



South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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HOUSE WEEK IN REVIEW

The House of Representatives approved and sent to the Senate two measures to shorten sessions of the General Assembly.

H.3380 is a **PROPOSED CONSTITUTIONAL AMENDMENT TO SHORTEN THE LEGISLATIVE SESSION BY REVISING ANNUAL COMMENCEMENT**. This joint resolution proposes an amendment to the Constitution of South Carolina, relating to sessions of the General Assembly, so as to provide for annual sessions of the General Assembly commencing at varying times in even-numbered years and odd-numbered years. The proposed amendment provides that the annual session of the General Assembly shall convene at the State Capitol in the City of Columbia on the second Tuesday of January in even-numbered years and on the second Tuesday in February in odd-numbered years. The proposed amendment provides for an organizational session for the Senate in certain years. The proposed amendment provides for other revisions regarding the elimination of certain obsolete language, provisions for the election of officers of the General Assembly, provisions for certain meetings for the introduction and referral to committee of legislation, and provisions for certain committee meetings.

H.3378 SHORTENS THE LEGISLATIVE SESSION BY REVISING THE TIME OF ANNUAL ADJOURNMENT. The bill changes the date for the mandatory adjournment of the General Assembly from the first Thursday in June to the second Thursday in May. The bill also provides that in any year that the House of Representatives fails to give third reading to the appropriations bill by March 15th, rather than March 31st, the date of adjournment is extended by one statewide day for each statewide day after March 15th, rather than March 31st, that the House fails to give the bill third reading.

The House approved and sent to the Senate **H.3320**, a bill that **PROHIBITS NAMING A STATE ROAD, HIGHWAY, OR INTERSTATE, OR ANY PORTION THEREOF, FOR A PERSON WHO IS LIVING**. The provisions of the bill take effect upon approval of the Governor and apply to such roadways not yet officially named for a living person as of the bill's effective date.

The House approved and sent to the Senate **H.3355**, which enacts the “**SOUTH CAROLINA DAIRY STABILIZATION ACT**.” This bill creates a 13 member South Carolina Milk Board (the Board), whose duties, among other things, are to ensure that dairy producers receive fair market breakeven prices, to monitor the consumption and distribution of South Carolina produced milk, and to mediate differences between milk producers and buyers. The bill provides for the membership of the Board. The bill provides for the Board to appoint an executive director who shall serve *ex-officio* as a non-voting Board member. Principal offices of the Board will be within the South Carolina Department of Agriculture building.

H.3355 provides that the Board is an instrumentality of the State and is authorized to make, adopt, and enforce regulations and issue and enforce orders necessary to carry out the purposes of the bill.

The bill requires and provides for buyer fees to be collected on all fluid milk produced in this State, and the bill requires that funds from these fees must be deposited into a

special fund (the Dairy Producers Settlement Fund) and disbursed, as provided in the bill, to all producers in the State who sold or shipped milk in the month when prices fell below the fair market breakeven amount as determined by the Board.

H.3355 prohibits a milk buyer from engaging in the purchase of South Carolina milk until having obtained a license from the Board. The Board is authorized, among other actions, to invoke a monetary penalty for buyers who violate the provisions of the bill. Funds from such penalties would be deposited into the Dairy Producers Settlement Fund.

The bill requires and provides for the Board to develop an accounting system designed to show for each buyer of fluid milk under the Board's supervision, the total purchases of South Carolina milk by the buyer and the sales of milk sold in this State. The bill further requires that buyers under the supervision of the Board use this system of accounting.

H.3355 provides that violations of the provisions of the bill are a misdemeanor punishable by fine or imprisonment, and multiple violations may result in license or permit revocation.

The bill requires the Board to prepare an annual budget and requires the Board to collect funds required for operation of the bill's provisions from the State's dairy producers. Expenses of the Board must be met by an assessment of up to one cent per gallon of milk produced in this State.

The provisions of **H.3355** are repealed on July 1, 2012.

The House and Senate voted to override the Governor's veto on Joint Resolution **H.5136** of 2004, which provides for a **MORATORIUM ON THE ISSUANCE OF NEW AMBULANCE SERVICE LICENSES**. The joint resolution directs the Department of Health and Environmental Control to cease issuing new ambulance licenses for more than one hundred twenty days or until the department has the necessary personnel to enforce existing licensure requirements. The legislation provides an exception if a demonstrated need exists. The legislation provides licensure renewal requirements.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full Committee did not meet this week.

EDUCATION AND PUBLIC WORKS

The Education and Public Works Committee reported out three bills this week.

The Committee reported favorable with amendment on **S.1**, a bill which **DELETES THE CURRENT PROVISION WHICH PROHIBITS A LAW ENFORCEMENT OFFICER FROM STOPPING A DRIVER FOR A VIOLATION OF SAFETY BELT REQUIREMENTS IN THE ABSENCE OF ANOTHER VIOLATION OF THE MOTOR VEHICLE LAWS**. As amended by the Committee, the bill authorizes such a stop when the officer has probable cause that a violation has occurred based on his clear and unobstructed view of a driver or an occupant of the vehicle who is not wearing a safety belt (or is not secured in a child restraint system). The bill prohibits searching the driver or his passengers if the vehicle is stopped solely for a violation of these provisions unless the search is for a separate and distinct offense based upon probable cause. The bill prohibits custodial arrest for violation of safety belt or child passenger restraint system provisions.

