



South Carolina House of Representatives

# Legislative Update

Robert W. Harrell, Jr., Speaker of the House

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# HOUSE WEEK IN REVIEW

The House of Representatives approved **S.3**, relating to **PROHIBITED GAMBLING DEVICES**, and enrolled the bill for ratification. This legislation specifies that those who are licensed to hold and advertise special events such as bingo or other similar activities intended to raise money for charitable purposes do not have the authority to make use of video poker machines, slot machines, or other coin-operated gambling machines and similar statutorily prohibited devices. The legislation also specifies that these prohibited gambling devices are not authorized for use in the sweepstakes and other promotional games that beer and wine sales permit holders are allowed to conduct. Following ratification, the bill was signed into law by the Governor.

The House approved and sent the Senate **H.3541**, a **PROPOSED CONSTITUTIONAL AMENDMENT FOR THE ADJUTANT GENERAL TO BE APPOINTED BY THE GOVERNOR** rather than elected. The joint resolution proposes to amend the South Carolina Constitution by removing the Adjutant General from the list of statewide elected officials and providing instead for the Adjutant General to be appointed by the Governor, upon the advice and consent of the Senate, to serve as the commander of all military forces within the South Carolina Military Department who is responsible to the Governor, in the role of commander-in-chief, for the proper performance of his duties. The proposed amendment calls for a four-year term of service for the Adjutant General structured so that it is staggered with that of the Governor. The General Assembly is required to provide by law for the duties, compensation, and qualifications for the office, the procedures by which the appointment is made, and the procedures by which the Adjutant General may be removed from office. Upon approval of this joint resolution by the General Assembly, the proposed constitutional amendment must be submitted to the state's voters as a ballot question at the next general election. If the constitution is amended, the new appointment process would begin with the expiration of the term of the Adjutant General who is serving in office when the amendment is ratified.

The House approved and sent the Senate **H.3540**, a bill making statutory provisions for the **APPOINTMENT OF THE ADJUTANT GENERAL BY THE GOVERNOR** in the event that the necessary constitutional amendment is approved by the state's voters and ratified. The legislation establishes provisions relating to: the duties of the office; the minimum command experience, South Carolina National Guard service requirements, and other qualifications for the office; the procedures by which the appointment is made; and, the procedures by which the Adjutant General may be removed from office by the Governor only for certain reasons constituting cause.

The House amended, approved, and sent the Senate **H.3229**, a bill addressing the South Carolina High School League's **OVERSIGHT OF INTERSCHOLASTIC ATHLETICS** in K-12 education. The legislation establishes certain conditions that the South Carolina High School League must adhere to in its oversight of interscholastic team sports and other athletic competitions by providing that a public school may not join or affiliate with any interscholastic athletic organization unless its constitution, rules, or policies contain the following: (1) A range of sanctions that may be applied to a student, coach, team, or program and that take into account factors such as the seriousness, frequency, and other relevant factors when there is a violation of the constitution, bylaws, rules, or other governing provisions. (2) Guarantees that individuals and private

or charter institutions are afforded the same rights and privileges that are enjoyed by all other members. Individuals and private or charter institutions may not be expelled or denied membership or restricted in their ability to participate in interscholastic athletics including, but not limited to, state playoffs or championships based solely on their status as a home-schooled individual, private school, or charter school. (3) An appeals process in which appeals of the organization's decisions are made to a disinterested third-body appellate panel consisting of seven members, one appointed from each of the state's seven congressional districts by the delegation. Members of the appellate panel must be subject to provisions establishing four-year terms of service as well as provisions prohibiting concurrent service as officers of the interscholastic athletic organization and service as a member of the organization's executive committee within the last three years. Parents, principals, and coaches must be able to appeal a ruling to the panel and the appellate panel must provide the final ruling in any appeal brought against a decision of the interscholastic athletic organization. (4) A procedure in place for emergency appeals to be held and decided upon in an expedited manner if the normal appellate process would prohibit the participation of a student, team, program, or school in an athletic event, including practices. (5) Provisions, implemented within one year, requiring the composition of the executive committee of the interscholastic athletic organization to be geographically representative of this state. Should an interscholastic athletic organization fail to adopt one of these requirements, public schools must end their affiliation with the organization prior to the beginning of the upcoming school year and are prohibited from paying dues or fees to the organization.

The House amended, approved, and sent the Senate **H.3061**, a bill establishing a protocol for addressing **STUDENT ATHLETES AND CONCUSSIONS** in K-12 education. This legislation requires the Department of Health and Environmental Control, in consultation with the Department of Education to post on its website guidelines, procedures and model policies regarding the identification, management and return to play decisions of suspected concussions in student athletes. Guidelines must incorporate best practices from various entities, and guidelines apply to events sanctioned by the South Carolina High School League. Local school districts must develop guidelines and procedures based on the model guidelines and procedures. Coaches, volunteers, athletes and their parents or guardians must review the concussion guidelines and procedures on a yearly basis, and parents or guardians must sign a statement indicating their review before a student is permitted to participate in an athletic competition or practice. Athletes suspected of sustaining a concussion or brain injury must be removed from practice or competition. Athletes may return to play if a trainer or doctor determines onsite that an athlete does not have any signs or symptoms of a concussion or brain injury. Athletes suspected to have suffered a concussion or brain injury may not return to play until they have received written medical clearance by a doctor who has had training in concussion evaluation and management. Trainers and doctors who evaluate student athletes and allow for their return to play are not liable for civil damages, unless their conduct is considered to be gross negligence or wilful wanton misconduct. Student athletes include cheerleaders.

The House amended, approved, and sent the Senate **H.3474**, a bill revising K-12 **SCHOOL CALENDAR** requirements. The legislation prohibits school districts from using Martin Luther King, Jr. Day and Memorial Day as make-up days by providing that, beginning with the 2015-2016 school year, local school districts are required to observe these dates as legal holidays when schools and district offices must be closed.

The House amended, approved, and sent the Senate **H.3086**, which enhances **IN-STATE TUITION RATE ELIGIBILITY FOR VETERANS AND THEIR DEPENDENTS**. This legislation provides that veterans and their dependents are entitled to receive in-state tuition rates and fees at state institutions without the requirement of one year of physical presence in this state. The legislation applies to veterans who have served on active duty, have been honorably discharged, and have evidenced intent to establish domicile in South Carolina.

