<http://scstatehouse.gov/code/t23c031.php>

Purchase of Rifles and Shotguns

SECTION 23-31-10. Purchase of rifle or shotgun in another state.

A resident of this State including a corporation or other business entity maintaining a place of business in this State, who may lawfully purchase and receive delivery of a rifle or shotgun in this State, may purchase a rifle or shotgun in another state and transport or receive it in this State; provided, that the sale meets the lawful requirements of each state, meets all lawful requirements of any federal statute, and is made by a licensed importer, licensed manufacturer, licensed dealer, or licensed collector.

SECTION 23-31-20. Purchase of rifle or shotgun in this State by resident of any state.

A resident of any state may purchase rifles and shotguns in this State if the resident conforms to applicable provisions of statutes and regulations of this State, the United States, and of the state in which the person resides.

Concealed Weapon Permits

SECTION 23-31-205. Name.

This article may be cited as the "Law Abiding Citizens Self-Defense Act of 1996".

SECTION 23-31-210. Definitions.

As used in this article:

- (1) "Resident" means an individual who is present in South Carolina with the intention of making a permanent home in South Carolina or military personnel on permanent change of station orders.
- (2) "Qualified nonresident" means an individual who owns real property in South Carolina, but who resides in another state.
- (3) "Picture identification" means:
 - (a) a valid driver's license or photographic identification card issued by the state in which the applicant resides; or
 - (b) an official photographic identification card issued by the Department of Revenue, a federal or state law enforcement agency, an agency of the United States Department of Defense, or the United States Department of State.
- (4) "Proof of training" means an original document or certified copy of the document supplied by an applicant that certifies that he is either:
 - (a) a person who, within three years before filing an application, successfully has completed a basic or advanced handgun education course offered by a state, county, or municipal law enforcement agency or a nationally recognized organization that promotes gun safety. This education course must include, but is not limited to:
 - (i) information on the statutory and case law of this State relating to handguns and to the use of deadly force;
 - (ii) information on handgun use and safety;
 - (iii) information on the proper storage practice for handguns with an emphasis on storage practices that reduces the possibility of accidental injury to a child; and

- (iv) the actual firing of the handgun in the presence of the instructor;
- (b) a person who demonstrates any of the following must comply with the provisions of subitem (a)(i) only:
 - (i) a person who demonstrates the completion of basic military training provided by any branch of the United States military who produces proof of his military service through the submission of a DD214 form;
 - (ii) a retired law enforcement officer who produces proof that he is a graduate of the Criminal Justice Academy or that he was a law enforcement officer prior to the requirement for graduation from the Criminal Justice Academy; or
 - (iii) a retired state or federal law enforcement officer who produces proof of graduation from a federal or state academy that includes firearms training as a graduation requirement;
 - (c) an instructor certified by the National Rifle Association or another SLED-approved competent national organization that promotes the safe use of handguns;
 - (d) a person who can demonstrate to the Director of SLED or his designee that he has a proficiency in both the use of handguns and state laws pertaining to handguns;
 - (e) an active duty police handgun instructor;
 - (f) a person who has a SLED-certified or approved competitive handgun shooting classification; or
 - (g) a member of the active or reserve military, or a member of the National Guard.

SLED shall promulgate regulations containing general guidelines for courses and qualifications for instructors which would satisfy the requirements of this item. For purposes of subitems (a) and (c), "proof of training" is not satisfied unless the organization and its instructors meet or exceed the guidelines and qualifications contained in the regulations promulgated by SLED pursuant to this item.

- (5) "Concealable weapon" means a firearm having a length of less than twelve inches measured along its greatest dimension that must be carried in a manner that is hidden from public view in normal wear of clothing except when needed for self-defense, defense of others, and the protection of real or personal property.
- (6) "Proof of ownership of real property" means a certified current document from the county assessor of the county in which the property is located verifying ownership of the real property. SLED must determine the appropriate document that fulfills this requirement.

SECTION 23-31-215. Issuance of permits.

- (A) Notwithstanding any other provision of law, except subject to subsection (B), SLED must issue a permit, which is no larger than three and one-half inches by three inches in size, to carry a concealable weapon to a resident or qualified nonresident who is at least twenty-one years of age and who is not prohibited by state law from possessing the weapon upon submission of:
 - (1) a completed application signed by the person;
 - (2) a photocopy of a driver's license or photographic identification card;
 - (3) proof of residence or if the person is a qualified nonresident, proof of ownership of real property in this State;
 - (4) proof of actual or corrected vision rated at 20/40 within six months of the date of application or, in the case of a person licensed to operate a motor vehicle in this State, presentation of a valid driver's license;
 - (5) proof of training;
 - (6) payment of a fifty-dollar application fee. This fee must be waived for disabled veterans and retired law enforcement officers; and
 - (7) a complete set of fingerprints unless, because of a medical condition verified in writing by a licensed medical doctor, a complete set of fingerprints is impossible to submit. In lieu of the submission of fingerprints, the applicant

must submit the written statement from a licensed medical doctor specifying the reason or reasons why the applicant's fingerprints may not be taken. If all other qualifications are met, the Chief of SLED may waive the fingerprint requirements of this item. The statement of medical limitation must be attached to the copy of the application retained by SLED. A law enforcement agency may charge a fee not to exceed five dollars for fingerprinting an applicant.

(B) Upon submission of the items required by subsection (A), SLED must conduct or facilitate a local, state, and federal fingerprint review of the applicant. SLED also must conduct a background check of the applicant through notification to and input from the sheriff of the county where the applicant resides or if the applicant is a qualified nonresident, where the applicant owns real property in this State. The sheriff within ten working days after notification by SLED, may submit a recommendation on an application. Before making a determination whether or not to issue a permit under this article, SLED must consider the recommendation provided pursuant to this subsection. If the fingerprint review and background check are favorable, SLED must issue the permit.

