

The State of South Carolina



Office of the Attorney General

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December 5, 1989

George A. Markert, Assistant Director
South Carolina Court Administration
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Dear George:

In a letter to this Office you questioned whether the list of eligible jurors which the State Election Commission furnishes chief magistrates pursuant to Section 22-2-50 of the Code must include the names of individuals holding South Carolina driver's licenses or identification cards who are not also registered voters. You also asked whether an individual must be a qualified elector to be eligible to serve as a juror in magistrate's court.

Section 14-7-130 of the Code sets forth a procedure for the State Election Commission to provide county jury commissioners with a list of individuals eligible to serve as jurors. Such provision states in part:

...(i)n December of every year, the State Election Commission shall furnish a jury list to county jury commissioners consisting of a tape or list derived by merging the list of registered voters in the county with county residents appearing on the tape furnished by the ... (State Department of Highways and Public Transportation)..., but only those licensed drivers and identification cardholders who are eligible to register to vote may be included in the list... .

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Such provision was included in Act No. 453 of 1988 which title states in part

AN ACT TO AMEND SECTION 14-7-130, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PREPARATION OF JURY LISTS IN THE CIRCUIT COURT, SO AS TO REVISE THE PROCEDURES FOR JURY SELECTION BY INCLUDING OTHERWISE ELIGIBLE LICENSED DRIVERS AND IDENTIFICATION CARDHOLDERS....1/
(emphasis added.)

The title to such statute is specific in stating that its provisions are applicable to the method of preparation of jury lists in the circuit courts. The cardinal rule of statutory interpretation is to ascertain and effectuate the legislative intent whenever possible. Citizens and Southern Systems, Inc. v. South Carolina Tax Commission, 280 S.C. 138, 311 S.E.2d 717 (1984); Bankers Trust of South Carolina v. Bruce, 275 S.C. 35, 267 S.E.2d 424 (1980). Moreover, when interpreting a statute, the legislative intent must prevail if it can be reasonably discovered in the language used which must be construed in light of the intended purpose of the statute. Gambrell v. Travelers Insurance Companies, 280 S.C. 69, 310 S.E.2d 14 (1984). Also, it is generally recognized that the title of an act may be used in aid of construction to show legislative intent. University of South Carolina v. Elliott, 248 S.C. 218, 149 S.E.2d 433 (1966). The statement in the title to Act No. 453 is quite clear in specifying its applicability to the circuit courts.

Section 22-2-50 of the Code establishes a procedure for the State Election Commission to provide chief magistrates in each county with

...a precinct-by-precinct list of qualified electors residing within the county. The chief magistrate for administration of the county shall use such lists in preparing, for each Jury Area, a list of the qualified electors therein and shall forward these lists to the respective magistrates.

1/ Section 14-7-130 is consistent with the provisions of Article V, Section 22 of the Constitution. The provision prior to its amendment this year required that jurors be "qualified electors" and "of good moral character." The constitutional provision now requires that jurors "...be a resident of this State, and have such other qualifications as the General Assembly may prescribe."

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As referenced by you, the list prepared by the chief magistrates in accordance with such provision differs from the list prepared in accordance with Section 14-7-130 in that the chief magistrate's list would not include individuals with State driver's licenses or identification cards who are not also registered to vote. Therefore, you are questioning whether such disparity is authorized.

In the opinion of this Office the provisions of Section 14-7-130 which mandate that the jury list be composed of names of registered voters and licensed drivers and identification cardholders who are residents of a particular county are applicable only to jurors for the circuit court. The manner of providing jurors for a magistrate's court is set forth in Section 22-2-50. Therefore, in answer to your questions, the list of eligible jurors which the State Election Commission furnishes the chief magistrates should not include the names of persons holding state driver's licenses or identification cards who are not also registered voters. To be eligible to serve as a juror in a magistrate's court pursuant to Section 22-2-50, an individual must be a registered voter.

If there is anything further, please advise.

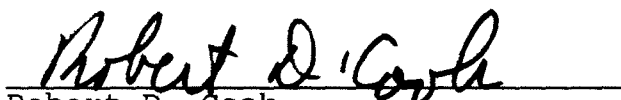
Sincerely,



Charles H. Richardson
Assistant Attorney General

CHR/nnw

REVIEWED AND APPROVED BY:


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