The bill requires a fine of up to twenty-five dollars, no part of which may be suspended, for persons adjudicated to be in violation of safety belt or child restraint system provisions, and prohibits assessment against such a person for court costs, assessments, or surcharges. Proceeds of fines collected would be placed in the State Amber Alert Fund.

The bill prohibits reporting violation of safety belt requirements to the offender's motor vehicle insurer. The bill removes the exemption from seat belt requirements for occupants of the back seat of certain vehicles.

The Committee reported favorable with amendment on **H.3155**, the **SOUTH CAROLINA EDUCATION AND ECONOMIC DEVELOPMENT ACT**. As reported by the Committee, this bill:

- Provides students with strong academics and real-world problem solving skills through individualized educational, academic, and career oriented choices and greater exposure to career information and opportunities.
 - Organize curriculum around clusters of study;
 - Implement career awareness programs in grades 1-5;
 - Implement career counseling and career awareness programs in grades 6-8;
 - Expand career planning for eighth grade students to graduation plans;
 - Employ career specialists in all middle and high schools;
 - Up-date eighth graders' graduation plans in 9th and 10th grades;
 - 10th graders declare an area of academic focus;
 - Involve parents in development of all graduation plans.
- Establishes model programs for at-risk students to ensure that these students receive the opportunity to complete the necessary requirements to graduate with a state high school diploma and build skills to prepare them to enter the job market successfully.
 - State Board must, through regulation, outline specific objective criteria for districts to use in the identification of students at risk for being poorly prepared for the next level of study or for dropping out of school.
 - State Board must, through regulation, identify model programs for at risk students.

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- Each high school must implement one or more model programs to ensure at-risk students can graduate with a state high school diploma.
- Requires the Commission on Higher Education to:
 - Review, revise, and recommend secondary to postsecondary articulation agreements and to promote the development of measures to certify equivalency in content and rigor for all courses included in articulation agreements;
 - Examine dual credit courses to insure they are equivalent in content and rigor to the equivalent college courses;
 - Study the content and rigor of high school courses in order to provide a seamless pathway to postsecondary education;
 - Report annually to the Education and Economic Development Coordinating Council.
- Creates Education and Economic Development Council and Project Office to implement the act and enforce the requirements of the act.
- Identifies regional education centers to coordinate and facilitate the delivery of information, resources, and services to students, educators, employers, and the community.
- Replaces School-to-Work Act.

The Committee reported favorable on **H.3020**, the **FINANCIAL LITERACY ACT OF 2005**. This bill requires and provides for the State Board of Education (the Board) to develop or adopt curricula, materials, and guidelines for local school boards to use in implementing a program of instruction on financial literacy within courses currently offered in South Carolina high schools. The bill also authorizes the establishment of a special fund to receive public and private contributions to provide financial incentive grants to local school boards for: defraying the costs of financial literacy training for teachers; rewarding schools, teachers, and students who meet certain levels of success in a financial literacy competition; and funding activities related to financial literacy education. The bill requires the Board to incorporate the elements of the financial literacy program into the State Academic Standards of Instruction for kindergarten through twelfth grade.

JUDICIARY

The full Judiciary Committee met on Tuesday, February 22, 2005.

The Committee gave a favorable report to **H.3133**, a **PROPOSED CONSTITUTIONAL AMENDMENT RELATING TO THE DEFINITION OF MARRIAGE**. This joint resolution proposes to submit to the electors at the next general election whether or not the State Constitution should be amended to provide that marriage is exclusively defined as the union between one man and one woman and that all other attempted unions, including those recognized by other jurisdictions, are void.

H.3378, which **SHORTENS THE LEGISLATIVE SESSION BY REVISING THE TIME OF ANNUAL ADJOURNMENT**, received a favorable report from the full Judiciary Committee. The bill changes the date for the mandatory adjournment of the General Assembly from the first Thursday in June to the second Thursday in May. The bill also provides that in any year that the House of Representatives fails to give third reading to the appropriations bill by March 15th, rather than March 31st, the date of adjournment is extended by one statewide day for each statewide day after March 15th, rather than March 31st, that the House fails to give the bill third reading.

H.3380, a **PROPOSED CONSTITUTIONAL AMENDMENT TO SHORTEN THE LEGISLATIVE SESSION BY REVISING ANNUAL COMMENCEMENT**, received a favorable report from the full Committee. This joint resolution proposes an amendment to the Constitution of South Carolina, relating to sessions of the General Assembly, so as to provide for annual sessions of the General Assembly commencing at varying times in even-numbered years and odd-numbered years. The proposed amendment provides that the annual session of the General Assembly shall convene at the State Capitol in the City of Columbia on the second Tuesday of January in even-numbered years and on the second Tuesday in February in odd-numbered years. The proposed amendment provides for an organizational session for the Senate in certain years. The proposed amendment provides for other revisions regarding the elimination of certain obsolete language, provisions for the election of officers of the General Assembly, provisions for certain meetings for the introduction and referral to committee of legislation, and provisions for certain committee meetings.

The Judiciary Committee tabled **H.3177**. This bill provides that a person who **UNINTENTIONALLY CAUSES THE DEATH OF ANOTHER PERSON WHILE VIOLATING CERTAIN TRAFFIC LAWS** is guilty of a misdemeanor.

The full Committee adjourned debate on **H.3110**, a bill pertaining to **CONCEALABLE WEAPONS PERMITS**.

H.3414, pertaining to **ABSENTEE BALLOTS**, was recommitted to the Election Laws Subcommittee.