(C) SLED shall issue a written statement to an unqualified applicant specifying its reasons for denying the application within ninety days from the date the application was received; otherwise, SLED shall issue a concealable weapon permit. If an applicant is unable to comply with the provisions of Section 23-31-210(4), SLED shall offer the applicant a handgun training course that satisfies the requirements of Section 23-31-210(4). The course shall cost fifty dollars. SLED shall use the proceeds to defray the training course's operating costs. If a permit is granted by operation of law because an applicant was not notified of a denial within the ninety-day notification period, the permit may be revoked upon written notification from SLED that sufficient grounds exist for revocation or initial denial.

(D) Denial of an application may be appealed. The appeal must be in writing and state the basis for the appeal. The appeal must be submitted to the Chief of SLED within thirty days from the date the denial notice is received. The chief shall issue a written decision within ten days from the date the appeal is received. An adverse decision shall specify the reasons for upholding the denial and may be reviewed by the Administrative Law Court pursuant to Article 5, Chapter 23, Title 1, upon a petition filed by an applicant within thirty days from the date of delivery of the division's decision.

(E) SLED must make permit application forms available to the public. A permit application form shall require an applicant to supply:

- (1) name, including maiden name if applicable;
- (2) date and place of birth;
- (3) sex;
- (4) race;
- (5) height;
- (6) weight;
- (7) eye and hair color;
- (8) current residence address; and
- (9) all residence addresses for the three years preceding the application date.

(F) The permit application form shall require the applicant to certify that:

- (1) he is not a person prohibited under state law from possessing a weapon;
- (2) he understands the permit is revoked and must be surrendered immediately to SLED if the permit holder becomes a person prohibited under state law from possessing a weapon; and
- (3) all information contained in his application is true and correct to the best of his knowledge.

(G) Medical personnel, law enforcement agencies, organizations offering handgun education courses pursuant to Section 23-31-210(4), and their personnel, who in good faith provide information regarding a person's application, must be exempt from liability that may arise from issuance of a permit; provided, however, a weapons instructor must meet the requirements established in Section 23-31-210(4) in order to be exempt from liability under this subsection.

(H) A permit application must be submitted in person, by mail, or online to SLED headquarters which shall verify the legibility and accuracy of the required documents. If an applicant submits his application online, SLED may continue to make all contact with that applicant through online communications.

(I) SLED must maintain a list of all permit holders and the current status of each permit. SLED may release the list of permit holders or verify an individual's permit status only if the request is made by a law enforcement agency to aid in an official investigation, or if the list is required to be released pursuant to a subpoena or court order. SLED may charge a fee not to exceed its costs in releasing the information under this subsection. Except as otherwise provided in this subsection, a person in possession of a list of permit holders obtained from SLED must destroy the list.

(J) A permit is valid statewide unless revoked because the person has:

- (1) become a person prohibited under state law from possessing a weapon;
- (2) moved his permanent residence to another state and no longer owns real property in this State;
- (3) voluntarily surrendered the permit; or
- (4) been charged with an offense that, upon conviction, would prohibit the person from possessing a firearm. However, if the person subsequently is found not guilty of the offense, then his permit must be reinstated at no charge.

Once a permit is revoked, it must be surrendered to a sheriff, police department, a SLED agent, or by certified mail to the Chief of SLED. A person who fails to surrender his permit in accordance with this subsection is guilty of a misdemeanor and, upon conviction, must be fined twenty-five dollars.

(K) A permit holder must have his permit identification card in his possession whenever he carries a concealable weapon. When carrying a concealable weapon pursuant to Article 4, Chapter 31, Title 23, a permit holder must inform a law enforcement officer of the fact that he is a permit holder and present the permit identification card when an officer:

- (1) identifies himself as a law enforcement officer; and
- (2) requests identification or a driver's license from a permit holder.

A permit holder immediately must report the loss or theft of a permit identification card to SLED headquarters. A person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be fined twenty-five dollars.

(L) SLED shall issue a replacement for lost, stolen, damaged, or destroyed permit identification cards after the permit holder has updated all information required in the original application and the payment of a five-dollar replacement fee. Any change of permanent address must be communicated in writing to SLED within ten days of the change accompanied by the payment of a fee of five dollars to defray the cost of issuance of a new permit. SLED shall then issue a new permit with the new address. A permit holder's failure to notify SLED in accordance with this subsection constitutes a misdemeanor punishable by a twenty-five dollar fine. The original permit shall remain in force until receipt of the corrected permit identification card by the permit holder, at which time the original permit must be returned to SLED.

(M) A permit issued pursuant to this section does not authorize a permit holder to carry a concealable weapon into a:

- (1) law enforcement, correctional, or detention facility;
- (2) courthouse or courtroom;
- (3) polling place on election days;
- (4) office of or the business meeting of the governing body of a county, public school district, municipality, or special purpose district;
- (5) school or college athletic event not related to firearms;
- (6) daycare facility or preschool facility;
- (7) place where the carrying of firearms is prohibited by federal law;
- (8) church or other established religious sanctuary unless express permission is given by the appropriate church official or governing body;
- (9) hospital, medical clinic, doctor's office, or any other facility where medical services or procedures are performed unless expressly authorized by the employer; or
- (10) place clearly marked with a sign prohibiting the carrying of a concealable weapon on the premises pursuant to Sections 23-31-220 and 23-31-235. Except that a property owner or an agent acting on his behalf, by express written consent, may allow individuals of his choosing to enter onto property regardless of any posted sign to the contrary. A person who violates a provision of this item, whether the violation is wilful or not, only may be charged with a violation of Section 16-11-620 and must not be charged with or penalized for a violation of this subsection.

Except as provided for in item (10), a person who wilfully violates a provision of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars or imprisoned not more than one year, or both, at the discretion of the court and have his permit revoked for five years.

Nothing contained in this subsection may be construed to alter or affect the provisions of Sections 10-11-320, 16-23-420, 16-23-430, 16-23-465, 44-23-1080, 44-52-165, 50-9-830, and 51-3-145.

