



South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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NOTE: Bill summaries included in this document are prepared by the staff of the South Carolina House of Representatives and are not the expression of the legislation's sponsor(s) or the House of Representatives. The summaries are strictly for the internal use and benefit of members of the House of Representatives and are not to be construed by a court of law as an expression of legislative intent.

HOUSE WEEK IN REVIEW

The House of Representatives amended, approved, and sent to the Senate comprehensive **TORT REFORM** legislation, **H.3008**, the **SOUTH CAROLINA ECONOMIC DEVELOPMENT, CITIZENS, AND SMALL BUSINESS PROTECTION ACT OF 2005**. This legislation addresses the way in which the State's judicial system handles torts. Torts are private or civil wrongs for which the court provides a remedy, usually in the form of damages. Provisions of the legislation include:

Current law provides liability among joint tortfeasors (wrongdoers) is both joint and several meaning that any tortfeasor may be responsible for the entire amount of the judgment. Under the legislation as passed by the House, in an action for personal injury, property damage, or wrongful death, the **liability of each defendant is several only** and may not be joint. The burden of alleging and proving fault is upon the person who seeks to establish fault. At any time after such an action is commenced and until 120 days following the service of the summons and complaint, a defendant may join as a co-defendant to the action any person who may be liable to the plaintiff for personal injury, property damage, or wrongful death as alleged in the plaintiff's complaint. During this 120-day period all applicable statute of limitations are tolled. Each defendant is liable only for the amount of damages allocated to that defendant in direct proportion to that defendant's percentage of fault, and a separate judgment must be rendered against the defendant for that amount. The bill further provides that joint liability must be imposed on all who consciously and deliberately pursue a common plan or scheme to commit a tortious act, or actively take part in it or any person or entity vicariously liable for the act of another. A person held jointly liable has a right of contribution from his/her fellow defendants acting in concert.

This bill revises the **statute of limitations for filing an action for a construction defect**. Current law provides that no actions to recover damages in these situations may be brought more than 13 years after substantial completion of the improvement. The legislation as passed by the House lowers the statute of repose to eight years.

The legislation as passed by the House establishes new provisions for **venue**; the term 'venue' generally refers to the place where a jury is drawn and in which the trial is held. With regards to corporations, the legislation establishes criteria for determining a principal place of business; in considering the proper place for venue, the bill provides that owning property and transacting business in a county is insufficient in and of itself to establish the principal place of business for a corporation. With regards to venue, the legislation provides as follows:

- Civil actions against a **resident individual defendant** must be tried in the county where the most substantial part of the alleged act or omission giving rise to the cause of action occurred, or where the defendant resides at the time the cause of action arose.
- Civil actions against a **nonresident individual defendant** must be tried where the most substantial part of the alleged act or omission giving rise to the cause of action arose, or where the individual plaintiff resides at the time the cause of action arose, or where the corporate plaintiff (including also: domestic

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corporation, domestic limited partnership, domestic limited liability company, domestic limited liability partnership, foreign corporation, foreign limited partnership, foreign limited liability company, or foreign limited liability partnership) has its principal place of business at the time the cause of action arose.

- Civil actions against a **domestic corporation** (including also: domestic limited partnership, domestic limited liability company or domestic limited liability partnership) must be tried in the county of the corporation's principle place of business at the time the cause of action arose, or where the most substantial part of the alleged act or omission giving rise to the cause of action occurred.
- Civil actions against a **foreign corporation required to possess a certificate of authority** pursuant to the provisions of S.C. Code Ann. §33-15-101 et seq. (including also: foreign limited partnership, foreign limited liability company, foreign limited liability partnership) must be tried in the county where the corporation has its principle place of business at the time the cause of action arose, or where the most substantial part of the alleged act or omission giving rise to the cause of action occurred.
- Civil actions against a **foreign corporation not required to possess a certificate of authority** pursuant to the provisions of S.C. Code Ann. §33-15-101 et seq., (including also: foreign limited partnership, foreign limited liability company, foreign limited liability partnership) must be tried in the county of the corporation's principal place of business at the time the cause of action arose, or most substantial part of the alleged act or omission giving rise to the cause of action occurred, or where the foreign corporation (including also: foreign limited partnership, foreign limited liability company, or foreign limited liability partnership) has its principal place of business.
- With regard to **venue of actions against licensed motor carriers**, S.C. Code Ann. §58-23-90 provides that an action may be brought against a licensed motor carrier in any county through which the motor carrier operated. This bill repeals S.C. Code Ann. §58-23-90.