The House amended, approved, and sent the Senate **H.3091**, a bill establishing an **EXEMPTION FOR PUBLIC SCHOOL DISTRICTS AND PUBLIC SCHOOLS FROM CHARITABLE SOLICITATION ACT REGISTRATION REQUIREMENTS**. This public school exemption includes a student organization within the school that does not maintain separate financial accounts or a separate Federal Employer's Identification Number from the school and whose fundraising revenues are deposited in the school's student activity fund. Also exempt are charitable organizations that do not intend to solicit or receive contributions from the public in excess of \$7,500 during a calendar year. These entities are exempt even if they hire various fundraising professionals, but the fundraising professionals must comply with registration and filing requirements.

The House approved and sent the Senate **H.3367**, legislation **UPDATING AND REVISING PROVISIONS OF THE SOUTH CAROLINA CHARITABLE SOLICITATION OF FUNDS ACT**. Among other things, the legislation clarifies and updates various definitions; clarifies that any organization that has filed a registration statement with the Secretary of State's office for a fiscal year is required to file an annual financial report for that fiscal year; and clarifies professional solicitor and professional fundraising counsel registration requirements, including reporting of criminal convictions involving forgery and theft. The legislation revises the "notice of solicitation" and "joint financial reporting" requirements. Also, it requires commercial co-venturers to submit a registration form that discloses similar information as is required for professional solicitors and fundraising counsel.

The House amended, approved, and sent the Senate **H.3554**, which relates to **SAMPLES OR SALES OF BEER FOR ON-PREMISES CONSUMPTION IN CONJUNCTION WITH TOURS OF BREWERIES**. The legislation: specifies that fourteen percent alcohol by weight is the maximum that may be offered for on-premises consumption; allows for the sale of sixty-four ounces of beer to a consumer every twenty-four hours; provides the beer must be sold at the approximate retail price; and provides that appropriate taxes must be remitted. Currently, breweries may offer samples with or without cost; a sample cannot be more than two ounces per brand of beer with over eight percent alcohol by weight and no more than four ounces of beer with under eight percent alcohol by weight.

The House amended, approved, and sent the Senate **H.3512**, a bill that makes **REVISIONS TO THE ALCOHOLIC BEVERAGE CONTROL ACT**. The legislation allows a retail dealer to offer discounts at the register through the use of premiums, coupons, or stamps, so long as the cost related to the discount is provided only by the retail dealer and is not prohibited by federal law; currently such discounts may only be redeemed by mail. The legislation provides additional limitations on certain retail dealer to retail dealer transactions and strengthens penalties for certain repeated violations. The legislation provides that the Department of Revenue must not issue or renew a retail dealer's license until the applicant has certified that the applicant has not purchased and

will not purchase alcoholic liquors from another person who does not hold a wholesaler's license; further, the legislation requires notice of this provision through placement of sign on a retail dealer's premises.

The House amended, approved, and sent the Senate [H.3491](#), a bill establishing new conditions for acting as a **VACATION TIMESHARE RESELLER**. Notably, the legislation requires vacation timeshare resales to be conducted through written contracts and establishes a period of five business days for disputing fees, costs and compensation paid to a resale service provider.

The House approved [S.261](#), a **TAX CONFORMITY** bill, which addresses the application of the federal Internal Revenue Code to state income tax laws, by updating references, eliminating obsolete provisions, and establishing conditions for how state provisions are to conform with federal provisions.

The House concurred in Senate amendments to returned [S.304](#), which makes technical changes and detailed revisions relating to **FRESHWATER FISHING**, and enrolled the bill for ratification. Following ratification, the bill was signed into law by the Governor.

The House amended Senate amendments to [H.3453](#), a joint resolution affording temporary **FLEXIBILITY PROVISIONS FOR SCHOOL DISTRICTS**, and returned the legislation to the Senate. The legislation provides for a delay in this year's deadlines for notifying teachers of school district employment decisions so that districts might have a better knowledge of what funds may be available for them through state appropriations before making their personnel decisions. The legislation also provides that school districts uniformly may negotiate salaries below the district salary schedule for the 2013-2014 school year for retired teachers who are not participants in the Teacher and Employee Retention Incentive (TERI) program.

The House approved and sent the Senate [H.3766](#), a joint resolution providing for the **REPAYMENT OF THE LOAN FOR EMERGENCY REPAIRS TO THE U.S.S. LAFFEY**. A three-year repayment schedule is established for the Patriots Point Development Authority.

The House recommitted to the Judiciary Committee [H.3163](#), a bill **REVISING THE FREEDOM OF INFORMATION ACT (FOIA)**, which establishes an individual's rights to inspect or obtain copies of public records and other government documents.

## HOUSE COMMITTEE ACTION

### JUDICIARY

The full Judiciary Committee met on Tuesday, March 19, and reported out several bills.

[H.3099](#) received a favorable report. This legislation provides for **CHILD SUPPORT ENFORCEMENT ASSISTANCE TO BE PROVIDED BY CLERKS OF COURT** in cases not being administered pursuant to federal law by the Department of Social Services. The legislation allows clerks of court to attempt to locate individuals for the purpose of

establishing, modifying, and enforcing child support obligations, and it allows clerks of court access to certain enforcement information.

The Judiciary Committee gave a favorable with amendment recommendation to [H.3568](#), legislation that **REVISES PENALTIES FOR MISUSE OF UTILITY METERS AND RELATED OFFENSES PERTAINING TO THE MISUSE OF GAS**. This legislation increases the penalties for repeat offenders who alter, tamper with, or bypass electric, gas or water meters. The legislation creates an offense of tampering with these meters for profit, and it provides a graduated penalty scheme when the tampering results in injury. The legislation also creates an offense of tampering with meters in conjunction with growing or manufacturing illegal drugs. The legislation increases penalties for repeat offenders who unlawfully appropriate gas from another for use and provides a graduated penalty scheme when violations result in injury. The legislation increases penalties for repeat offenders who wrongfully use gas and interfere with gas meters and provides a graduated penalty scheme when violations result in injury.