(N)(1) Valid out-of-state permits to carry concealable weapons held by a resident of a reciprocal state must be honored by this State, provided, that the reciprocal state requires an applicant to successfully pass a criminal background check and a course in firearm training and safety. A resident of a reciprocal state carrying a concealable weapon in South Carolina is subject to and must abide by the laws of South Carolina regarding concealable weapons. SLED shall maintain and publish a list of those states as the states with which South Carolina has reciprocity.

(2) Notwithstanding the reciprocity requirements of item (1), South Carolina shall automatically recognize concealed weapon permits issued by Georgia and North Carolina.

(3) The reciprocity provisions of this section shall not be construed to authorize the holder of any out-of-state permit or license to carry, in this State, any firearm or weapon other than a handgun.

(O) A permit issued pursuant to this article is not required for a person:

- (1) specified in Section 16-23-20, items (1) through (5) and items (7) through (11);
- (2) carrying a self-defense device generally considered to be nonlethal including the substance commonly referred to as "pepper gas"; or
- (3) carrying a concealable weapon in a manner not prohibited by law.

(P) Upon renewal, a permit issued pursuant to this article is valid for five years. Subject to subsection (Q), SLED shall renew a currently valid permit upon:

(1) payment of a fifty-dollar renewal fee by the applicant. This fee must be waived for disabled veterans and retired law enforcement officers;

(2) completion of the renewal application; and

(3) picture identification or facsimile copy thereof.

(Q) Upon submission of the items required by subsection (P), SLED must conduct or facilitate a state and federal background check of the applicant. If the background check is favorable, SLED must renew the permit.

(R) No provision contained within this article shall expand, diminish, or affect the duty of care owed by and liability accruing to, as may exist at law immediately before the effective date of this article, the owner of or individual in legal possession of real property for the injury or death of an invitee, licensee, or trespasser caused by the use or misuse by a third party of a concealable weapon. Absence of a sign prohibiting concealable weapons shall not constitute negligence or establish a lack of duty of care.

(S) At least thirty days before a permit issued pursuant to this article expires, SLED shall notify the permit holder by mail or online if permitted by subsection (H) at the permit holder's address of record that the permit is set to expire along with notification of the permit holder's opportunity to renew the permit pursuant to the provisions of subsections (P) and (Q).

(T) During the first quarter of each calendar year, SLED must publish a report of the following information regarding the previous calendar year:

(1) the number of permits;

(2) the number of permits that were issued;

(3) the number of permit applications that were denied;

(4) the number of permits that were renewed;

(5) the number of permit renewals that were denied;

(6) the number of permits that were suspended or revoked; and

(7) the name, address, and county of a person whose permit was revoked, including the reason for the revocation pursuant to subsection (J)(1).

The report must include a breakdown of such information by county.

(U) A concealable weapon permit holder whose permit has been expired for no more than one year may not be charged with a violation of Section 16-23-20 but must be fined not more than one hundred dollars.

SECTION 23-31-216. Collection and retention of fees.

The State Law Enforcement Division shall collect, retain, expend, and carry forward all fees associated with the concealable weapon application, renewal, and replacement of the permit, as provided pursuant to this article.

SECTION 23-31-220. Right to allow or permit concealed weapons upon premises; signs.

Nothing contained in this article shall in any way be construed to limit, diminish, or otherwise infringe upon:

(1) the right of a public or private employer to prohibit a person who is licensed under this article from carrying a concealable weapon upon the premises of the business or work place or while using any machinery, vehicle, or equipment owned or operated by the business;

(2) the right of a private property owner or person in legal possession or control to allow or prohibit the carrying of a concealable weapon upon his premises.

The posting by the employer, owner, or person in legal possession or control of a sign stating "No Concealable Weapons Allowed" shall constitute notice to a person holding a permit issued pursuant to this article that the

employer, owner, or person in legal possession or control requests that concealable weapons not be brought upon the premises or into the work place. A person who brings a concealable weapon onto the premises or work place in violation of the provisions of this paragraph may be charged with a violation of Section 16-11-620. In addition to the penalties provided in Section 16-11-620, a person convicted of a second or subsequent violation of the provisions of this paragraph must have his permit revoked for a period of one year. The prohibition contained in this section does not apply to persons specified in Section 16-23-20, item (1).

SECTION 23-31-225. Carrying concealed weapons into residences or dwellings.

No person who holds a permit issued pursuant to Article 4, Chapter 31, Title 23 may carry a concealable weapon into the residence or dwelling place of another person without the express permission of the owner or person in legal control or possession, as appropriate. A person who violates this provision is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars or imprisoned for not more than one year, or both, at the discretion of the court and have his permit revoked for five years.

SECTION 23-31-230. Carrying concealed weapons between automobile and accommodation.

Notwithstanding any provision of law, any person may carry a concealable weapon from an automobile or other motorized conveyance to a room or other accommodation he has rented and upon which an accommodations tax has been paid.

SECTION 23-31-235. Sign requirements.

(A) Notwithstanding any other provision of this article, any requirement of or allowance for the posting of signs prohibiting the carrying of a concealable weapon upon any premises shall only be satisfied by a sign expressing the prohibition in both written language interdict and universal sign language.

(B) All signs must be posted at each entrance into a building where a concealable weapon permit holder is prohibited from carrying a concealable weapon and must be:

- (1) clearly visible from outside the building;
- (2) eight inches wide by twelve inches tall in size;
- (3) contain the words "NO CONCEALABLE WEAPONS ALLOWED" in black one-inch tall uppercase type at the bottom of the sign and centered between the lateral edges of the sign;
- (4) contain a black silhouette of a handgun inside a circle seven inches in diameter with a diagonal line that runs from the lower left to the upper right at a forty-five degree angle from the horizontal;
- (5) a diameter of a circle; and
- (6) placed not less than forty inches and not more than sixty inches from the bottom of the building's entrance door.