H.3084, relating to **PROBATE JUDGE QUALIFICATIONS**, received a favorable with amendment report from the full Judiciary Committee. This bill adds the requirement that a probate judge must not have been convicted of a felony offense or an offense involving moral turpitude. The bill requires that a probate judge must have obtained a four-year bachelor's degree from an accredited post-secondary institution or, if he/she has no degree, have four years' experience as a full-time probate judge, deputy probate judge, or associate probate judge in a probate judge's office in this State. There are grandfather provisions for individuals currently serving in office.

The full Committee adjourned debate on **H.3141**, a bill relating to **AGENCY PROCEDURES FOR PROMULGATING REGULATIONS**.

LABOR, COMMERCE AND INDUSTRY

The full House Labor, Commerce and Industry Committee met on Tuesday, February 22, and reported out **H.3381**, the “**SOUTH CAROLINA LANDOWNER AND ADVERTISING PROTECTION AND PROPERTY VALUATION ACT**”, majority favorable with amendments, minority unfavorable. The legislation provides for the conditions under which a local governing body may require the removal of an off-premises outdoor advertising sign that is nonconforming under a local ordinance and may regulate the use of off-premises outdoor advertising signs within its jurisdiction. Under the legislation, a local governing body may enact or amend an ordinance of general applicability to require the removal of any nonconforming, lawfully erected off-premises outdoor advertising sign only if the ordinance requires the payment of just compensation to the sign owners, except as otherwise provided in the bill. The payment of just compensation is not required if:

- (1) The local governing body and the owner of the nonconforming off-premises outdoor advertising sign enter into an agreement to relocate and reconstruct the sign. The agreement must include provisions for: (a) relocation of the sign to a site reasonably comparable to or better than the existing location, and (b) payment by the local governing body of the reasonable costs of relocating and reconstructing the sign.
- (2) The local governing body and sign owner enter into a voluntary agreement allowing for the removal of the sign after a set period of time instead of just compensation.
- (3) The off-premises outdoor advertising sign is adjudicated to be a public nuisance or detrimental to the health or safety of the populace; or
- (4) The removal is required for opening, widening, extending or improving streets or sidewalks, or for establishing, extending, enlarging, or improving a public enterprise, and the local governing body allows the off-premises outdoor advertising sign to be relocated to a comparable or better location and the local governing body pays the costs of the relocation.

For the purposes of relocating and reconstructing a nonconforming off-premises outdoor advertising sign under an agreement with the sign’s owner, a local governing body, consistent with the welfare and safety of the community as a whole, may adopt a resolution or adopt or modify its ordinances to provide for the issuance of a permit or other approval, including conditions as appropriate, or to provide for dimensional, spacing, setback, or use variances as it considers appropriate as long as it does not affect the federal provisions for the relocation of outdoor advertising signs affected by state highway projects.

If a local governing body has offered to enter into an agreement to relocate a nonconforming off-premises outdoor advertising sign, and within one hundred twenty days after the initial notice by the local governing body, the parties have not been able to agree that the site or sites offered by the local governing body for relocation of the sign are reasonably comparable to or better than the existing site, the parties, by mutual agreement, may enter into binding arbitration to determine the comparability of the site offered for relocation. If this arbitration proceeding results in a determination that the proposed relocation site(s) are not comparable to or better than the existing site, and the local governing body elects to proceed with the removal of the sign, the parties shall determine just compensation to be paid to the sign owner. If the parties are unable to reach an agreement regarding just compensation within thirty days of the receipt of the arbitrators’ determination regarding relocation, and the local governing body elects to

proceed with the removal of the sign, the parties, by mutual agreement, may enter into binding arbitration to determine the amount of just compensation to be paid. If the parties choose not to enter into binding arbitration for the purposes of either relocation or just compensation and the local governing body elects to proceed with the removal of the sign, the local governing body shall bring an action in circuit court for a determination of the just compensation to be paid by the local governing body to the sign owner for the removal of the sign.

A local governing body shall not prevent the repositioning of a nonconforming sign on the same parcel of land to facilitate the development of the parcel so long as the repositioning of the sign does not increase the degree of the sign's nonconformity.

The requirement by a local governing body that the issuance or continued effectiveness of a zoning ordinance or issuance of a license or permit is conditional upon the removal or alteration of a lawfully erected sign constitutes a compelled removal that is prohibited without prior payment of just compensation.

An off-premises outdoor advertising sign may not be removed until the owner of the property on which it is located has been compensated fully by the local governing body requiring the sign's removal for a loss which may be suffered as a result of the removal of the sign through the termination of a lease or other financial arrangement with the sign owner. The compensation must include damage to the landowner's property occasioned by removal of the sign.

The provisions of this legislation may not be used to interpret, construe, alter, or otherwise modify the exercise of the power of eminent domain by an entity under the Highway Advertising Control Act or the manner in which outdoor advertising is valued by the South Carolina Department of Transportation.

This act takes effect upon approval by the Governor. Nothing in this legislation preempts or otherwise alters or modifies an ordinance or regulation enacted by a local governing body before the effective date of this legislation.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full Medical, Military, Public and Municipal Affairs Committee met on Tuesday, February 22, 2005, and gave consideration to two bills.