The Judiciary Committee gave a favorable recommendation to [S.239](#), a **PROPOSED CONSTITUTIONAL AMENDMENT AUTHORIZING RAFFLES TO BE OPERATED AND CONDUCTED BY NONPROFIT ORGANIZATIONS**. Currently, only the state may operate a lottery, and raffles are considered a lottery. This joint resolution proposes to amend the State Constitution so as to provide that a raffle, if provided for by general law and conducted by a nonprofit organization for charitable, religious, fraternal, educational, or other eleemosynary purposes is not a prohibited lottery. The general law must define the types of nonprofit organizations authorized to operate and conduct a raffle, provide standards for the operation and conduct of raffles, provide for the use of proceeds for religious, charitable, fraternal, educational, or other eleemosynary purposes, provide penalties for violations, and provide for other laws necessary to ensure the proper functioning, honesty and integrity of the raffles. If there is no general law enacted, then a raffle is still a prohibited lottery. The proposed amendment must be submitted to the qualified electors at the next general election.

[S.213](#), which relates to **RAFFLES OPERATED AND CONDUCTED BY NONPROFIT ORGANIZATIONS**, received a favorable recommendation from the Judiciary Committee. Currently, only the state may operate a lottery, and raffles are considered a lottery. This legislation authorizes certain nonprofit organizations to conduct raffles for charitable purposes. A nonprofit organization, recognized by both the South Carolina Department of Revenue and the United States Internal Revenue Service, must register with the Secretary of State prior to conducting a raffle unless the raffle consists of 1) a donated non-cash prize(s) with a total value of \$500 or less, or 2) a raffle where tickets are not sold to the general public in which the proceeds collected must not exceed \$950 and are evenly split between the prize winner and the nonprofit (fifty-fifty raffles). A nonprofit operating a raffle pursuant to the one of these two exemptions may not conduct a raffle more than once every seven days. A raffle registration form must be submitted annually, along with a \$50 fee that will be retained by the Secretary for use in enforcement of the provisions. A nonprofit may have up to four raffles per year. If a nonprofit has qualified affiliates or subsidiaries, each may also operate up to four per year. The raffles shall run for a maximum of nine months from the first ticket sale. A nonprofit may not contract with a person to operate raffles on its behalf nor allow its name to be used in conjunction with a raffle in which it is not operating. A nonprofit may advertise a raffle, but it must meet certain requirements. There are certain compensation restrictions for the operation of raffles. A raffle award may not exceed a fair market value of \$40,000 for an individual,

and the total value of all prizes offered may not exceed \$250,000. Real property may not be offered as a raffle prize. The maximum price for a raffle ticket is \$100. Various allowable expenses are set out in this legislation. Nonprofits must submit an annual report to the Secretary for each raffle conducted in the preceding year noting gross receipts, itemized expenses, and other information. Violations may result in fines, injunctions, and various other penalties, as specified within this legislation. These provisions are repealed July 1, 2020, and every ten years thereafter, unless reauthorized by joint resolution. A reauthorization vote may occur within two years of upcoming repeal date. These provisions become effective after thirty days after ratification of an amendment to the State Constitution.

**H.3580** received a favorable recommendation from the full committee. This legislation provides for the **CERTIFICATION OF PATROL CANINE TEAMS WORKING TOGETHER IN THE PERFORMANCE OF LAW ENFORCEMENT OR CORRECTIONAL DUTIES**. The legislation authorizes the South Carolina Criminal Justice Academy to establish or endorse training, certification, and written policy standards for law enforcement agencies in the use and deployment of canines in corrections or police work as well as to designate appropriate organizations to grant certification on an annual basis. This legislation provides that no law enforcement agency or corrections agency may utilize a patrol team after July 1, 2014, unless the team has met all certification requirements. The South Carolina Criminal Justice Academy shall verify that a patrol canine team has been certified by a nationally recognized police dog association or similar organization that has obtained its approval.

The full committee gave a favorable with amendment report to **H.3165**. This legislation provides for the **DISQUALIFICATION FROM UNEMPLOYMENT COMPENSATION FOR FAILING TO PASS A PROSPECTIVE EMPLOYER'S DRUG SCREENING**. The legislation provides that an employer may, but is not required to, disclose to the Department of Employment and Workforce when a pre-employment drug test is offered and refused or failed by a potential employee. The legislation expands the criteria under which an individual is disqualified from receiving unemployment benefits for failure to seek work so that they include situations where an individual tests positive for illicit drugs in a screening required by a prospective employer as a condition of an offer of employment, refuses to take the drug test, or provides an adulterated specimen. The legislation disallows the use of blood, hair, or urine specimens collected for these screenings to be used to detect something other than illicit drug use, such as pregnancy or disease, by providing that it is unlawful for any biologic material obtained to be used for any other purpose than the specific testing required by these provisions. Misuse of this biologic material is a misdemeanor punished by a fine of \$10,000 for a first offense and \$50,000 for a second or subsequent offense. An employer is not liable for any acts or omissions arising out of disclosure to the department of a pre-employment drug test that is offered and refused or failed by a potential employee, provided the employer complies with these requirements and any applicable law. The legislation provides that records received by the department must not be used for any purposes other than determining unemployment benefits; also, the department must destroy any records pertaining to a person not currently receiving unemployment benefits. Additionally, the legislation removes the word "criminal" from two of the provisions for disallowing jobless benefits for workers fired for cause, thereby lowering the burden of proof from a criminal burden to preponderance of the evidence burden. Also, the legislation revises provisions for disallowing jobless benefits for workers fired for insubordination and willful

neglect so that the employee insubordination and willful neglect need not be limited to behavior specifically described in a written job description.

The Judiciary Committee gave a favorable with amendment recommendation to **S.2**, a bill providing **ELECTION LAW REFORM** measures. The legislation addresses the conflicting assertions about how to satisfy the state's filing requirements for candidates for public office found in the lawsuits at the last general election that resulted in court rulings that removed several challengers from the ballot for filing their statements of economic interests or making other required filings in ways that failed to meet the timeline established in statute. The legislation revises statutory filing requirements and other provisions governing the way in which an individual becomes a candidate for public office in the state.