(C) If the premises where concealable weapons are prohibited does not have doors, then the signs contained in subsection (A) must be:

- (1) thirty-six inches wide by forty-eight inches tall in size;
- (2) contain the words "NO CONCEALABLE WEAPONS ALLOWED" in black three- inch tall uppercase type at the bottom of the sign and centered between the lateral edges of the sign;
- (3) contain a black silhouette of a handgun inside a circle thirty-four inches in diameter with a diagonal line that is two inches wide and runs from the lower left to the upper right at a forty-five degree angle from the horizontal and must be a diameter of a circle whose circumference is two inches wide;
- (4) placed not less than forty inches and not more than ninety-six inches above the ground;
- (5) posted in sufficient quantities to be clearly visible from any point of entry onto the premises.

SECTION 23-31-240. Persons allowed to carry concealed weapon while on duty.

Notwithstanding any other provision contained in this article, the following persons who possess a valid permit pursuant to this article may carry a concealable weapon anywhere within this State, when carrying out the duties of their office:

- (1) active Supreme Court justices;
- (2) active judges of the court of appeals;
- (3) active circuit court judges;
- (4) active family court judges;
- (5) active masters-in-equity;
- (6) active probate court judges;
- (7) active magistrates;
- (8) active municipal court judges;
- (9) active federal judges;
- (10) active administrative law judges;
- (11) active solicitors and assistant solicitors; and
- (12) active workers' compensation commissioners.

Use and Possession of Machine Guns, Sawed-off Shotguns and Rifles

SECTION 23-31-310. Definitions.

When used in this article:

- (a) "Machine gun" applies to and includes any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any combination or parts designed and intended for use in converting a weapon into a machine gun, and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.
- (b) "Sawed-off shotgun" means a shotgun having a barrel or barrels of less than eighteen inches in length or a weapon made from a shotgun which as modified has an overall length of less than twenty-six inches or a barrel or barrels of less than eighteen inches in length.
- (c) "Shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each pull of the trigger. The term includes any such weapon which may be readily restored to fire a fixed shotgun shell but does not include an antique firearm as defined in this section.
- (d) "Sawed-off rifle" means a rifle having a barrel or barrels of less than sixteen inches in length or a weapon made from a rifle which as modified has an overall length of less than twenty-six inches or a barrel or barrels of less than sixteen inches in length.
- (e) "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger. The term includes any such weapon which may be readily restored to fire a fixed cartridge but does not include an antique firearm as described in this section.

(f) "Antique firearm" means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(g) "Military firearm" means any military weapon, firearm, or destructive device, other than a machine gun, that is manufactured for military use by a firm licensed by the federal government pursuant to a contract with the federal government and does not include a pistol, rifle, or shotgun which fires only one shot for each pull of the trigger.

See <http://scstatehouse.gov/code/t16c023.php> for full text for the following sections 23-31-320 to 23-31-370:

SECTION 23-31-320. Exceptions to application of article.

SECTION 23-31-330. Application and registration of person allowed to possess machine gun or sawed-off shotgun or rifle.

SECTION 23-31-340. Penalties.

SECTION 23-31-350. Article not applicable to antique firearms.

SECTION 23-31-360. Unregistered possession of machine guns or military firearms by licensed manufacturer.

SECTION 23-31-370. Special limited license for possession, transportation, and sale of machine guns; violations and penalties.

Using a Firearm While Under the Influence of Alcohol or a Controlled Substance

SECTION 23-31-400. Definitions; unlawful use of firearm; violations.

(A) As used in this article:

(1) "Use a firearm" means to discharge a firearm.

(2) "Serious bodily injury" means a physical condition which creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of a bodily member or organ.

(B) It is unlawful for a person who is under the influence of alcohol or a controlled substance to use a firearm in this State.

(C) A person who violates the provisions of subsection (B) is guilty of a misdemeanor and, upon conviction, must be fined not less than two thousand dollars or imprisoned not more than two years.

(D) This article does not apply to persons lawfully defending themselves or their property.

SECTION 23-31-410. Blood and urine testing.

(A) A person who uses a firearm within this State shall submit to a SLED-approved breath test to determine the alcoholic content of the blood and to a urine test to detect the presence of a controlled substance if there is probable cause to believe that the person was using a firearm while under the influence of alcohol or a controlled substance or if the person is arrested lawfully for an offense allegedly committed while he was using a firearm while under the influence of alcohol or a controlled substance. The breath or urine test must be administered at the request of a law enforcement officer who has probable cause to believe the person was using the firearm while under the influence of alcohol or a controlled substance. The administration of either test shall not preclude the administration of the other test. The refusal to submit to a breath or urine test upon the request of a law enforcement officer pursuant to this section is admissible into evidence in a criminal proceeding.

(B) If the arresting officer does not request a breath or urine test of the person arrested for an offense allegedly committed while the person was using a firearm while under the influence of alcohol or a controlled substance, the person may request the arresting officer to have a breath test made to determine the alcohol content of the person's blood or a urine test for the purpose of determining the presence of a controlled substance. The failure of

the person who requests a breath or urine test to actually be so tested shall bar the prosecution of the person for using a firearm while under the influence of alcohol or a controlled substance.

(C) The provisions of Section 56-5-2950 relating to the administration of tests for determining the weight of alcohol in an individual's blood, additional tests at the individual's expense, availability of test information to the individual or the individual's attorney, and liability of medical institutions and persons administering the tests are applicable to this section.

(D) The results of a test administered pursuant to this section for the purpose of detecting the presence of a controlled substance are not admissible as evidence in a criminal prosecution for the possession of a controlled substance.

(E) Information obtained pursuant to this section must be released to a court, prosecuting attorney, defense attorney, or law enforcement officer in connection with an alleged violation of Section 23-31-400 upon request for this information.

SECTION 23-31-415. Testing following death or serious personal injury; effect of refusal; evidentiary use.

(A) If a law enforcement officer has probable cause to believe that a person used a firearm while under the influence of alcohol or a controlled substance and caused the death or serious bodily injury of an individual, the person shall submit, upon the request of the law enforcement officer, to a test of his blood for the purpose of determining its alcohol content or for the presence of a controlled substance.