As passed by the House, the legislation repeals some current law (specifically: S.C. Code Ann. §15-36-20 through 15-36-50) and establishes new provisions regarding **frivolous lawsuits**. The legislation as passed by the House provides that a pleading must be signed by at least one attorney of record, or, if the party is not represented by an attorney (a pro se party), the pro se party must sign the pleading. The signature certifies to the court that the person has read the document and believes, in good faith, the pleading is not frivolous. The party may be sanctioned if he/she fails to disclose facts necessary to put his/her attorney on notice that the claim or defense is frivolous. If a document is signed in violation of these provisions, the court may impose an appropriate sanction upon the violator including: an order for the party or pro se litigant to pay reasonable costs and attorneys fees; an order for the attorney to pay a reasonable fine to the court; or, a directive of a nonmonetary nature designed to deter future misconduct. The attorney or party must be notified before the imposition of sanctions. After notification, the party or attorney then has 30 days to withdraw the document or argument, respond to the allegations, or mitigate the effects of the violation.

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The provisions relating to frivolous lawsuits are in addition to all other remedies available at law or in equity.

The House approved and sent to the Senate **H.3193**, a bill which provides that a **TECHNICAL EDUCATION INSTITUTION UNDER THE CONTROL OF THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION MAY CHANGE ITS NAME** upon a majority vote of the area commission of the institution.

The House approved and sent to the Senate **H.3126**, a bill that **ELIMINATES THE REQUIREMENT FOR A VEHICLE OWNER TO SIGN THE VEHICLE'S REGISTRATION CARD**, and deletes the penalty for failure to sign this card.

The House amended, approved, and sent to the Senate **H.3250**, a bill pertaining to **CONTACT LENSES**. This bill provides that it is illegal to dispense contact lenses without a valid prescription from an optometrist or an ophthalmologist. The bill applies only to contact lenses and not to lenses used in glasses. Dispensing contact lenses without a valid prescription is subject to a civil penalty of up to \$5,000 per violation. This provision is to be enforced by the Department of Consumer Affairs. The bill specifies that a contact lens prescription is valid for 12 months from the date the prescription is authorized or from the date of the last evaluation by an optometrist or ophthalmologist. Under the bill, an optometrist or an ophthalmologist may employ unlicensed assistant personnel under the optometrist's or ophthalmologist's direct supervision as provided for in their respective practice acts. After a patient's contact lenses have been evaluated and fitted to the satisfaction of an optometrist or ophthalmologist, the prescription must be released if requested by the patient and if the patient has paid in full for the examination and fitting.

The House amended, approved, and sent to the Senate **H.3372**. This bill **INCREASES THE CATCH LIMIT FOR THE SALTWATER FISH RED DRUM** from two to three in any one day.

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 favorable on H.3320, a bill which **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.

JUDICIARY

The full Committee did not meet this week.

LABOR, COMMERCE AND INDUSTRY

The full Committee did not meet this week.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full Committee did not meet this week.

WAYS AND MEANS

The full Committee did not meet this week.