H.3108, which **INCREASES MEMBERSHIP ON THE MEDICAL DISCIPLINARY COMMISSION OF THE STATE BOARD OF MEDICAL EXAMINERS**, received a favorable with amendment report. The Medical Disciplinary Commission of the State Board of Medical Examiners investigates formal complaints filed against physicians. Currently, the Commission is composed of 36 members, all of whom are physicians. As passed by the full Committee, this bill would increase the size of the Commission to 48 members by adding two lay members from each congressional district. The Governor would appoint the lay members. Each disciplinary panel would be required to have at least one lay member. *(Note: the February 1 Legislative Update incorrectly reported the full Committee's action on this bill, which was recommitted to subcommittee that week.)*

The full Committee adjourned debate on [H.3249](#), which pertains to the **LICENSURE AND REGULATION OF OPTOMETRISTS**.

WAYS AND MEANS

The Ways and Means Committee met on Tuesday, Wednesday, and Thursday and completed its work on a recommended spending plan for the **2005-2006 STATE BUDGET**. Highlights of the Committee's recommendations include:

- Full funding of the Education Finance Act (\$315 million funding increase) at a Base Student Cost of \$2,290;
- Funding for teachers' salaries at \$300 above the Southeastern Average;
- \$18 million in new funding for school buses;
- Increase from \$200 to \$250 for teacher supply money;
- Increase of \$10 million for summer schools (total \$31 million);
- Full funding of LIFE, HOPE, and Palmetto Fellows Scholarships;
- More than \$67 million funding for Medicaid growth, which includes \$17.7 million to replace non-recurring funding, \$40 million for Medicaid growth (maintains the current level of benefits), and \$9 million for physician rate increases;
- Funding fully restored to 40 trust funds (and partially restored to two trust funds) which had been borrowed from in recent years;
- 4% base pay increase for state employees;
- 10% base pay increase for law enforcement officers (which will bring many, but not all, officers' pay to a level at or above the Southeastern average);
- Full funding for health insurance plan for state employees and retirees (no premium increases or changes in benefits to plan participants);
- \$4.3 million funding to the State Library to increase Aid to County Libraries from \$.082 per capita to \$2.00 per capita.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

H.3615 PRACTICE OF VETERINARY MEDICINE Rep. Dantzler

This bill relates to the practice of veterinary medicine, so as to conform current law to the statutory organizational framework for boards under the administration of the Department of Labor, Licensing and Regulation. The bill provides for the licensure and regulation of veterinarians and veterinary technicians including, but not limited to the following: establishing an investigative review committee, revising procedures for conducting hearings, providing for licensure by endorsement, authorizing student preceptor programs, providing procedures for veterinarians if an animal is abandoned in

their custody, providing for a lien on an animal when payment for care is not made, and establishing certain standards for emergency veterinary care facilities and mobile veterinary facilities.

H.3622 DOVE HUNTING Rep. Rhoad

The bill provides that the daily bag limit for mourning doves, including ring neck doves, is 15 per day. No doves may be taken or hunted before twelve o'clock noon. The bill further provides that top sowing wheat in the manner provided by regulation of the Department of Natural Resources is not considered baiting an area over which migratory game birds are hunted. The provisions of this bill apply in all game zones of this State, unless a provision conflicts with an applicable provision of federal law, regulation, or treaty in which case that provision shall not apply in any game zone of this State.

H.3627 CRITERIA FOR THE ISSUANCE OF PERMITS UNDER THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL'S COASTAL MANAGEMENT PROGRAM Rep. Loftis

This bill relates to criteria for the issuance of permits under the Department of Health and Environmental Control's Coastal Management Program. The bill deletes the current provision of law which requires as a consideration in issuing such permits the extent to which the proposed use, pursuant to the permit, could affect the value and enjoyment of adjacent owners.

JUDICIARY

S.83 "TORT REFORM ACT OF 2005 RELATING TO MEDICAL MALPRACTICE" Sen. McConnell

The legislation provides for the **South Carolina Noneconomic Damage Awards Act of 2005**. The term 'noneconomic damages' means nonpecuniary damages arising from pain, suffering, inconvenience, physical impairment, disfigurement, mental anguish, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, humiliation, other nonpecuniary damages, and other theory of damages including but not limited to, fear of loss, illness, or injury. The legislation places caps on the amount of noneconomic damages that may be awarded in an action on a medical malpractice claim. The caps are as follows:

- In an action on a medical malpractice claim when final judgment is rendered against a **single health care provider** the limit of civil liability for noneconomic damages of the health provider is limited to an amount not to exceed \$350,000 for each claimant, regardless of the number of separate causes of action on which the claim is based.
- In an action on a medical malpractice claim when final judgment is rendered against a **single health care institution**, the limit of civil liability for noneconomic damages is limited to an amount not to exceed \$350,000 for each claimant, regardless of the number of separate causes of action on which the claim is based.
- In an action on a medical malpractice claim when final judgment is rendered against **more than one health care institution, or more than one health care**

provider, or any combination thereof, the limit of civil liability for noneconomic damages for each health care institution and each health care provider is limited to an amount not to exceed \$350,000 for each claimant and the limit of civil liability for noneconomic damages for all health care institutions and health care providers is limited to an amount not to exceed one million fifty thousand dollars for each claimant.

- The bill provides for **increases and decreases of the caps** as determined by the State Budget and Control Board and Board of Economic Advisors in the ratio of the Consumer Price Index to the index as of December 31 of the previous year.

The **caps do not apply** if the jury or court determines that a defendant was grossly negligent, willful, wanton, or reckless and such conduct was the proximate cause of the claimant's noneconomic damages, or if the defendant has engaged in fraud or misrepresentation related to the claim. The caps do not apply if the defendant altered or destroyed medical records with the purpose of avoiding a claim or liability to the claimant.