(B) A criminal charge resulting from the incident precipitating the officer's demand for testing should be tried concurrently with a charge of a violation of Section 23-31-400. If the charges are tried separately, the fact that the person refused, resisted, obstructed, or opposed testing is admissible at the trial of the criminal offense which precipitated the demand for testing.

(C) The results of any test administered pursuant to this section for the purpose of detecting the presence of a controlled substance is not admissible as evidence in a criminal prosecution for the possession of a controlled substance.

Notwithstanding another provision of law pertaining to the confidentiality of hospital records or other medical records, information obtained pursuant to this section must be released to a court, prosecuting attorney, defense attorney, or law enforcement officer in connection with an alleged violation of Section 23-31-400 upon request for such information.

SECTION 23-31-420. Presumptions.

(A) Upon the trial of a civil or criminal action or proceeding arising out of acts alleged to have been committed by a person while using a firearm while under the influence of alcohol or a controlled substance, the results of any test administered pursuant to Section 23-31-410 or 23-31-415 and this section are admissible into evidence, and the amount of alcohol in the person's blood at the time alleged, as shown by chemical analysis of the person's blood or breath, creates the following presumptions:

(1) If there was at that time five one-hundredths of one percent or less by weight of alcohol in the person's blood, it must be presumed that the person was not under the influence of alcohol.

(2) If there was at that time in excess of five one-hundredths of one percent but less than eight one-hundredths of one percent by weight of alcohol in the person's blood, this fact does not give rise to any inference that the person was or was not under the influence of alcohol to the extent that his normal faculties were impaired, but this fact may be considered with other competent evidence in determining whether the person was under the influence of alcohol.

(3) If there was at that time eight one-hundredths of one percent or more by weight of alcohol in the person's blood, this fact creates an inference that the person was under the influence of alcohol.

(B) The percent by weight of alcohol in the blood must be based upon grams of alcohol per one-hundred milliliters of blood. The provisions of this section must not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether the person was under the influence of alcohol.

Local Regulations

SECTION 23-31-510. Regulation of ownership, transfer, or possession of firearm or ammunition; discharge on landowner's own property.

No governing body of any county, municipality, or other political subdivision in the State may enact or promulgate any regulation or ordinance that regulates or attempts to regulate:

- (1) the transfer, ownership, possession, carrying, or transportation of firearms, ammunition, components of firearms, or any combination of these things; or
- (2) a landowner discharging a firearm on the landowner's property to protect the landowner's family, employees, the general public, or the landowner's property from animals that the landowner reasonably believes pose a direct threat or danger to the landowner's property, people on the landowner's property, or the general public. For purposes of this item, the landowner's property must be a parcel of land comprised of at least twenty-five contiguous acres. Any ordinance regulating the discharge of firearms that does not specifically provide for an exclusion pursuant to this item is unenforceable as it pertains to an incident described in this item; otherwise, the ordinance is enforceable.

SECTION 23-31-520. Power to regulate public use of firearms; confiscation of firearms or ammunition.

This article does not affect the authority of any county, municipality, or political subdivision to regulate the careless or negligent discharge or public brandishment of firearms, nor does it prevent the regulation of public brandishment of firearms during the times of or a demonstrated potential for insurrection, invasions, riots, or natural disasters. This article denies any county, municipality, or political subdivision the power to confiscate a firearm or ammunition unless incident to an arrest.

Identification Cards Issued to and Firearm Qualification Provided for Retired Law Enforcement Personnel

SECTION 23-31-600. Retired personnel; identification cards; qualification for carrying concealed weapon.

(A) For purposes of this section:

- (1) "Identification card" is a photographic identification card complying with 18 U.S.C. Section 926C.
- (2) "Qualified retired law enforcement officer" shall have the same meaning as in 18 U.S.C. Section 926C.

(B) An agency or department within this State may comply with 18 U.S.C. Section 926C, by issuing an identification card to any qualified retired law enforcement officer. If the agency or department currently issues credentials to active law enforcement officers, the agency or department may comply with the requirements of this section by issuing the same credentials to qualified retired law enforcement officers. If the same credentials are issued, then the agency or department must stamp the credentials with the word "RETIRED".

(C)(1) Subject to the limitations of subsection (E), a qualified retired law enforcement officer may carry a concealed weapon in this State if the qualified retired law enforcement officer possesses an identification card along with a certification that the qualified retired law enforcement officer has, not less recently than one year before the date the individual is carrying the firearm, met the standards established by the agency for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm.

(2) The firearms certification required by this subsection may be reflected on the identification card or may be in a separate document carried with the identification card.

(D) The restrictions contained in Sections 23-31-220 and 23-31-225 are applicable to a person carrying a concealed weapon pursuant to this section.

(E) The agency or department must provide the qualified retired law enforcement officer with the opportunity to qualify to carry a firearm under the same standards for training and qualification for active law enforcement officers to carry firearms. However, the agency or department, as provided in 18 U.S.C. Section 926C, may require the qualified retired law enforcement officer to pay the actual expenses of the training and qualification.

NICS: Mental Health Adjudication and Commitment Reporting

Editor's Note

2013 Act No. 22, Section 3, provides as follows:

"SECTION 3. A court required to submit information to SLED pursuant to this act concerning individuals who have been adjudicated as a mental defective or who have been committed to a mental institution shall, from the effective date of this act forward, submit information by court order within five days from the filing of each order and in accordance with procedures developed as required by this act and have one year from this act's effective date to submit retroactive information by court order on such individuals going back a minimum of ten years or, if records are not available as far back as ten years, as far back as records exist."

SECTION 23-31-1010. Definitions.

As used in this article:

(1) "Adjudicated as a mental defective" means a determination by a court of competent jurisdiction that a person, as a result of marked subnormal intelligence, mental illness, mental incompetency, mental condition, or mental disease:

(a) is a danger to himself or to others; or

(b) lacks the mental capacity to contract or manage the person's own affairs.

