



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

JOHN L. HILL  
ATTORNEY GENERAL

March 27, 1973

Honorable A. W. Davis, Jr.  
County Attorney, Newton County  
P. O. Box 477  
Newton, Texas 75966

Opinion No. H- 22

Re: Do persons employed by  
various hunting clubs have  
the right to carry firearms  
within their particular area?

Dear Mr. Davis:

The facts you have stated in your letter of January 4, 1973, are that you have various hunting clubs in Newton County which lease hunting rights from various timber companies. The hunting club areas are well defined geographically in that they are fenced, "posted", etc. You asked whether these employees of the clubs, assuming they are not qualified law enforcement officers of the state or of any political subdivision, have the right to carry firearms within their particular area.

Article 483, Vernon's Texas Penal Code, makes it a misdemeanor for a person to carry on or about his person a pistol or other described weapon. Article 484, V. T. P. C., provides that Article 483 "shall not apply . . . to the carrying of arms on one's own premises or place of business . . .". It is not necessary that the premises be owned to qualify as a place of business. Smith v. Smith, 100 S. W. 155 (Tex. Crim. 1907); Gibbs v. State, 156 S. W. 687 (Tex. Crim. 1913).

From your letter of January 4, 1973, we are unable to determine the precise interest the hunting clubs have in the premises they have under lease. A mere permissive right to use the property for a particular purpose may be insufficient to constitute the property "premises" within the meaning of Article 484, V. T. P. C. Solosky v. State, 236 S. W. 742 (Tex. Crim. 1922); Whiteside v. State, 58 S. W. 1016 (Tex. Crim. 1900). To confer the right to carry weapons, there must be lawful possession and control. See Mireles v. State, 192 S. W. 241 (Tex. Crim. 1917); Fields v. State, 166 S. W. 1166 (Tex. Crim. 1914).

The exception of Article 484a applies to employees of the owner of the business. In Poston v. State, 104 S. W. 2d 516, (Tex. Crim. 1937) the Court said:

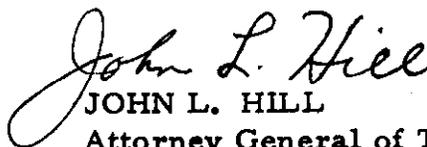
" . . . It is true, appellant did not own either place of business referred to, and the jury may have been misled by the language of the court's charge, but it is legally true that if appellant was employed to work in both of said places of business, he would not have been violating the law to have had on his person at either place the weapon mentioned. [citing cases] . . ." (104 S. W. 2d at 518)

It is our opinion that the persons described in your letter of January 4, 1973, may carry firearms while on the premises of the clubs which employ them whether the clubs own or lease the property provided there is the necessary right to possession and control. We would add as a word of caution, that unless these persons do qualify as law enforcement officers in some other manner, they will not be peace officers and will have no more right to enforce the law or to protect the property of their employers than any other individual would have.

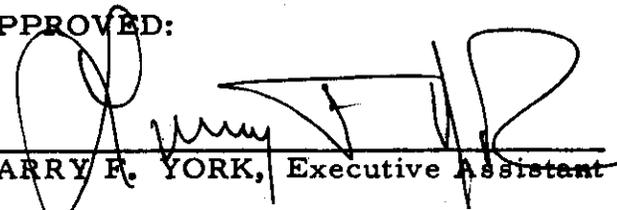
S U M M A R Y

Employees may carry firearms on the business premises of their employers, whether such premises are owned or are leased by the employers, provided the employer has the right to control the premises.

Very truly yours,

  
JOHN L. HILL  
Attorney General of Texas

APPROVED:

  
LARRY F. YORK, Executive Assistant

  
DAVID M. KENDALL, Chairman  
Opinion Committee