The provisions of this section do not limit the amount of compensation for economic damages suffered by each claimant in a medical malpractice claim. The term 'economic damages' means pecuniary damages arising from medical expenses and medical care, rehabilitation services, costs associated with education, custodial care, loss of earnings and earning capacity, loss of income, burial costs, loss of use of property, costs of repair or replacement of property, costs of obtaining substitute domestic services, a claim for loss of spousal services, loss of employment, loss of business or employment opportunities, loss of retirement income, and other monetary losses.

The provisions of this section do not limit the amount of punitive damages in cases where the plaintiff is able to prove an entitlement to an award of punitive damages as required by law.

The legislation adds certain procedural provisions with regards to an **offer of judgment and the consequences of non-acceptance**. Except in domestic relations actions, after commencement of any civil action based upon contract or seeking the recovery of money damages, whether or not other relief is sought, any party may, at any time more than 20 days before the actual trial date, file with the clerk of the court a written offer of judgment signed by the offeror or his/her attorney, directed to the opposing party, offering to take judgment in the offeror's favor, or as the case may be, to allow judgment to be taken against the offeror, for a sum stated therein, for property, or to the effect specified in the offer. There are provisions detailing how notice of the offer should be made and when the offer is deemed rejected. If an offer of judgment is not accepted and the offeror obtains a verdict or determination at least as favorable as the rejected offer, the offeror shall be allowed to recover from the offeree: (1) any administrative, filing, or other court costs from the date of the offer until judgment; (2) if the offeror is a plaintiff, eight percent interest computed on the amount of the verdict or award from the date of the offer; or (3) if the offeror is a defendant, a reduction from the judgment or award of eight percent interest computed on the amount of the verdict or award from the date of the offer. The bill further provides that this section does not abrogate the contractual rights of any party concerning the recovery of attorneys fees or other monies

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in accordance with the provisions of any written contract between the parties to the action.

The legislation has provisions relating to **expert witnesses**. When an expert witness is qualified as to the acceptable conduct of the professional whose conduct is at issue, the expert must be licensed and either board certified or have actual professional knowledge and experience in the area of practice in which the opinion is to be given. In an action alleging professional malpractice, the plaintiff must file with the complaint, an affidavit of an expert witness specifying at least one negligent act or omission claimed to exist and the factual basis for each claim. The legislation does provide for an exception to the contemporaneous filing requirement in cases where the statute of limitations will expire within 10 days of the date of filing. A plaintiff's claim is subject to dismissal if the plaintiff fails to file the required affidavit. The legislation applies to numerous professions.

If a judge finds that **an expert health care provider or health care institution in a medical malpractice action** has offered testimony or evidence in bad faith or without a reasonable basis in fact or otherwise acted unethically in conjunction with testifying as an expert, the judge must report the expert to the state entity that licenses and regulates the profession of the expert or the type of health care entity represented by the expert.

In medical malpractice actions, the legislation requires the parties to participate in **mediation** governed by procedures established in the South Carolina Circuit Court Alternative Dispute Resolution Rules. The bill allows the parties to agree to participate in binding arbitration.

Under the bill, a person who serves on the Board of the **Joint Underwriting Association or the Board of Governors of the Patients' Compensation Fund** is prohibited from being employed in any manner or compensated by the Joint Underwriting Association or the Patients' Compensation Fund, and this prohibition continues for one year after the person ceases to be a member of the board.

With regards to the **Patients' Compensation Fund for Benefit of Licensed Health Care Providers**, the bill provides that the fund and any income from it must be managed by the board according to its plan of operation. The bill further provides that monies may be withdrawn from the fund only upon the signature of the chairman of the Board of Governors or his/her designee.

The **Medical Disciplinary Commission of the State Board of Medical Examiners** investigates formal complaints filed against physicians. Currently, the Commission is composed of 36 members, all of whom are physicians. This bill would increase the size of the Commission to 42 members by adding six lay members. The lay commissioners must have at a minimum, a baccalaureate degree or the equivalent and have no ascertainable ties to the health care industry. Each disciplinary panel would be required to have at least one lay member.

The bill has provisions for the **Department of Insurance to review data and report to the General Assembly** whether this and other related enactments have resulted in reductions in premiums in the health care community and as to any other trends of significance which might impact premium cost.

H.3599 COMMERCIAL DRIVER'S LICENSES Rep. Stewart

This bill provides that a commercial driver's license must be suspended if its holder is arrested for or found guilty of certain criminal activity.

H.3603 ELIGIBILITY FOR PRETRIAL INTERVENTION PROGRAMS

Rep. Rutherford

This bill provides that a person who has been accepted into a pretrial intervention program previously may be accepted into an intervention program for one additional time, if the person obtains the approval of both the solicitor and the chief administrative judge of the court of general sessions.

H.3613 "COMMON SENSE CONSUMPTION ACT" Rep. Kirsh

Under this legislation, a manufacturer, packer, distributor, carrier, holder, marketer, seller, or an association of one or more of these entities is not subject to civil liability in an action based on a person's purchase or consumption of food or nonalcoholic beverages when liability is based on weight gain, obesity, or a health condition associated with weight gain or obesity resulting from the person's long-term consumption of food or nonalcoholic beverages.

H.3614 INCOME WITHHOLDING TO ENFORCE SUPPORT OBLIGATIONS

Rep. Wilkins

This bill relates to procedures for withholding wages to secure payment of support obligations, including collection and disbursement of the withheld wages, so as to make technical corrections. This bill also amends S.C. Code Ann. §20-7-144, relating to family court fees, costs, and allowances, including the five percent additional fee added to child support payments for court costs. The bill provides that the payor of this additional five percent agrees, by paying through the court or a centralized system, (1) that this payment is for satisfaction of court costs, (2) that it is not child support, as defined in federal law, and (3) to the distribution of this payment to the State for court costs.