The term includes:

(a) a finding of insanity by a court in a criminal case; and

(b) those persons found incompetent to stand trial or found not guilty by reason of lack of mental responsibility pursuant to Articles 50a and 72b of the Uniform Code of Military Justice, 10 U.S.C. Sections 850(a) and 876(b).

(2) "Committed to a mental institution" means a formal commitment of a person to a mental institution by a court of competent jurisdiction. The term includes a commitment to a mental institution involuntarily, and a commitment to a mental institution for mental defectiveness, mental illness, and other reasons, such as drug use. The term does not include a person in a mental institution for observation or a voluntary admission to a mental institution.

(3) "Mental institution" includes mental health facilities, mental hospitals, sanitariums, psychiatric facilities, and other facilities that provide diagnoses by licensed professionals of mental retardation or mental illness, including a psychiatric ward in a general hospital.

SECTION 23-31-1020. Collection and submission of information of persons adjudicated as a mental defective or committed to a mental institution.

(A) The Judicial Department and the Chief of SLED, or the chief's designee, shall work in conjunction with a court of competent jurisdiction in developing procedures for the collection and submission of information of persons who have been adjudicated as a mental defective or who have been committed to a mental institution.

(B) When a court submits this information to SLED by court order, SLED shall transmit the information to the National Instant Criminal Background Check System (NICS) established pursuant to the Brady Handgun Violence Protection Act of 1993, Pub. L. (pg.79) 103-159.

(C) The court shall submit the information to SLED by court order within five days from the filing of each order related to adjudications and commitments. Under no circumstances may the court or SLED submit information pursuant to this section relating to a person's diagnosis or treatment.

(D) SLED shall keep information submitted by the court confidential, and that information only may be disclosed to NICS pursuant to this section, for purposes directly related to the Brady Act, or as provided in subsection (E).

(E) If the court, by court order, has submitted a person's name and other identifying information to SLED to be transmitted to NICS, SLED shall review the state concealed weapons permit holders list, and if the review reveals that the person possesses a current concealed weapons permit, the permit must be revoked and surrendered to a sheriff, police department, SLED agent, or by certified mail to the Chief of SLED. If the permit holder fails to return the permit within ten days of being notified of the permit's revocation, SLED shall retrieve the permit from the permit holder.

(F) Information submitted by the court pursuant to this section, which is also contained in court orders or in other state or local agency records, is not affected by this section, and such court orders or other state or local agency records may be disclosed in accordance with existing laws and procedures.

SECTION 23-31-1030. Petition to remove prohibition from shipping, transporting, possessing, or receiving a firearm or ammunition.

(A) If a person is prohibited from shipping, transporting, possessing, or receiving a firearm or ammunition pursuant to 18 U.S.C. Section 922(g)(4) or Section 23-31-1040 as a result of adjudication as a mental defective or commitment to a mental institution, the person may petition the court that issued the original order to remove the prohibitions. The person may file the petition upon the expiration of any current commitment order; however, the court only may consider petitions for relief due to adjudications and commitments that occurred in this State.

(B) The petition must be accompanied by an authorization and release signed by the petitioner authorizing disclosure of the petitioner's current and past medical records, including mental health records.

(C) If the petition is filed pro se, the court shall provide notice to all parties of record. If the petitioner is represented by counsel, counsel shall provide notice to all parties of record.

(D) Notwithstanding the exclusive jurisdiction of the court to preside over hearings initiated pursuant to this section, the case may be removed to the circuit court upon motion of the petitioner or on motion of the court, made not later than ten days following the date the petition is filed. Upon such motion, the case must be removed to the circuit court where the court shall proceed with the case de novo.

(E)(1) Within ninety days of receiving the petition, unless the court grants an extension upon request of the petitioner, the court shall conduct a hearing which must be presided over by a person other than the person who gathered evidence for use by the court in the hearing.

(2) At the hearing on the petition, the petitioner shall have the opportunity to submit evidence, and a record of the hearing must be made and maintained for review. The court shall consider information and records, which otherwise are confidential or privileged, relevant to the criteria for removing firearm and ammunition prohibitions and shall receive and consider evidence concerning the following:

(a) the circumstances regarding the firearm and ammunitions prohibitions imposed by 18 U.S.C. Section 922(g)(4) and Section 23-31-1040;

(b) the petitioner's record, which must include, at a minimum, the petitioner's mental health and criminal history records;

(c) evidence of the petitioner's reputation developed through character witness statements, testimony, or other character evidence; and

(d) a current evaluation presented by the petitioner conducted by the Department of Mental Health or a physician licensed in this State specializing in mental health specifically addressing whether due to mental defectiveness or mental illness the petitioner poses a threat to the safety of the public or himself or herself.

(F) The hearing must be closed to the public, and the petitioner's mental health records must be restricted from public disclosure. However, upon motion by the petitioner, the hearing may be open to the public, and the court may allow for the in camera inspection of the petitioner's mental health records and for the use of these records, but these records must be restricted from public disclosure.

(G)(1) The court shall make findings of fact regarding the following and shall remove the firearm and ammunition prohibitions if the petitioner proves by a preponderance of the evidence that:

(a) the petitioner is no longer required to participate in court-ordered psychiatric treatment;

(b) the petitioner is determined by the Department of Mental Health or by a physician licensed in this State specializing in mental health to be not likely to act in a manner dangerous to public safety; and

(c) granting the petitioner relief will not be contrary to the public interest.

(2) Notwithstanding item (1), the court must not remove the firearm and ammunition prohibitions if, by a preponderance of the evidence, it is proven that the petitioner has engaged in acts of violence subsequent to the petitioner's last adjudication as a mental defective or last commitment to a mental institution, unless the petitioner, by clear and convincing evidence, proves that he is not likely to act in a manner dangerous to public safety.

(H) If the petitioner is denied relief and the firearm and ammunition prohibitions are not removed, the petitioner may appeal to the circuit court for de novo review. In conducting its review, the circuit court:

(1) shall review the record;

(2) may give deference to the decision of the court denying the petitioner relief; and

(3) may receive additional evidence as necessary to conduct an adequate review.

