

1975 WL 29207 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 25, 1975

*1 Proposed bill requiring that persons serving on school boards be at least twenty-one years of age would violate Article XVII, Section _____ of the South Carolina Constitution.

TO: Director of Research
House Education and Public Works Committee

QUESTION PRESENTED:

Would a proposed bill requiring that persons serving on school boards be at least twenty-one years of age be constitutional?

AUTHORITIES INVOLVED:

Constitution of South Carolina, Article XVII, Section _____ (ratified February 6, 1975)

DISCUSSION:

As stated above, a proposed bill would impose a twenty-one year minimum age limit for members of school boards. A question has arisen as to whether the above-mentioned constitutional provision, newly added in 1975, would make such legislation unconstitutional. That section provides:

Every citizen who is eighteen years of age or older, not laboring under disabilities prescribed in this Constitution or otherwise established by law, shall be deemed sui juris and endowed with full legal rights and responsibilities, provided, that the General Assembly may restrict the sale of alcoholic beverages to persons until age twenty-one.

Although the section makes an exception for 'disabilities . . . otherwise established by law,' it seems clear that the disabilities referred to are those such as mental incompetence, imprisonment, and the like. If the General Assembly could by legislation establish age disabilities such as the one proposed, there would be no need for the proviso to the effect that 'the General Assembly may restrict the sale of alcoholic beverages to persons until age twenty-one.' Moreover, the General Assembly would be able to legislate this section out of existence unless the section were to bar all prospective legislation imposing age limitations of greater than eighteen years.

This opinion is not intended as dealing with the difficult question of whether or not the section is self-executing, so as to impliedly change existing statutory age requirements. However, for the reasons stated above, it seems clear that the section has at least a prospective effect. A similar result was reached under similar language in [Cort Industries v. Swirl](#), 213 S.E.2d 445 (S.C. 1975) (construing Article 5, Section 22).

CONCLUSION:

It is thus the opinion of this office that the proposed bill would be unconstitutional.

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