

1973 WL 27699 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 22, 1973

*1 Honorable Thomas Hartnett
S. C. State Senate
The State House
Columbia, South Carolina

Dear Senator Hartnett:

You have requested this office advise you as to whether the Legislature of this State may enact laws through the medium of absentee balloting.

It is clear that the legislature possesses only those powers as are granted to it by the State Constitution, and cannot exceed or vary specific constitutional prerequisites or limitations on such powers. The constitutional provisions relating to the enactment of legislation are generally set forth in Article 3, Constitution of the State of South Carolina. No provision for absentee balloting appears therein and a reading in each House of the Legislature before a bill can acquire the force of law. Article 3, Section 20 requires a viva voce vote except by unanimous consent. When action is dictated by the Legislature to be performed or conducted in a specific manner, it must be taken in such manner.

It is, therefore, the opinion of this office that the Legislature of the State of South Carolina has no authority to utilize absentee balloting in the enactment of laws.

This office is aware that the Legislature has the right to waive its rules of parliamentary procedure, and may suspend its rules if approved by the members of the respected body. However, in no instance can the members thereof elect to waive constitutional requirements specifying their functions and procedures.

It may further be noted that once a bill has been duly signed by the presiding officers of the General Assembly and duly deposited in the office of the Secretary of State, it is immune from collateral attack and cannot be impeached by a showing of irregularities in its enactment.

Very truly yours,

Timothy G. Quinn
Senior Assistant Attorney General

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