**S.2** removes the filing of a statement of economic interests from election law requirements and makes such filings an ethics law matter, exclusively, for candidates and incumbent office-holders, alike. Under the revisions, the failure to make a timely filing of required statements of economic interests would not cause candidates to be removed from the ballot or otherwise impair their status as candidates, but such a failure would be subject to the penalties established for violating the Ethics Act. The legislation requires candidates for public office and new public officials to file statements of economic interests with the State Ethics Commission within fifteen days or by the April 15 deadline established for incumbent officials to update their statements of economic interest, whichever comes last.

The procedures for becoming a candidate for public office are revised by **S.2**; note these procedures are different than the ones recently approved by the House of Representatives in **H.3298**. In every general election year, **S.2** provides that the State Election Commission and every county board of registration and elections shall designate a specified place, other than a private residence, where a person may file as a candidate. The legislation provides for regular hours and for authorized persons at the designated place to receive filings and for providing public notice of where, when, and how to file. The legislation allows a representative of the political party to be at the designated place to accept a candidate's filings and mark the documents with the time and date received by the party and to deliver these documents to the State Election Commission or county board of registration and elections. The time and date recorded by the party on the documents serves as the date the State Election Commission or county board of registration receives the documents. Candidates seeking nomination for a statewide, congressional or district office that includes more than one county must complete the statement of intention of candidacy and the notice of candidacy and pledge received from the State Election Commission; file the documents with the appropriate party official; and pay the filing fee for office. Candidates seeking nomination for the state Senate or state House of Representatives, must complete the statement of intention of candidacy and the notice of candidacy and pledge received from either the State Election Commission or the county board of registration and elections in the county in which they reside; file the documents with the appropriate party official; and pay the filing fee for office. Candidates seeking nomination for a countywide or less than countywide office must complete the statement of intention of candidacy and the notice of candidacy and pledge from either the State Election Commission or the county board of registration and elections in the county the office serves, file the documents with the appropriate party official; and pay the filing fee for office.

S.2 establishes provisions for combining existing boards of voter registration and boards of elections in counties where these boards have not yet been combined into a single board of registration and elections.

S.2 establishes a revised mechanism for political parties to follow in order to nominate candidates by conventions.

The Judiciary Committee gave a favorable report to H.3538. The legislation includes **ALTERNATIVE NICOTINE PRODUCTS**, including electronic cigarettes, within the scope of the statute that prohibits the sale or purchase of tobacco products for minors. Additionally, the legislation requires any person engaged in the sale of alternative nicotine products over the internet or other remote sales method to perform an age verification through an independent service to ensure that the individual placing the order is eighteen years of age or older. The legislation amends statutes relating to the distribution of tobacco product samples, enforcement and reporting, and implementation to include alternative nicotine products. Further, the legislation provides definitions for the terms "alternative nicotine product" and "electronic cigarette".

H.3504, pertaining to **GOLD AND SILVER AS LEGAL TENDER**, received a favorable report from the Judiciary Committee. This legislation provides that to the full extent allowed by the Constitution of the United States, gold and silver coins minted foreign or domestic shall be legal tender in South Carolina. The legislation further provides that no person or other entity may compel another person or other entity to tender or accept gold or silver coin unless agreed upon by the parties.

## LABOR, COMMERCE AND INDUSTRY

The full Labor, Commerce and Industry Committee met on Thursday, March 21, and reported out several bills.

The committee gave a favorable report on H.3639, a bill providing for a **PROHIBITION ON AWARDING PUBLIC BUILDING CONTRACTS AND GOVERNMENTAL INCENTIVES THAT ARE CONTINGENT UPON PROJECT LABOR AGREEMENTS**. The legislation provides that state and local governmental entities are prohibited from making the award of a contract for the construction, repair, remodeling, or demolition of a public building conditional upon adherence to an agreement with one or more labor organizations in regard to that project or a related construction project. These governmental entities are prohibited from discriminating against a bidder, offeror, contractor, or subcontractor based upon project-related labor union agreements. The presence or absence of labor union agreements must not be a condition for the award of construction-related governmental grants, tax abatements, and tax credits.

The committee gave a report of favorable with amendments on H.3369, a bill **PROHIBITING LONGSHOREMEN FROM FILING DUAL CLAIMS UNDER BOTH STATE WORKERS' COMPENSATION LAWS AND PERTINENT FEDERAL LAWS**. This bill provides that the state's workers' compensation laws do not apply to an employee who suffers an injury on or after July 1, 2013, for which there is jurisdiction under either the federal Longshore and Harbor Workers' Compensation Act, and its extensions, or the Merchant Marine Act. The legislation also specifies that the state's

workers' compensation laws do not eliminate or diminish any rights under these federal laws.

The committee gave a report of favorable with amendments on **H.3437**, a bill creating a **JOINT LEGISLATIVE COMMITTEE ON ECONOMIC DEVELOPMENT**. The legislation establishes a permanent joint legislative committee to conduct a continuing study of the laws, policies, and procedures of this state affecting economic development, including the imposition of any unreasonable penalties and interest charges as well as any legal requirements that make it difficult to do business in this State, so as to recommend appropriate modifications. The seven-member committee is composed of: (1) the Chairman of the Senate Labor, Commerce and Industry Committee, or his designee; (2) the Chairman of the House Labor, Commerce and Industry Committee, or his designee; (3) two members from the Senate appointed by the President Pro Tempore, at least one of whom is a member of the minority party; (4) two members from the House of Representatives appointed by the Speaker, at least one of whom is a member of the minority party; and (5) one member from the Department of Commerce appointed by the Governor. The committee is afforded authority to hold hearings and require the appearance of witnesses and the production of documents.

The committee gave a report of favorable with amendments on **H.3623**, a bill that provides **AUTHORIZATION FOR AUTOMOBILE INSURERS TO ISSUE COVERAGE VERIFICATION IN AN ELECTRONIC FORMAT** that may be displayed on an insured's mobile electronic device. If an automobile insurer chooses to provide verification in an electronic format, the insured may display this electronic proof of automobile insurance coverage on a smartphone or other mobile electronic device in order to provide a law enforcement officer with evidence that he satisfies the financial responsibility requirements established for drivers under state law. Information contained or stored in a mobile electronic device that is presented for proof of insurance purposes is not subject to a search by a law enforcement officer without a search warrant or the express written consent of the lawful owner of the device.

