

1974 WL 27492 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 25, 1974

\*1 Mr. J. K. Westbury  
Clerk of Court  
Orangeburg County  
Orangeburg, SC 29115

Dear Mr. Westbury:

You have inquired whether Act No. 1067, [1974] S.C. Acts & Jt. Res. 2283, which amended South Carolina Code Ann. Section 38-52 to eliminate age restrictions on jury service, authorizes persons between the ages of 18 and 21 to serve as jurors. It is the opinion of this Office that persons between the ages of 18 and 21 are eligible to serve as jurors in South Carolina if they have registered to vote in this State.

Article 5, Section 18 of the South Carolina Constitution states that, 'Each juror must be a qualified elector under the provision of this Constitution and of good moral character.' Article 2, Section 3 of the South Carolina Constitution provides, 'Every citizen possessing the qualifications required by this Constitution and not laboring under the disabilities named in or authorized by it shall be an elector.' Numerous South Carolina decisions have held that a 'qualified elector' within the constitutional provision regarding jurors, means a 'registered elector'. [Bostwick v. State, 247 S.C. 22, 145 S.E.2d 439 \(1965\)](#), [rev'd on other grounds, 368 U.S. 479 \(1967\)](#); [Moorer v. State, 244 S.C. 102, 135 S.E.2d 713 \(1964\)](#); [State v. Mittle, 120 S.C. 526, 113 S.E. 335 \(1922\)](#); [Mew v. Charleston & S.Ry., 55 S.C. 90, 32 S.E. 828 \(1899\)](#).

Article 2, Section 4 of the South Carolina Constitution requires that a citizen be 21 years of age to be entitled to vote, but this section is in direct conflict with the Twenty-sixth Amendment to the Constitution of the United States which states in Section 1: 'The right of citizens of the United States, who are eighteen years of age and older, to vote shall not be denied by the United States or by any State on account of age.' Under the Supremacy Clause of the United States Constitution, U.S. Const. Art. VI, eighteen year olds are entitled to register and vote in South Carolina. Thus, once an eighteen year old has registered to vote he has become a 'qualified elector' and therefore entitled to serve as a juror under amended South Carolina Code Ann. Section 38-52 and pertinent constitutional provisions. [Cf. 1971 Ops. Att'y Gen., No. 3202, p. 183.](#)  
Very truly yours,

John L. Choate  
Legal Assistant

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