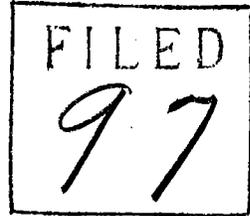


WEAPONS: State of Missouri does not require registration of pistols, revolvers or other firearms.



October 12, 1945

10/19

Honorable Bryan A. Williams
Prosecuting Attorney
Bollinger County
Marble Hill, Missouri

Dear Sir:

We are in receipt of your letter of September 22, 1945, requesting an official opinion of this office, reading as follows:

"I would appreciate an opinion with respect to the 'registration' of firearms as referred to in Sec. 4827 RSMo 1939:

"There have been several inquiries recently from men returning from military service who have acquired pistols and revolvers, mostly in foreign countries, with respect to the registration of these weapons. In some instances, of course, it would not be possible to secure any definite information as to the exact source where these weapons were secured, except during combat.

"Is it necessary for a serviceman to secure a permit from the Circuit Clerk as contemplated under Sec. 4827?

"Should a serviceman be required to pay the 50¢ fee for such permit?"

We find that Section 4827, R. S. Mo. 1939, does not provide for the registration of pistols, revolvers or other firearms, but rather provides for obtaining a permit for acquiring possession of pistols, revolvers and firearms, capable of being concealed upon the person. This section reads as follows:

"No person within this state shall lease, buy or in anywise procure the possession from any person, firm or corporation within or without the state, of any pistol, revolver or other firearm of a size which may be concealed upon the person, that is not stamped as required by section 4825; and no person shall buy or otherwise acquire the possession of any such article unless he shall have first procured a written permit so to do from the circuit clerk of the county in which such person resides, in the manner as provided in section 4826."

In Section 4827, supra, reference is made to Sections 4825 and 4826, R.S. Mo. 1939. Section 4825 reads as follows:

"No wholesaler or dealer therein shall have in his possession for the purpose of sale, or shall sell, any pistol, revolver, or other firearm of a size which may be concealed upon the person, which does not have plainly and permanently stamped upon the metallic portion thereof, the trademark or name of the maker, the model and the serial factory number thereof, which number shall not be the same as that of any other such weapon of the same model made by the same maker, and the maker, and no wholesale or retail dealer therein shall have in his possession for the purpose of sale, or shall sell, any such weapon unless he keep a full and complete record of such description of such weapon, the name and address of the person from whom purchased and to whom sold, the date of

such purchase or sale, and in the case of retailers the date of the permit and the name of the circuit clerk granting the same, which record shall be open to inspection at all times by any police officer or other peace officer of this state."

Section 4825, supra, provides that any one in the business of selling pistols, revolvers or other firearms must have plainly stamped on the weapon certain information as set out in this section. It is further provided in this section that those persons in the business of selling weapons must keep records of such weapons, regarding descriptions of the weapons and records of the transactions involving their purchase and sale. The wording of the statute is quite clear in prescribing requirements for the stamping of the weapons and keeping records of the weapons.

If those persons engaged in the business of selling pistols, revolvers or other firearms comply with the provisions of Section 4825, supra, a complete record of persons procuring possession of pistols, revolvers and other firearms by purchase, and records of all relevant details incident to their purchase, will be available, and open to inspection at all times by any police officer or peace officer of this State. In other words, this section is not a law requiring a general registration of firearms in possession of persons within the State, but if those persons engaged in the business of selling weapons comply with the statute, much information is made available that would be available under a general registration law.

Section 4826, R. S. Mo. 1939, reads as follows:

"No person, other than a manufacturer or wholesaler thereof to or from a wholesale or retail dealer therein, for the purposes of commerce, shall directly or indirectly buy, sell, borrow, loan, give away, trade, barter, deliver or receive, in this state, any pistol, revolver or other firearm of a size which may be concealed upon the person, unless the buyer, borrower or person receiving such weapon shall first obtain and deliver to, and the same be demanded and received by, the seller, loaner, or person delivering such weapon,