(I) Medical records, psychological reports, and other treatment records which have been submitted to the court or admitted into evidence under this section must be part of the record, but must be sealed and opened only on order of the court.

(J) If a court issues an order pursuant to this section that removes the firearm and ammunition prohibitions that prohibited the petitioner from shipping, transporting, possessing, or receiving a firearm or ammunition pursuant to 18 U.S.C. Section 922(g)(4) or Section 23-31-1040, arising from adjudication as a mental defective or commitment to a mental institution, the court shall provide SLED with a certified copy of the order that may be transmitted through electronic means. SLED promptly shall inform the NICS of the court action removing these firearm and ammunition prohibitions.

SECTION 23-31-1040. Unlawful for a person adjudicated as a mental defective or committed to a mental institution to ship, transport, possess, or receive a firearm or ammunition; penalty; confiscation.

(A) It is unlawful for a person who has been adjudicated as a mental defective or who has been committed to a mental institution to ship, transport, possess, or receive a firearm or ammunition.

(B) A person who violates this section is guilty of a felony, and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than five years, or both.

(C) In addition to the penalty provided in this section, the firearm or ammunition involved in the violation of this section must be confiscated. The firearm or ammunition must be delivered to the chief of police of the municipality or to the sheriff of the county if the violation occurred outside the corporate limits of a municipality. The law enforcement agency that receives the confiscated firearm or ammunition may use the firearm or ammunition within the agency, transfer the firearm or ammunition to another law enforcement agency for the lawful use of that agency, trade the firearm or ammunition with a retail dealer licensed to sell firearms or ammunition in this

State for a firearm, ammunition, or any other equipment approved by the agency, or destroy the firearm or ammunition. A firearm or ammunition must not be disposed of in any manner until the results of any legal proceeding in which the firearm or ammunition may be involved are finally determined. If SLED seized the firearm or ammunition, SLED may keep the firearm or ammunition for use by SLED's forensic laboratory. Records must be kept of all confiscated firearms or ammunition received by the law enforcement agencies pursuant to this section. A law enforcement agency that receives a firearm or ammunition pursuant to this subsection may administratively release the firearm or ammunition to an innocent owner. If possession of the firearm or ammunition is necessary for legal proceedings, the firearm or ammunition must not be released to the innocent owner until the results of any legal proceedings in which the firearm or ammunition may be involved are finally concluded. Before the firearm or ammunition may be released, the innocent owner shall provide the law enforcement agency with proof of ownership and shall certify that the innocent owner will not release the firearm or ammunition to the person who has been charged with a violation of this subsection which resulted in the firearm's or ammunition's confiscation. The law enforcement agency shall notify the innocent owner when the firearm or ammunition is available for release. If the innocent owner fails to recover the firearm or ammunition within thirty days after notification of the release, the law enforcement agency may maintain or dispose of the firearm or ammunition as otherwise provided in this subsection.

(D) At the time the person is adjudicated as a mental defective or is committed to a mental institution, the court shall provide to the person or the person's representative, as appropriate, a written form that conspicuously informs the person or the person's representative, as appropriate, of the provisions of this section.

SECTION 23-31-1050. Definitions for Sections 23-31-1030 and 23-31-1040.

As used in Section 23-31-1030 and Section 23-31-1040:

- (1) "Ammunition" means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in a firearm other than an antique firearm. The term does not include:
- (a) a shotgun shot or pellet not designed for use as the single, complete projectile load for one shotgun hull or casing; or
 - (b) an unloaded, nonmetallic shotgun hull or casing not having a primer.
- (2) "Antique firearm" means:
- (a) a firearm, including a firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898; and
 - (b) a replica of a firearm described in subitem (a) if such replica:
 - (i) is not designed or redesigned for using rimfire or conventional centerfire-fixed ammunition; or
 - (ii) uses rimfire or conventional centerfire-fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.
- (3) "Firearm" means a weapon, including a starter gun, which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of such weapon; a firearm muffler or firearm silencer; or a destructive device; but the term does not include an antique firearm. In the case of a licensed collector, the term means only curios and relics.
- (4) "Firearm frame or receiver" means that part of a firearm which provides housing for the hammer, bolt or breechblock, and firing mechanism, and which is usually threaded at its forward portion to receive the barrel.
- (5) "Firearm muffler or firearm silencer" means a device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.

SECTION 23-31-1060. Hearing on fitness to stand trial.

Nothing in this article affects a court's duty to conduct a hearing on the issue of a person's fitness to stand trial pursuant to Section 44-23-430. A solicitor shall not dismiss charges against a person prior to such hearing based solely on the person's fitness to stand trial.

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Title 16 - Crimes and Offenses
CHAPTER 11
Offenses Against Property
Protection of Persons and Property Act

<http://www.scstatehouse.gov/code/t16c011.php>

SECTION 16-11-410. Citation of article.

This article may be cited as the "Protection of Persons and Property Act".

SECTION 16-11-420. Intent and findings of General Assembly.

(A) It is the intent of the General Assembly to codify the common law Castle Doctrine which recognizes that a person's home is his castle and to extend the doctrine to include an occupied vehicle and the person's place of business.

(B) The General Assembly finds that it is proper for law-abiding citizens to protect themselves, their families, and others from intruders and attackers without fear of prosecution or civil action for acting in defense of themselves and others.

(C) The General Assembly finds that Section 20, Article I of the South Carolina Constitution guarantees the right of the people to bear arms, and this right shall not be infringed.

(D) The General Assembly finds that persons residing in or visiting this State have a right to expect to remain unmolested and safe within their homes, businesses, and vehicles.

(E) The General Assembly finds that no person or victim of crime should be required to surrender his personal safety to a criminal, nor should a person or victim be required to needlessly retreat in the face of intrusion or attack.

SECTION 16-11-430. Definitions.

As used in this article, the term:

(1) "Dwelling" means a building or conveyance of any kind, including an attached porch, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed to be occupied by people lodging there at night.

(2) "Great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of a bodily member or organ.