H.3621 PROPOSED CONSTITUTIONAL AMENDMENT TO ALLOW CERTAIN CHARITABLE ORGANIZATIONS TO CONDUCT RAFFLES Rep.

Altman

This joint resolution proposes to submit to the electors at the next general election whether or not a raffle conducted by certain charitable organizations is a lottery prohibited by the State Constitution. All raffle proceeds, except for the costs of the prizes and the costs of printing tickets, would have to be used exclusively for the organization's tax-exempt purposes. A charitable organization would be limited to holding a raffle not more than four times in a calendar year.

H.3623 MARITIME TRANSPORTATION SECURITY ACT REGULATED FACILITY STANDARDS FOR EMPLOYMENT Rep. Limehouse

This bill provides standards for the employment of persons who have access to a Maritime Transportation Security Act (MTSA) facility. The bill requires fingerprint and criminal history background checks for employment and prohibits certain individuals from access to MTSA facilities. To operate a yard hostler on a MTSA regulated facility, the bill provides that a person must possess a valid driver's license; the bill further provides that the person must possess a commercial driver's license (CDL) on and after January 1, 2006. The bill provides that an employer must notify a MTSA regulated facility when an employee who has access to a MTSA regulated facility loses or has his/her driver's license or CDL suspended.

**H.3624 CRIMINAL OFFENSE OF RUMMAGING THROUGH OR STEALING ANOTHER PERSON'S HOUSEHOLD GARBAGE OR LITTER
Rep. Rutherford**

This bill creates the criminal offense of rummaging through or stealing another person's household garbage or litter. The offense is a misdemeanor punishable by a maximum sentence of 30 days in jail or a fine of \$100. The bill further provides that a conviction of this offense and the possession of identifying information as defined in S.C. Code Ann. §16-13-510 is prima facie evidence of financial identity theft.

**H.3625 FRESH PURSUIT OF A PERSON WHO IS IN IMMEDIATE AND CONTINUOUS FLIGHT FROM THE COMMISSION OF A CRIMINAL OFFENSE
Rep. Simrill**

This bill allows a law enforcement officer employed by a neighboring state to enter South Carolina in fresh pursuit of a person who is in flight from the commission of a criminal offense in the neighboring state and to arrest the person. The bill provides for procedures to (1) determine the lawfulness of the arrest, (2) the release of the person arrested, and (3) the extradition of the arrested person. This provision applies only to law enforcement officers employed by a neighboring state when the neighboring state has enacted a provision similar to this section relating to the arrest and custody of a person pursued into a neighboring state.

**H.3626 LEGAL NOTICES IN NEWSPAPERS
Rep. Loftis**

Notwithstanding another provision of law, when it is required that legal notice be published in a newspaper, this bill provides that the legal notice may be abbreviated in the newspaper along with information to direct the reader to a website or the local library where the detailed legal notice is available for review.

**H.3631 HATE CRIMES
Rep. Whipper**

This bill provides penalties for persons convicted of certain crimes with the intent to assault, intimidate, or threaten a person because of his/her race, religion, color, sex, age, national origin, or sexual orientation. A conviction for a hate crime is a felony with a maximum sentence of 15 years imprisonment and a \$20,000 fine.

**H.3632 STATUTE OF LIMITATIONS ON ACTIONS AGAINST REGISTERED SURVEYORS OR THEIR EMPLOYEES ENGAGED IN THE PRACTICE OF LAND SURVEYING
Rep. Sandifer**

This bill creates a six-year statute of limitations on actions against registered surveyors or their employees engaged in the practice of land surveying. The statute of limitations may not be used as a defense when a person is guilty of fraud, gross negligence, or recklessness in performing or furnishing the survey or plat or to a person who conceals this cause of action. The bill also amends S.C. Code Ann. §15-3-670, relating to when certain statutes of limitations concerning actions based on defective or unsafe conditions of an improvement to real property are not available as a defense, so as to make this defense available in connection with surveying and land surveying and to provide exceptions.

**H.3635 REGULATION OF STAFF LEASING SERVICES
Rep. Harrison**

This bill provides that effective July 1, 2005, the duties, functions, and responsibilities of the Department of Consumer Affairs, and the Administrator of the Department of Consumer Affairs, in regard to the regulation of staff leasing services are devolved upon

the Department of Labor, Licensing And Regulation and the director of the department, respectively.

**H.3636 INTEREST ON FUNDS DEPOSITED WITH THE CLERK OF COURT
BY A CONDEMNOR PURSUANT TO THE EMINENT DOMAIN
PROCEDURE ACT Rep. Harrison**

This bill relates to the interest on funds deposited with the clerk of court by a condemnor pursuant to the Eminent Domain Procedure Act. The bill changes the interest rate from eight percent to interest at the rate paid for six month United States Treasury Bills on the day the notice of condemnation was filed. The bill provides that interest accrue from the date of the notice filing to the date of order or judgment. This bill provides that 30 days after the order or judgment is filed, interest accrues at the rate provided by law for interest on judgments. The bill also amends S.C. Code Ann. §28-2-480, relating to a condemnee's right to deposited funds upon possession of the subject property, so as to provide for the clerk of court to pay up to the full amount upon application and to notify the condemnor of amounts paid.