BILLS INTRODUCED IN THE

HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

S.145 CATCH LIMITS FOR ARKANSAS BLUE CATFISH FROM THE WATERS

OF LAKES MARION AND MOULTRIE Sen. Mescher

This bill provides that no more than one Arkansas Blue catfish over 34 inches may be taken from the waters of Lakes Marion and Moultrie by any one person in one day. This limit applies to commercial as well as recreational fishermen. Violations of this provision are misdemeanors, and each fish over the limit constitutes a separate violation.

S.255 AMENDMENTS TO PROVISIONS FOR THE LABELING AND MARKETING OF EGGS Sen. Grooms

This bill makes revisions pertaining to the labeling and marketing of eggs offered for sale in South Carolina.

Current law provides that wholesalers handling eggs must be licensed by the Department of Agriculture (the Department). Under this bill, all wholesalers, distributors, commission merchants, brokers and dealers who desire to offer eggs for sale must file for a license with the Commissioner of Agriculture (the Commissioner). The bill further provides that a person may not engage in business as a wholesaler or as a distributor without first obtaining a license.

The bill requires wholesalers, distributors and retailers to maintain records of their invoices of their egg purchases for at least 90 days. The bill authorizes the Commissioner or his designee to enter, during regular business hours, the place of any producer, wholesaler, retailer, retail establishment, institution, institutional user, warehouse, cold storage house, or other storage places, trucks or carriers where eggs are stored and inspected.

The bill requires shell egg producers to refrigerate eggs upon gathering the eggs. Eggs must be graded and packed within a reasonable period of time from gathering. The bill requires that eggs be transported, stored and displayed at ambient temperatures to not exceed 45 degrees Fahrenheit until sold at retail or used. The bill makes it unlawful to offer eggs for sale that are not being properly stored in a refrigerated state at the proper temperature.

The bill requires the Department to establish standards for the grading, classification and marking of shell eggs bought and sold in South Carolina. Standards must conform to the minimum federal standards.

The bill requires labeling to occur at the time of packing and candling of each case of eggs. The bill prohibits the use of abbreviations of any words in the classification or in designating the grade and size of the eggs. The wording must be in English on the labels. The bill requires that all eggs offered for sale at retail in open cases, boxes or

other containers from which eggs are sold in bulk must also be properly classified. The bill details requirements for the placard.

H.3540 HARVESTING AND MARKETING OF DIAMOND BACK TERRAPIN

Rep. Altman

S.C. Code Ann. §50-5-2300 authorizes the Department of Natural Resources (DOR) to grant permits to harvest and market Diamond Back terrapin; this particular statute also allows DOR to condition the permits to set seasons, size limits, bag limits, areas, fishing times, and equipment restrictions regarding such harvesting. This legislation repeals S.C. Code Ann. §50-5-2300.

H.3556 HARVESTING AND MARKETING OF DIAMOND BACK TERRAPIN

Rep. Altman

S.C. Code Ann. §50-5-2300 authorizes the Department of Natural Resources (DOR) to grant permits to harvest and market Diamond Back terrapin; this particular statute also allows DOR to condition the permits to set seasons, size limits, bag limits, areas, fishing times, and equipment restrictions regarding such harvesting. This legislation repeals S.C. Code Ann. §50-5-2300.

H.3572 FISHING PERMITS FOR STRIPED BASS, HYBRID STRIPED BASS, BROOK TROUT, BROWN TROUT, RAINBOW TROUT AND SMALL MOUTH BASS
Rep. Sandifer

This bill provides that it is unlawful for a person to take striped bass, hybrid striped bass, brook trout, brown trout, rainbow trout, or small mouth bass in the waters of this State without first procuring a state fisheries hatchery permit. The bill requires that a person have a valid permit in his/her possession while fishing or transporting these particular types of fish. Violations of this provision are considered misdemeanors. The bill provides that the fee for the license is five dollars and fifty cents; the bill outlines use of proceeds from the permits.