## **MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

The full Medical, Military, Public and Municipal Affairs Committee met on Tuesday, March 19, 2013, and reported out two bills.

The committee gave a favorable recommendation to **H.3236** relating to the “**CERVICAL CANCER PREVENTION ACT**”. Beginning with the 2013-2014 school year, the Department of Health and Environmental Control (DHEC) may offer the cervical cancer vaccination series for adolescent students enrolling in the seventh grade in any school, public or private, in this state. The cervical cancer vaccination series also means the human papillomavirus vaccination (HPV) series. No student is required to have the cervical cancer vaccination series before enrolling in or attending school. If funds are available, the department may develop and provide to each school whose grade levels include grade six informational brochures concerning adolescent vaccinations, including the cervical cancer vaccination series. The brochure specifically must state that the cervical cancer vaccination series is optional and shall encourage the parent or guardian to take the child to the child's own health care provider to be vaccinated. This provision is contingent upon the appropriation of state and federal funding to DHEC to fully cover

the costs of providing this vaccination series to eligible students as well as the availability of funds to produce an informational brochure to be developed by DHEC.

The committee also gave a favorable with amendment recommendation to **H.3444**, which requires **OUT-OF-STATE FACILITIES DEALING WITH PRESCRIPTION DRUGS** be permitted by the Board of Pharmacy. The legislation states that all facilities permitted by this state shall notify the Board of Pharmacy within ten days of receipt of any order or decision by a regulatory agency imposing disciplinary action on the pharmacy. Failure to notify the board within ten days will result in suspension pending board action. The legislation also outlines new and renewed permit, license fees for a facility located outside of the state.

## **BILLS INTRODUCED IN THE HOUSE THIS WEEK**

### **AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS**

**H.3827 FINAL REVIEW OF A DECISION OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL DECISIONS BEFORE REQUESTING A CONTESTED CASE HEARING BEFORE THE ADMINISTRATIVE LAW COURT** Rep. Pitts

This bill outlines that initial staff decisions involving licensing or other concerns are the department's decisions as well as the final agency's decisions and must be provided in writing; unless the licensing applicant or affected person files a request for a contested case hearing with the Administrative Law Court. If a contested case hearing has been requested, the challenge to the department's decision proceeds to the Administrative Procedures Act and an appeal of an Administrative Law Judge's decision must be made to the circuit court.

**H.3847 "SOUTH CAROLINA MANUFACTURER RESPONSIBILITY AND CONSUMER CONVENIENCE INFORMATION TECHNOLOGY EQUIPMENT COLLECTION AND RECOVERY ACT OF 2010"** Rep. Hiott

Among many things, this bill adds computer monitor manufacturers in the labeling requirements as well as the recycling program requirements. As a result, the bill adds definitions that relate to terms dealing with computer monitor. The bill also provides for the creation and operation of a statewide consumer electronic device program.

### **EDUCATION AND PUBLIC WORKS**

**S.237 STATE CAPITOL BUILDING FLAGS FLOWN AT HALF-STAFF** Sen. Shealy

This legislation allows for the State Capitol Building flags to honor and pay tribute to members of the United States military services who were residents of South Carolina

and who lost their lives in the line of duty while in combat for a period of ten days, beginning with the day the Division of Veterans' Affairs notifies the Office of the Governor of the death. On any day where flags atop the State Capitol Building are flown at half-staff to honor and pay tribute to more than one individual, the flags must be hoisted and lowered as many times as there are individuals to honor and pay tribute to that day. On any day where flags atop the State Capitol Building are flown at half-staff, the Governor shall, on a conspicuous place on the website maintained by the Governor, identify the person or persons to which such honor and tribute is being paid.

**S.515 INTERSTATE 26 Sen. Grooms**

This joint resolution provides that tree removal, or similar activities, in the median of Interstate 26 from approximately mile marker 170 to approximately mile marker 199 between Summerville and Interstate 95 is prohibited until the Joint Transportation Review Committee has reviewed and commented on the project.

**H.3829 GREENVILLE TECHNICAL COLLEGE AREA COMMISSION  
Rep. Bedingfield**

This legislation codifies certain provisions relating to the Greenville Technical College Area Commission. Also, relating to the membership, powers, and duties of this commission, the legislation reconstitutes the membership of the commission and the terms and appointing procedures for members.

**H.3853 CHARTER SCHOOLS Rep. Owens**

This legislation makes various revisions pertaining to charter schools; highlights include the following. The legislation provides for greater accountability in both the application and school closing stages. The legislation requires charter school sponsors to adopt and follow national industry standards. The legislation adopts best practices, including requiring letters of intent to be filed by prospective charter schools prior to applications being submitted. Also, additional details must be included in charter school applications, such as an executive summary, descriptions of how standards will be met, start up plans, resumes of charter committee members, and information about the school's management team. The legislation creates alternative education campuses designed to serve challenging student populations. Alternative education campuses may serve one of three categories of students: 1) students with severe limitations that preclude the administration of assessments, 2) fifty percent or more of the students have IEPs, or 3) ninety-five percent or more of the students are high-risk as defined by the legislation. Alternative education campuses are not subject to automatic closure, but may be closed if they fail to meet accountability standards or the provisions defined in their charter. Except for alternative education campuses, charter schools must automatically close if the schools receive the lowest performance level rating for two consecutive years. (This does not apply to schools that have been open for only two years.) Administrative Law Courts will no longer be allowed to grant automatic stays of closures. The Charter School Advisory Committee is eliminated; the Committee is no longer necessary due to the creation and operation of the Statewide Charter School district. The South Carolina Department of Education is tasked with providing guidance on compliance to sponsors and applicants.