**H.3641 CHANGE OF VENUE FOR CERTAIN CRIMINAL OFFENSES
Rep. Jennings**

When an offender incarcerated in a correctional institution in this State commits a criminal offense while incarcerated, this bill provides that the solicitor, in his/her discretion, may request and the court must grant a change in venue to the county where the offender's original offense for which he/she is incarcerated occurred.

**H.3647 WORKING ON SUNDAYS AND "SUNDAY BLUE LAWS"
Rep. E.H. Pitts**

This bill relates to the right of an employee of a business to refuse to work on Sunday. The bill provides that an employee has the option of refusing to work on Sunday if the employee is conscientiously opposed to Sunday work. This provision does not apply to employees, including support, maintenance, repair, and other service personnel, of a manufacturing establishment or a research and development operation that by its nature or for economic reasons involves processes requiring continuous and uninterrupted operation.

The bill repeals what is popularly known as "Sunday Blue Laws," which relate to the prohibition against the sale of certain items on Sunday except during specified hours of operation. "Sunday Blue Laws" also prohibit the conduct of certain work or events or the operation of certain businesses or manufacturing establishments on Sunday. The bill does not affect the provisions of law prohibiting or otherwise regulating the sale of alcohol on Sunday.

H.3648 "MARANDA'S LAW" Rep. Haskins

This bill requires a court to make written findings of fact concerning the nature and extent of domestic violence committed by a person before releasing the person on bond or suspending the imposition or execution of a sentence.

H.3649 DOMESTIC VIOLENCE Rep. Haskins

This bill provides comprehensive revisions regarding the handling of domestic violence by the judicial system and law enforcement.

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The bill requires magistrates, family court judges, and circuit court judges to receive continuing education annually on domestic violence.

The bill revises provisions relating to grounds for divorce, so as to further specify that physical cruelty includes physical violence and conduct that endangers one's physical or psychological well-being.

This bill amends S.C. Code Ann. §22-5-530, relating to allowing defendants in certain cases to deposit a sum of money with the magistrate or municipal court in lieu of posting a recognizance bond, so as to require an individualized hearing to be held in cases where the accused may pose a threat to the public or an individual victim. Such cases include, but are not limited to, driving under the influence, criminal domestic violence, and simple assault and battery.

The bill requires the court to make specific findings of fact regarding the nature and extent of a criminal domestic violence offense before releasing the defendant on bond or suspending the sentence.

The bill provides that a criminal domestic violence charge may not be dropped against a person if the victim or victim's attorney was not present at the hearing.

The bill provides revisions regarding petitions for orders of protection from domestic violence and restraining orders.

The bill requires a law enforcement officer employed by the State or a political subdivision of the State who is convicted of criminal domestic violence to be terminated from employment.

The legislation eliminates pretrial intervention and pleading guilty to certain lesser charges for individuals charged with certain criminal domestic violence offenses, unless authorized by the court. The bill prohibits expungement of records for criminal domestic violence for offenders convicted in magistrate's court or municipal court, for such offenses committed by youthful offenders, and for such offenses committed by juveniles.

The bill revises provisions for effecting an arrest for criminal domestic violence, so as to require law enforcement to file an incident report and to prohibit the use of uniform traffic tickets to effect such an arrest.

The bill prohibits the issuance of mutual orders of protection from domestic abuse.

The bill provides for an automatic six-month extension upon the filing of an affidavit seeking an extension of orders of protection from domestic violence and provides for notice and an opportunity for a hearing.

The bill revises fines and terms of imprisonment for criminal domestic violence offenses and requires mandatory minimum sentences, which may be served on weekends or at night.

The bill establishes a felony offense for possession of a firearm by a person who has been convicted of criminal domestic violence.

H.3650 AMENDMENTS TO THE BROWNFIELDS VOLUNTARY CLEANUP PROGRAM Rep. W.D. Smith

This bill relates to the Brownfields Voluntary Cleanup Program and contract requirements entered into by or on behalf of a nonresponsible party. The bill provides that a nonresponsible party is not liable for third party claims and further specifies to whom this limitation of liability applies.

H.3651 PUBLIC RECORDS Rep. Simrill

This bill requires that identifying financial information be deleted from public records that are accessed electronically after July 1, 2005.

LABOR, COMMERCE AND INDUSTRY

H.3600 PAYMENT OF PROPERTY TAXES ON MANUFACTURED HOMES REQUIRED FOR ELECTRICAL SERVICE Rep. Altman

This bill provides that before an electrical utility or cooperative may provide electricity to a manufactured home, the property owner must present to the utility or cooperative a certificate from the county in which the manufactured home is located certifying that all ad valorem property taxes currently due and payable thereon have been paid in full

H.3608 UNIFORM UNCLAIMED PROPERTY ACT REVISIONS Rep. Scarborough

This bill revises provisions of the Uniform Unclaimed Property Act so as to: provide a maximum three-year period after which property is presumed abandoned; revise the criteria that give rise to the presumption of abandonment of shares of stock and business interests; require additional identification in reports and require notice to apparent owners at least sixty days before the holder reports the property; and update a reference relating to the rate of interest that must be paid on property, and appropriate the first twenty million dollars in revenues attributable to this legislation for the Capers Hall replacement and renovation project in Charleston County.

S.46 LABOR OR MATERIAL FOR THE IMPROVEMENT OF REAL ESTATE Sen. Thomas

This bill provides for the conditions under which a real estate licensee who performs professional services for the owner of real estate incident to a real estate transaction pursuant to a written agreement has furnished labor or material for the improvement of real estate.