within thirty days after the issuance thereof, a permit authorizing such person to acquire such weapon. Such permit shall be issued by the circuit clerk of the county in which the applicant for a permit resides in this state, if the sheriff be satisfied that the person applying for the same is of good moral character and of lawful age, and that the granting of the same will not endanger the public safety. The permit shall recite the date of the issuance thereof and that the same is invalid after thirty days after the said date, the name and address of the person to whom granted and of the person from whom such weapon is to be acquired, the nature of the transaction; and a full description of such weapon, and shall be countersigned by the person to whom granted in the presence of the circuit clerk. The circuit clerk shall receive therefor a fee of fifty cents. If the permit be used, the person receiving the same shall return it to the circuit clerk within thirty days after its expiration, with a notation thereon showing the date and manner of the disposition of such weapon. The circuit clerk shall keep a record of all applications for such permits and his action thereon, and shall preserve all returned permits. No person shall in any manner transfer, alter or change any such permit or make a false notation thereon or obtain the same upon any false representation to the circuit clerk granting the same, or use or attempt to use a permit granted to another." (Emphasis ours.)

Section 4826, supra, provides that no person shall transfer or procure possession of a pistol, revolver or other firearm until a permit to acquire such weapon is demanded and received by the seller, loaner or person delivering such weapon, and the transaction must be made within thirty days after the permit is issued. This statute further provides that the permit to acquire the weapon in question will be issued by the circuit clerk of the county in which the applicant resides,

October 12, 1945

if the sheriff be satisfied that the person is qualified to possess the weapon.

Attention is invited to the underscored wording of Section 4826, supra, which is quite clear and understandable. This provision requiring the circuit clerk to keep a record of permits issued and returned, in effect, provides for a registration of firearms of all types whenever there is a transfer of possession. The records are to be maintained by a public officer in a public office. However, this section does not provide specifically for the registration of firearms of any type.

Under the circumstances described in your letter the parties concerned already have the weapons in their possession, and, as you have stated, possession was procured in most cases in foreign countries. You present a situation in which men are returning from the Military Service from world-wide theaters of war and mortal combat. They have brought home with them grim mementos of the battle field, some of which still have their lethal sting.

Many such weapons will be kept at home for souvenirs, purely for exhibition. However, some are either capable of being fired or will be made so by proper repairs, and herein lies the problem of recording the ownership of such deadly weapons.

At the time such weapons were procured, and under the circumstances by which they were procured, it was obviously impractical, if not impossible, for the servicemen to comply with the sections of the statutes incorporated in this opinion dealing with obtaining a permit. The returning servicemen have previously acquired possession of the pistols, revolvers and other firearms, and at the present time have these weapons in their possession. Consequently, the question of securing a permit from the circuit clerk, as provided in Section 4827, supra, is not involved. The State of Missouri does not provide specifically for the registration of pistols, revolvers or other firearms.

In response to further inquiries which may be made by returning servicemen regarding registration of the described weapons, it is suggested they be informed that transfer of possession of such weapons should not be made except under strict compliance with sections of the statutes treated in this opinion.

October 12, 1945

Your attention is invited to the fact that the provisions of the federal laws dealing with the transportation of firearms of various descriptions into the country and between the states, and dealing with the registration of firearms, are not treated in this opinion. For additional information it is suggested that you consult the federal statutes covering the problem set forth in your letter.

Conclusion.

Therefore, it is the opinion of this department that: (1) Section 4827, R.S. Mo. 1939, provides for obtaining a permit to procure possession of pistols, revolvers or other firearms, capable of being concealed upon the person, and further provides that the weapons must be stamped as prescribed by law. This section does not provide for registration of firearms; (2) Section 4825, R.S. Mo. 1939, provides for methods of stamping of weapons and for keeping of records by those engaged in the business of selling weapons, relating to transactions involving purchase and sale of weapons. Such records are available for inspection by any police officer or peace officer of the State; (3) Section 4826, R.S. Mo. 1939, requires that permits must be demanded and received before delivery of the weapon can be made. It also states who shall issue the permits and the conditions under which they shall be issued. By requiring the circuit clerk to keep a record of permits issued and returned, there is, in effect, a registration of firearms accomplished when transfer of possession is made. However, this section does not specifically provide for the registration of pistols, revolvers or other firearms; (4) the State of Missouri has no law providing specifically for the registration of firearms of any type; (5) in response to further inquiries by returning servicemen regarding registration of firearms brought home with them, it is suggested that they be instructed not to transfer possession of such firearms without complying with the sections of the statutes treated herein; (6) the federal statutes covering the problem set forth in your letter are not treated in this opinion.

Respectfully submitted,

RICHARD F. THOMPSON
Assistant Attorney General

APPROVED:

J. B. TAYLOR
Attorney General

RFT:ml