**H.3858 PROHIBITION ON USING ELECTRONIC COMMUNICATION DEVICES  
WHILE DRIVING UNDER CERTAIN CIRCUMSTANCES Rep.**

**Bowen**

This legislation provides that a person may not use an electronic communication device to compose, send, or read an electronic message while operating a motor vehicle on a roadway. This does not apply to a person operating a motor vehicle while: (1) off the traveled portion of a roadway; (2) using an electronic communication device in hands-free, voice-activated, or voice-operated mode that allows the user to review, prepare and transmit an electronic message without the use of either hand except to activate, deactivate, or initiate a feature or function; (3) summoning medical or other emergency assistance; or (4) using a citizens band radio, commercial two-way radio communication device, in-vehicle security, or amateur or ham radio device. A person who violates this provision where no great bodily injury or death resulted from the violation, is guilty of misdemeanor distracted driving and, upon conviction, must be fined not more than \$100, pay a \$25 Trauma Care Fund surcharge and have two points assessed against his driving record. The fine is subject to all applicable court costs, assessments, and surcharges. This preempts local ordinances, regulations, and resolutions adopted by municipalities, counties, and other local government entities regarding persons using hand-held and hands-free wireless electronic communication devices while operating motor vehicles on the public streets and highways of this State. Nothing is intended to conflict with enforcement of applicable restrictions or requirements imposed on commercial motor vehicle operators pursuant to the federal Motor Carrier Safety Regulations. Relating to reckless driving, this legislation provides that reckless driving includes distracted driving or inattentive driving that includes texting while driving when bodily injury occurs.

**H.3863 STATE WORKFORCE INVESTMENT BOARD Rep. Daning**

This legislation increases the membership of the State Workforce Investment Board by adding a member to represent the technical colleges established under the State Board for Technical and Comprehensive Education.

## JUDICIARY

**S.4 EARLY VOTING Sen. Scott**

This legislation requires the authority charged by law with conducting an election to establish a procedure by which a qualified elector may cast his ballot, without excuse, during an early voting period for all elections. Early voting centers must be established and maintained to ensure that voters may cast only one ballot. A qualified elector may cast his ballot at an early voting center in the county in which he resides. Each county board of registration and elections must establish at least one early voting center and may establish up to three early voting centers. The county board of registration and elections shall determine the location of the early voting center or centers. Each early voting center must be supervised by election commission employees. The early voting period begins ten days before an election and ends three days prior to the election. The county board of registration and elections shall determine the hours of operation for the early voting center or centers. However, for any election, the early voting centers shall not open on Sundays; for statewide primaries and general elections, the early voting centers must be open for two Saturdays within the early voting period. Also, for any election that is not a statewide primary or general election, the county board of registration and elections shall determine whether to open or not to open the early voting centers on Saturdays during the early voting period. In addition to the early voting centers, a county board of registration and elections may authorize up to two additional

early voting centers if the county board of registration and elections finds there is a need for additional early voting centers after holding a public hearing on the matter. The county board of registration and elections will determine the location of the early voting center or centers. A sign must be posted prominently in the early voting center and shall have printed on it: 'VOTING MORE THAN ONCE IS A MISDEMEANOR AND, UPON CONVICTION, A PERSON MUST BE FINED IN THE DISCRETION OF THE COURT OR IMPRISONED NOT MORE THAN THREE YEARS'. These provisions do not apply to presidential preference primaries.

**S.92 NATIONAL DEFENSE AUTHORIZATION ACT Sen. Davis**

This legislation provides that no agency of the State, officer, or employee of this State, solely on official state duty, may engage in an activity that aids an agency of the armed forces of the United States in execution of 50 U.S.C. 1541, as provided by the National Defense Authorization Act for Fiscal Year 2012, or any subsequent provision of this law in the detainment of any citizen of the United States in violation of Section 3, Article I and Section 14, Article I of the South Carolina Constitution.

**S.143 SOUTH CAROLINA PROBATE CODE Sen. Malloy**

This comprehensive legislation makes revisions to the South Carolina Probate Code.

**S.382 AUTOMOBILE MANUFACTURERS, DISTRIBUTORS AND DEALERS  
Sen. Grooms**

This legislation makes revisions pertaining to the regulation of automobile manufacturers, distributors and dealers. Areas addressed by the legislation include: unfair practices by manufacturers against motor vehicle dealers; successorship in event of dealer death or incapacity; approval of warranty claims by manufacturer; termination of franchise agreement; dealer performance standards; and dealer area of responsibility.

**H.3822 CONCEALABLE WEAPONS PERMITS Rep. Pitts**

This legislation makes various revisions relating to concealable weapons permits. Relating to definitions for purposes of concealable weapons permits, the legislation deletes the definitions of "resident", "qualified nonresident", "proof of residence", and "proof of ownership of real property" and revises the definitions of "picture identification" and "proof of training". The legislation revises the requirements that must be met in order to receive a concealable weapons permit. The legislation increases the application fee for a permit for residents of the state to \$100, and it creates a nonresident application fee of \$150. The legislation allows permit applications to be submitted online with SLED. The legislation revises the list of places where a person may not carry a concealable weapon and provides that a person may not carry a concealable weapon into a place clearly marked with a sign prohibiting the carrying of a concealable weapon. The legislation provides that a permit is valid for five years rather than four years, and it requires SLED to send a renewal notice at least thirty days before a permit expires. The legislation repeals Section [23-31-240](#) relating to persons allowed to carry a concealable weapon while on duty.

**H.3823 CONTROLLED SUBSTANCES Rep. Thayer**

This legislation alphabetizes certain listings to drugs designated as controlled substances and adds drugs to these designations to conform to federal drug

designations and designations of adjacent states in order to enhance and improve illicit drug enforcement.

**H.3828 REGULATION OF ATTORNEYS Rep. Cobb-Hunter**

This legislation provides definitions concerning the regulation of attorneys. Relating to the inherent power of the Supreme Court over admissions to the practice of law and the practice of law itself, this legislation provides that these powers are subject to statutory law as provided by the State Constitution. Relating to the authority of the Supreme Court to promulgate certain rules and regulations concerning the practice of law and the establishment of the South Carolina State Bar, this legislation makes membership in the bar optional and provides that the court may prescribe the procedure for licensure as an attorney rather than admission to the bar.