H.3633 TELEPHONE UTILITIES NO LONGER REGULATED BY THE PUBLIC SERVICE COMMISSION Rep. Scarborough

This bill provides that, effective July 1, 2005, the rates, service areas, facilities, franchises, transactions, powers, duties, and property of telephone and telegraph utilities shall no longer be regulated by the Public Service Commission.

H.3634 REGULATION OF COMMERCIAL MOBILE SERVICE PROVIDERS Rep. Sandifer

This bill provides for the manner in which and conditions under which the Public Service Commission may regulate commercial mobile service providers.

H.3642 HEALTH INSURANCE PLANS REQUIRED TO PROVIDE COVERAGE FOR TREATMENT OF MENTAL ILLNESS OR ALCOHOL OR SUBSTANCE ABUSE Rep. Lucas

This bill requires health insurance plans to provide coverage for treatment of mental illness or alcohol or substance abuse. The legislation allows a plan that does not provide for management of care or the same degree of management of care for all health conditions to provide coverage for such treatment through a managed care organization. The legislation establishes treatment conditions to qualify for coverage. The Department of Insurance is required to report to the General Assembly on the fiscal impact of the legislation.

H.3643 SELF-FUNDED WORKERS' COMPENSATION COVERAGE THROUGH A CAPTIVE INSURANCE COMPANY Rep. Tripp

This bill provides that an employer who may self-fund workers' compensation coverage is authorized to write workers' compensation coverage directly through a captive insurance company.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.3601 OPEN HEART SURGERY SERVICES Rep. E.H. Pitts

This bill pertains to the State Health Planning Committee; specifically, the bill pertains to the development and contents of the State Health Plan for use in the administration of the Certificate of Need Program. The bill requires the State Health Plan to include a provision that the Department of Health and Environmental Control shall approve a Certificate of Need Application for open heart surgery, if (1) there are no open heart surgery programs located in the same county as the applicant; and (2) the applicant currently offers cardiac catheterization services and has performed a minimum of 1,200 diagnostic equivalents in the previous year of operation.

H.3604 PHYSICAL THERAPISTS Rep. Cato

Under this bill, the provisions of the Physical Therapy Practice Act may not be construed to prohibit or restrict the conduct of a physical therapist or physical therapist assistant otherwise authorized by the Provider Self Referral Act.

H.3630 EMERGENCY ROOM CARE Rep. Whipper

When a patient is discharged from a hospital emergency room, this bill provides that the hospital in addition to providing a patient with a written prescription for any needed medication, shall also give the patient the option of receiving at least a 24-hour supply of the medication.

H.3640 PREPARATION OF GROUND BEEF BY A FOOD-SERVICE PROVIDER

Rep. White

This bill provides that ground beef prepared by a food-service provider for public consumption must be cooked to at least 150 degrees Fahrenheit, unless otherwise ordered by the immediate consumer. The bill further provides for immunity from liability for serving beef cooked at such temperature upon request, and the bill requires a food

service provider to provide a written or verbal warning of the risks of eating such ground beef.

H.3646 ATTENDANT CARE SERVICES WHICH ALLOW A PERSON TO REMAIN AT HOME Rep. Parks

This bill amends S.C. Code Ann. §40-33-20, relating to definitions used in the licensure and regulation of nurses. The bill revises the definitions of "attendant care services" and "health maintenance activities." The bill also amends S.C. Code Ann. §40-33-30, relating to circumstances to which the chapter does not apply, so as to provide that the chapter may not be construed to prohibit an unlicensed person from providing attendant care services, which enable a person to remain at home and which enable a person to carry out functions of daily living.

WAYS AND MEANS

S.467 CATAWBA FAMILY CENTER Sen. Hayes

This joint resolution provides that upon execution of an appropriate contract, the South Carolina Department of Mental Health may transfer \$199,168.50 from a certain specified account, for the purpose of raising additional funding to purchase a building to serve as a child and adolescent mental health facility to be named the Catawba Family Center. The bill also delineates certain terms which must be included in the contract.

H.3638 ALCOHOLIC LIQUOR Rep. Cotty

This bill includes numerous provision related to sale of alcohol by the drink. The bill includes provisions: imposing an excise tax of five percent of the gross proceeds of sales of liquor by the drink for on-premises consumption; requiring that entities which receive minibottle tax revenue shall receive at least the same amount of revenues from this excise tax as they did from minibottle tax revenue during fiscal year 2004-05; requiring that alcoholic liquor sold by the drink must be purchased only from specifically licensed persons; providing that liquor distributors and liquor stores may deliver only to establishments licensed for on-premises consumption; prohibiting substitution of another brand of liquor in place of the brand that the customer ordered; and prohibiting a licensee from refilling or reusing a bottle of liquor or otherwise tampering with the contents of the bottle.

H.3652 PUT PARENTS IN CHARGE Rep. W.D. Smith

On a phased-in basis beginning with the 2006 tax year and with full implementation for grades K-12 beginning with the 2010 tax year, this bill provides credits for certain taxes and license fees for tuition paid for qualifying students to attend public or independent schools. The credit claimed may not exceed the lesser of eighty percent of the actual tuition paid or fifty-one percent of the average state per pupil expenditure. (The bill provides different percentages for determining the credit if the student is classified as handicapped as defined in the bill, or if the student is eligible for free or reduced priced meals or for free milk.)

The bill also provides credits for certain taxes and license fees for contributions to scholarship granting organizations and provides for the regulation, registration, and reporting of scholarship granting organizations.

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