CHAPTER 24

Off‑Duty Private Jobs of Law Enforcement Officers

**SECTION 23‑24‑10.** Use of official uniforms and weapons by officers on private job.

 Uniformed law enforcement officers, as defined in Section 23‑23‑10, and reserve police officers, as defined in Section 23‑28‑10(A), may wear their uniforms and use their weapons and like equipment while performing private jobs in their off duty hours with the permission of the law enforcement agency and governing body by which they are employed.

HISTORY: 1978 Act No. 529 Section 2; 1990 Act No. 380, Section 1; 1994 Act No. 411, Section 1.

Code Commissioner’s Note

At the direction of the Code Commissioner, the reference to Section 23‑6‑400(D)(1) [repealed in 2006] was changed to Section 23‑23‑10.

Library References

Municipal Corporations 189(1).

Westlaw Topic No. 268.

C.J.S. Municipal Corporations Sections 450 to 453, 474 to 476, 492 to 495, 497, 505, 508.

Ethics Commission Opinions

Police officers may utilize uniforms, weapons, and like equipment in off‑duty security work in accordance with Section 23‑24‑10, when properly approved by law enforcement agency and governing body and when no additional public expense would be involved. Op S.C. St. Ethics Comm., SEC AO92‑154, May 27, 1992.

Attorney General’s Opinions

Discussion of whether an out‑of‑state company can hire off‑duty police officers to provide armed security in this State without being licensed as a private security business under Chapter 18 of Title 40 of the S.C. Code. S.C. Op.Atty.Gen. (March 17, 2014) 2014 WL 1362648.

Act No. 411 of 1994, an act amending Section 23‑24‑10, does not provide for compensation of reserve police officers. The Act does permit reserve police officers to wear their uniforms and use their weapons and like equipment while performing private jobs in their off‑duty hours with the required permission. 1994 Op. Atty Gen, No. 94‑59, p. 134.

Law enforcement officers may “moonlight” in association with their duties as law enforcement officers in their regular jurisdiction. However, officer working outside his regular jurisdiction should not identify himself as police officer or display his badge and would possess only that law enforcement authority given to private citizens. 1993 Op. Atty Gen No. 93‑35.

Inasmuch as off‑duty deputies of county sheriff’s department would be acting as deputy sheriffs and deriving their law enforcement authority from their commissions as deputy sheriffs while patrolling town pursuant to agreement between town and sheriff’s department, deputies should continue to wear deputy uniforms while patrolling town. It would be misleading for deputies to wear town uniforms while patrolling, since they are not town police officers. Op. Atty Gen 92‑07.

An employed law enforcement officer may not contract with or be employed by a private security company as such officers are not authorized to engage in work within the definition of “private detective business”, including investigative work such as divorce surveillance. 1989 Op. Atty Gen, No. 89‑8, p 28.

Unless there is specific authority for law enforcement officers to act outside their jurisdiction, officers moonlighting outside their jurisdiction are acting as private citizens and only have law enforcement authority granted to other private citizens; officers wearing their regular uniforms while moonlighting outside their jurisdictions should not be considered to be exercising their regular law enforcement authority. 1985 Op. Atty Gen, No. 85‑25, p 81.

Police officer may act as security in apartment complex in exchange for rent free accommodations provided certain conditions are met. 1984 Op. Atty Gen, No. 84‑19, p. 55.

**SECTION 23‑24‑20.** Duties of employing agencies.

 Each agency head shall determine before such off‑duty work is approved that the proposed employment is not of such nature as is likely to bring disrepute on the agency, the officer, or the law enforcement profession, and that the performance of such duties and the use of such agency equipment is in the public interest.

HISTORY: 1978 Act No. 529, Section 3.

Library References

Municipal Corporations 189(1).

Westlaw Topic No. 268.

C.J.S. Municipal Corporations Sections 450 to 453, 474 to 476, 492 to 495, 497, 505, 508.

Attorney General’s Opinions

Police officer may act as security in apartment complex in exchange for rent free accommodations provided certain conditions are met. 1984 Op. Atty Gen, No. 84‑19, p. 55.

**SECTION 23‑24‑30.** Liability of public employer for off‑duty acts.

 Off‑duty work performed by law enforcement officers shall not be considered as work done within the scope of his employment and no public service district, municipality, county, state, or any of its political subdivisions shall be liable for acts performed by off‑duty law enforcement officers as permitted by this chapter.

HISTORY: 1978 Act No. 529, Section 4.

Library References

Municipal Corporations 747(3).

Westlaw Topic No. 268.

C.J.S. Municipal Corporations Sections 493, 495, 688 to 692.

Attorney General’s Opinions

Police officer may act as security in apartment complex in exchange for rent free accommodations provided certain conditions are met. 1984 Op. Atty Gen, No. 84‑19, p. 55.

A governmental agency is not civilly liable for the tortious acts of an off‑duty police officer not acting within the scope of his authority, even though a governmentally‑owned pistol was involved. 1976‑77 Op. Atty Gen, No 77‑216, p 167.

**SECTION 23‑24‑40.** Procedure when officer causes death on private job.

 Any law enforcement officer who causes the death of any person while off duty and performing private jobs under the provisions of this chapter shall, in addition to any other actions, be placed on inactive duty without pay for not more than thirty days. Such law enforcement officer shall not be reinstated until an investigation of the death has been held and he has been exonerated. Exoneration shall not occur until the matter has been considered by the solicitor of the judicial circuit where the death occurred and the solicitor has given an affidavit that after investigation he is convinced that the death was not caused by an unlawful act of the officer, or until the matter has been considered by a coroner’s jury, or by a grand jury and the officer has been judged not guilty. If the officer is exonerated, he shall be paid any back pay due him.

HISTORY: 1978 Act No. 529, Section 5.

Library References

Municipal Corporations 185, 189(1).

Westlaw Topic No. 268.

C.J.S. Municipal Corporations Sections 450 to 453, 474 to 477, 492 to 495, 497 to 498, 505 to 523, 534.

Attorney General’s Opinions

Police officer may act as security in apartment complex in exchange for rent free accommodations provided certain conditions are met. 1984 Op. Atty Gen, No. 84‑19, p. 55.

**SECTION 23‑24‑50.** Notice to agency concerning off‑duty employment.

 Uniformed police officers performing private jobs during their off duty hours shall be required to notify the appropriate law enforcement agency of the place of employment, the hours to be worked and the type of employment.

HISTORY: 1978 Act No. 529, Section 6.

Library References

Municipal Corporations 189(1).

Westlaw Topic No. 268.

C.J.S. Municipal Corporations Sections 450 to 453, 474 to 476, 492 to 495, 497, 505, 508.

Attorney General’s Opinions

Police officer may act as security in apartment complex in exchange for rent free accommodations provided certain conditions are met. 1984 Op. Atty Gen, No. 84‑19, p. 55.