**H.3833 WINE TASTINGS AND BEER TASTINGS Rep. Horne**

This legislation allows the holder of a retail wine permit for off-premises consumption whose retail space is at least ten thousand square feet and whose primary product is not beer, wine, or distilled spirits to conduct up to twenty-four wine tastings in a calendar quarter, and it provides restrictions. The legislation also allows the holder of a retail permit authorizing the sale of beer for off-premises consumption whose retail space is at least ten thousand square feet and whose primary product is not beer, wine, or distilled spirits to conduct up to twenty-four beer tastings in a calendar quarter, and it provides restrictions.

**H.3846 DEFINITION "CONTROLLED SUBSTANCE ANALOGUE"  
Rep. Hardwick**

Relating to the definition of terms pertaining to narcotics and controlled substances, this legislation revises the definition of the term "controlled substance analogue" by deleting the provisions stating that it is a substance intended for human consumption.

**H.3848 DAYLIGHT SAVING AS THE NEW STANDARD TIME PACT  
Rep. K. R. Crawford**

This legislation establishes the Daylight Saving as New Standard Time Pact consisting of South Carolina and any other state desiring to permanently change daylight saving time to a new standard time. In the year in which at least twenty states have passed legislation entering those states into the Daylight Saving as New Standard Time Pact, each state will switch clocks to daylight saving for the last time and daylight saving time will be eliminated. The time formerly known as daylight saving time will become standard time. After this time, South Carolina and all other participating states will no longer observe daylight saving time.

**H.3849 RESTRICTION ON INCUMBENT OR FORMER MEMBERS OF THE  
GENERAL ASSEMBLY FROM BEING ELECTED OR APPOINTED BY  
THE GENERAL ASSEMBLY TO THE GOVERNING BOARD OF A  
SOUTH CAROLINA COLLEGE OR UNIVERSITY Rep. Henderson**

This legislation prohibits an incumbent or former Member of the General Assembly from being elected or appointed by the General Assembly to the governing board of a South Carolina college or university for a period of one year after terminating his legislative service or failing to file for election to the General Assembly.

**H.3854 *ADMISSIBILITY OF OUT-OF-COURT STATEMENTS MADE BY CHILDREN TO FORENSIC INTERVIEWERS* Rep. Erickson**

Relating to the admissibility of out-of-court statements made by children under certain circumstances, this legislation allows the admissibility of hearsay statements made to forensic interviewers. For purposes of this provision, the legislation defines forensic interviewer and provides for training and continuing education requirements for forensic interviewers.

**H.3855 *JUVENILES IN RESTRAINT DURING COURT PROCEEDINGS* Rep. Erickson**

When a juvenile appears before the court wearing instruments of restraint, such as handcuffs, chains, irons, or straightjackets, this legislation provides that the court in any proceeding may not continue with the juvenile required to wear instruments of restraint unless the court first finds that: (1) the use of restraints is necessary due to certain factors and (2) there are no less restrictive alternatives to restraints that will prevent flight or physical harm to the child or another person. The court shall provide the juvenile's attorney an opportunity to be heard before the court orders the use of restraints. If restraints are ordered, the court shall make findings of fact in support of the order.

**H.3857 *PROHIBITING MINORS FROM SEXTING* Rep. Erickson**

This legislation provides that it is unlawful for a person who is less than eighteen years of age to use a telecommunications device to knowingly transmit or distribute to another person a photograph or text message with a photograph attachment depicting a person who is less than eighteen years of age in a state of sexual activity or a state of sexually explicit nudity. A person less than eighteen years of age does not knowingly transmit or distribute the material by reporting the matter to a law enforcement agency, teacher, principal, or parent or by affording a law enforcement agency, teacher, principal, or parent access to the image. First and second offenses are subject to civil fines and are noncriminal offenses. A person may not be detained, taken into custody, arrested, placed in jail or in any other secure facility, or committed to the custody of the Department of Juvenile Justice for a first or second offense violation. However, if a person fails to pay a civil fine for a first or second offense violation of this section, the court may hold the person in contempt of court and order the person to perform community service. A person who commits a first or second offense violation of this section must not be prosecuted under certain other provisions, unless, upon motion of the solicitor, the court, in its discretion, determines that such prosecution is in the interest of justice. Third or subsequent offenses are misdemeanors. A person who has been convicted of a violation of sexting must not be required to register with the sex offender registry. Jurisdiction to hear a violation is vested exclusively in the municipal court and the magistrates court.

## **LABOR, COMMERCE AND INDUSTRY**

**S.75 *REAL ESTATE COMMISSION OVERSIGHT* Sen. Cromer**

This bill establishes requirements for criminal background checks for licensure as a real estate salesman, broker, broker-in-charge, property manager, and property manager-in-charge. The legislation establishes new requirements for the Real Estate

Commission to conduct investigations of alleged violations in a timely manner with trained investigators and issue annual reports on the complaints received and investigations conducted. The legislation revises grounds for the Real Estate Commission to deny licensure or take disciplinary action for certain criminal violations so that they apply to someone who has been convicted of a violent crime or has been convicted during the previous five years of a felony directly related to the practice of the profession, or has been convicted during the previous seven years of a felony, an essential element of which is dishonesty, reasonably related to the practice of the profession, or pleading guilty or no contest to any such offense in a court of competent jurisdiction of this State, any other state, or any federal court.

**S.310 MANUFACTURED HOUSING BOARD OVERSIGHT Sen. Alexander**

This bill specifies financial responsibility guidelines that the Manufactured Housing Board is required to impose upon its licensees. The legislation establishes requirements for manufactured housing retail dealers to include their license numbers in advertising. Exemptions from manufactured home sales provisions are established for sales and transfers involving repossessed and foreclosed manufactured homes. The legislation revises grounds for the Manufactured Housing Board to deny licensure for certain criminal violations so that they apply to someone who has been convicted of a violent crime, a felony within the prior five years directly related to any aspect of the business of manufactured housing, or a felony within the prior seven years, an essential element of which is dishonesty, reasonably related to any aspect of the business of manufactured housing.

**H.3824 GARNISHMENT OF WAGES FOR DEBTS FROM CERTAIN CONSUMER LOANS AND TRANSACTIONS Rep. Sandifer**

This bill establishes a procedure allowing garnishment of wages to be used for satisfying a debt arising from a consumer credit sale, consumer lease, consumer loan, or consumer rental-purchase agreement. Such garnishment actions must be brought in magistrates court and are limited to recovery of the maximum amount allowable in magistrates court.