(3) "Residence" means a dwelling in which a person resides either temporarily or permanently or is visiting as an invited guest.

(4) "Vehicle" means a conveyance of any kind, whether or not motorized, which is designed to transport people or property.

SECTION 16-11-440. Presumption of reasonable fear of imminent peril when using deadly force against another unlawfully entering residence, occupied vehicle or place of business.

(A) A person is presumed to have a reasonable fear of imminent peril of death or great bodily injury to himself or another person when using deadly force that is intended or likely to cause death or great bodily injury to another person if the person:

(1) against whom the deadly force is used is in the process of unlawfully and forcefully entering, or has unlawfully and forcibly entered a dwelling, residence, or occupied vehicle, or if he removes or is attempting to remove another person against his will from the dwelling, residence, or occupied vehicle; and

(2) who uses deadly force knows or has reason to believe that an unlawful and forcible entry or unlawful and forcible act is occurring or has occurred.

(B) The presumption provided in subsection (A) does not apply if the person:

(1) against whom the deadly force is used has the right to be in or is a lawful resident of the dwelling, residence, or occupied vehicle including, but not limited to, an owner, lessee, or titleholder; or

(2) sought to be removed is a child or grandchild, or is otherwise in the lawful custody or under the lawful guardianship, of the person against whom the deadly force is used; or

(3) who uses deadly force is engaged in an unlawful activity or is using the dwelling, residence, or occupied vehicle to further an unlawful activity; or

(4) against whom the deadly force is used is a law enforcement officer who enters or attempts to enter a dwelling, residence, or occupied vehicle in the performance of his official duties, and he identifies himself in accordance with applicable law or the person using force knows or reasonably should have known that the person entering or attempting to enter is a law enforcement officer.

(C) A person who is not engaged in an unlawful activity and who is attacked in another place where he has a right to be, including, but not limited to, his place of business, has no duty to retreat and has the right to stand his ground and meet force with force, including deadly force, if he reasonably believes it is necessary to prevent death or great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in Section 16-1-60.

(D) A person who unlawfully and by force enters or attempts to enter a person's dwelling, residence, or occupied vehicle is presumed to be doing so with the intent to commit an unlawful act involving force or a violent crime as defined in Section 16-1-60.

(E) A person who by force enters or attempts to enter a dwelling, residence, or occupied vehicle in violation of an order of protection, restraining order, or condition of bond is presumed to be doing so with the intent to commit an unlawful act regardless of whether the person is a resident of the dwelling, residence, or occupied vehicle including, but not limited to, an owner, lessee, or titleholder.

SECTION 16-11-450. Immunity from criminal prosecution and civil actions; law enforcement officer exception; costs.

(A) A person who uses deadly force as permitted by the provisions of this article or another applicable provision of law is justified in using deadly force and is immune from criminal prosecution and civil action for the use of deadly force, unless the person against whom deadly force was used is a law enforcement officer acting in the performance of his official duties and he identifies himself in accordance with applicable law or the person using deadly force knows or reasonably should have known that the person is a law enforcement officer.

(B) A law enforcement agency may use standard procedures for investigating the use of deadly force as described in subsection (A), but the agency may not arrest the person for using deadly force unless probable cause exists that the deadly force used was unlawful.

(C) The court shall award reasonable attorneys' fees, court costs, compensation for loss of income, and all expenses incurred by the defendant in defense of a civil action brought by a plaintiff if the court finds that the defendant is immune from prosecution as provided in subsection (A).

Title 58 - Public Utilities, Services and Carriers

CHAPTER 23

Motor Vehicle Carriers

Public Transportation Passenger Rights

<http://www.scstatehouse.gov/code/t58c023.php>

SECTION 58-23-1810. Short title.

This article may be cited as the Public Transportation Passenger Rights Act.

SECTION 58-23-1820. Definitions.

For purposes of this article:

- (a) "passenger" means any individual served by a public transportation provider including charter bus activities;
- (b) "bus" means any passenger bus or other motor vehicle having a seating capacity of not less than ten passengers operated by a public transportation provider for the purpose of carrying passengers, including charter passengers;
- (c) "public transportation" is as defined in item (10) of Section 58-25-20;
- (d) "public transportation provider" means any operator who offers or delivers public transportation;
- (e) "public transportation vehicle" means any configuration of equipment for the purpose of providing public transportation.

SECTION 58-23-1830. General prohibitions; persons who may be refused transportation; violations and penalties.

(a) It is unlawful for any passenger to commit any of the following acts in a bus or any other public transportation vehicle:

- (1) discard litter, except into receptacles designated for that purpose;
 - (2) play any radio, cassette, cartridge, tape player, or similar device unless controlled by the operator, unless the device is connected to an earphone that limits the sound to the hearing of the individual user;
 - (3) carry or possess any weapon, explosives, acids, other dangerous articles, or live animals, except for a seeing eye dog or a hearing ear dog properly harnessed and accompanied by its owner, small animals properly packaged, or weapons carried by or animals used by a law enforcement official;
 - (4) obstruct, hinder, interfere with, or otherwise disrupt or disturb the operation or operator of a public transportation vehicle;
 - (5) board a public transportation bus through the rear exit door, unless so directed by an employee or agent of the carrier;
 - (6) use profane, indecent, or obscene language or actions on a public transportation vehicle, or conduct himself in a boisterous fashion while on a public transportation vehicle.
- (b) Intoxicated persons may be excluded from riding in any public transportation vehicle by the vehicle's driver or operator.
- (c) The driver of any public transportation vehicle may refuse to transport any person who insists on boarding the vehicle in a manner that will obviously violate any of the above provisions.
- (d) Any person violating the provisions of subsection (a) of this section is guilty of a misdemeanor, and upon conviction for a first offense must be imprisoned for not more than thirty days or fined not more than two hundred dollars, for a second offense, imprisoned for not more than sixty days or fined not more than five hundred dollars, or both, and for a third or subsequent offense, imprisoned for not more than ninety days or fined not more than one thousand dollars, or both.