**H.3831 RESTROOM ACCESS FOR RETAIL SALES CUSTOMERS Rep. Williams**

This bill establishes provisions for restroom access for retail sales customers which require a retailer selling tangible personal goods in a place of business to provide restroom facilities for customers, which must be available for use upon the request of the retail store customers.

**H.3832 BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND SURVEYORS OVERSIGHT Rep. Hardwick**

This bill revises provisions governing the professional practice of engineers and surveyors and oversight by the Department of Labor, Licensing and Regulation's Board of Registration for Professional Engineers and Surveyors.

**H.3859 TRANSFER OF PRIVATE WATER COMPANY SERVICES Rep. Bowen**

This bill establishes a procedure, subject to the results of a referendum in the area concerned, where the water service provided to a specified unincorporated area of a county by a private water company may be transferred to another provider, which may include another private water company or a political subdivision of this state.

**H.3869 RESIDENTIAL BUILDERS COMMISSION PROVISIONS Rep. Sandifer**

This bill revises the renewal of licenses issued by the South Carolina Residential Builders Commission, so as to make the renewal period biennial, and to require a licensee seeking renewal to submit a certificate of compliance with continuing educational requirements. The legislation establishes specific requirements for mandatory continuing education required of a licensee. The legislation authorizes the commission to establish additional professional designations for licenses to recognize enhanced professional qualifications and experience. The legislation requires residential specialty contractor licensees to complete certain continuing education approved by the commission, and provides that a residential specialty contractor who has completed continuing educational requirements in addition to other existing requirements is exempt from related additional examinations required by a county or municipality.

**H.3870 EMERGENCY FIREFIGHTER MOBILIZATION Rep. Gambrell**

This bill provides in the "Firefighter Mobilization Act of 2000" that the South Carolina Law Enforcement Division (SLED) has specific and exclusive jurisdiction on behalf of the state in matters pertaining to the response to, and crisis management of, acts of terrorism and emergency event management of explosive devices. The legislation adds the Chief of SLED to the South Carolina Firefighter Mobilization Oversight Committee. The legislation revises the South Carolina Firefighter Mobilization Plan provisions, so as to rename the committee as the South Carolina Firefighter Mobilization And Emergency Response Task Force Plan, to add the task force to those resources that the plan is intended to offer, and to provide the plan is operational when the Chief of SLED directs a response to a terrorist or explosive device event. The legislation revises the duties of the committee, so as to provide the committee shall develop guidelines for using resources allocated to the task force at the state and regional level. The legislation requires the Office of State Fire Marshal to provide administrative support as required by the committee to perform its prescribed functions. The legislation requires the state coordinator appointed by the committee to report to the State Fire Marshal and provide administrative support to the committee.

## **MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

**S.214 "MASSAGE/BODYWORK PRACTICE ACT" Sen. Fair**

This bill changes the Advisory Panel for Massage/Bodywork to Panel for Massage/Bodywork. This change deletes certain qualifications for panel members; reduces the term of a panel member to two years and provides compensation for members.

**H.3830 EXTENSION OF THE HOMESTEAD EXEMPTION FOR THE DISABLED AND ELDERLY Rep. Williams**

Beginning for the property tax year in which an individual receiving the homestead exemption allowed attains the age of eighty-five years, one hundred percent of the property tax value of the homestead is exempt from all property tax if the individual's monthly household gross income is \$50,000 or less. The application process is through the South Carolina Department of Revenue.

## **WAYS AND MEANS**

**S.262 “HIGH GROWTH SMALL BUSINESS JOB CREATION ACT OF 2013”  
Sen. Leatherman**

This bill enacts the “High Growth Small Business Job Creation Act of 2013” by providing for state nonrefundable income tax credits allocated by the Department of Commerce to encourage individuals acting as “angel investors” who support the state’s economic development goals by providing early stage capital for emerging high-growth enterprises that are primarily engaged in such activities as manufacturing, processing, warehousing, wholesaling, software development, information technology services, and research and development.

**H.3834 SOLAR ENERGY SYSTEM INSTALLATION TAX CREDITS Rep. Loftis**

This bill establishes provisions for allowing an income and other specified tax credits for twenty-five percent of the total cost of a solar energy system placed in service in 2013 through 2018.

**H.3845 APPEAL OF A PROPERTY ASSESSMENT VALUE Rep. Quinn**

This bill revises provisions governing the appeal of a property assessment value. The legislation provides that the appeal must be based on the market values of real property as of December 31 of the tax year under appeal. The legislation revises property tax assessment notice provisions, so as to provide that in a year in which an assessable transfer of interest occurs due to a conveyance, if the assessor determines that fair market value is more than the purchase price, the assessor shall state with particularity, the basis for the increase in fair market value. The legislation provides that the taxpayer at least has thirty days of receipt of the tax notice to appeal, and establishes conditions when the assessor is required to include a property tax refund assignment contract. The legislation provides that the county assessor shall have the burden of proof in a property tax appeal. The legislation allows a taxpayer to appeal the value once every five years, with certain exceptions.

**H.3860 CONSOLIDATED PROCUREMENT CODE REVISIONS Rep. White**

This bill revises project delivery methods authorized for procurement of infrastructure facilities under the South Carolina Consolidated Procurement Code, so as to provide that an entity or individual offering to contract for design-build, design-build-operate-maintain, or design-build-finance-operate-maintain project delivery methods is not required to hold a professional or occupational license otherwise required by law, so long as the person who actually performs the regulated work holds the appropriate license. The legislation revises bond and security requirements under the Consolidated Procurement Code, so as to require performance and payment bonds equal to one hundred percent of the value of designated portions of construction, prior to the commencement of work on those portions of the project.

**H.3871 PROCEDURES FOR CLOSING A RURAL SCHOOL IN THE  
CHARLESTON COUNTY SCHOOL DISTRICT** Rep. R. L. Brown

This bill revises provisions relating to the governance of the Charleston County School District, so as to establish procedures which the district board of trustees must follow to close a rural school.

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