H.3577 PESTICIDE REGISTRATION FEES
Rep. Witherspoon

This bill increases the basic annual pesticide registration fee from \$100 dollars to \$175 dollars for each product registered. The bill provides that this fee may not be increased unless the General Assembly by law authorizes the State Crop Pest Commission to increase this fee by regulation and such a regulation is promulgated and adopted. The bill further provides that this fee must be used to support the general regulatory enforcement and education programs of the Division of Regulatory and Public Service.

H.3578 AMENDMENTS TO THE SOUTH CAROLINA FERTILIZER LAW OF 1954
Rep. Witherspoon

The bill revises the definition of the term 'soil amendment' as used in the South Carolina Fertilizer Law of 1954. The bill also permits the State Crop Pest Commission to require proof of claims made for any fertilizer.

With regards to an inspection tax and tonnage reports pertaining to commercial fertilizers, the bill increases the inspection tax from 25¢ to 50¢ for each ton of commercial fertilizer sold. Current law requires that a report of tonnage is due and the inspection payable monthly on the 15th day of the following month. The bill provides that the report of tonnage is due and the inspection payable quarterly and that the report is due within 30 days following the end of each quarter. If the tonnage report is not filed and the payment of the inspection fee is not made within 30 days after the due date,

then the registration of the commercial fertilizer registered by the delinquent guarantor is automatically cancelled.

H.3579 AMENDMENTS PERTAINING TO THE STATE CROP PEST COMMISSION Rep. Witherspoon

This bill clarifies that any person subject to the jurisdiction of the State Crop Pest Commission may be subject to civil penalties from the Commission. The bill also provides that the Commission has the authority to issue and enforce written stop sale, use or distribution orders to persons selling, distributing or growing plant material in violation of the law.

EDUCATION AND PUBLIC WORKS

H.3535 INSTITUTIONS QUALIFIED TO RECEIVE LIFE SCHOLARSHIP FUNDS Rep. Martin

This bill revises the institutions which are qualified to receive LIFE Scholarship funds by deleting the requirement that to receive these funds, an accredited independent bachelor's level institution must have attained 501(c)(3) tax status.

H.3555 SCENIC PARKWAY DESIGNATION-COLLETON COUNTY HIGHWAY Rep. Bowers

This bill designates a specified portion of U.S. Highway 17 in Colleton County as a scenic parkway to be known as the ACE Basin Scenic Parkway, and provides that this portion of highway is subject to the provisions contained in the Highway Advertising Control Act.

H.3573 SAFE SCHOOLS ACT Rep. Clark

This bill enacts the "Safe Schools Act," intended to protect the health and welfare of, and improve the learning environment for South Carolina school children. The bill requires and provides for local school districts to adopt policies which contain, at a minimum, certain specified components designed to prevent harassment, intimidation, or bullying at school. The bill requires the State Board of Education to develop by December 1, 2005, model policies applicable to grades kindergarten through twelve. The bill requires schools to include on the report cards information related to the development and implementation of bullying prevention programs and a report on the number of bullying incidents.

JUDICIARY

S.318 MUNICIPAL INCORPORATION Sen. McConnell

The bill defines the term 'publicly-owned property' as it relates to municipal incorporation as any federally-owned, state-owned or county-owned land or water area. The bill provides that it is the public policy of the State that publicly-owned property may be incorporated or annexed by a municipality as provided by statutory law; however, publicly-owned property is for the benefit of all citizens of the State and is not the exclusive territory of any one municipality. The bill further provides that it is the public policy of the State that incorporation or annexation of publicly-owned property does not confer or convey to a municipality control over the publicly-owned property in any way

that (1) interferes with the superior authority of the federal, state, or county government or (2) prevents an area seeking to be incorporated from using the publicly-owned property to establish contiguity.

The bill requires citizens of an area seeking municipal incorporation to file an application with the Secretary of State setting out certain required information. Among other things, this bill establishes a Joint Legislative Committee on Municipal Incorporation. The purpose of this joint committee is to review the filing of an area seeking incorporation and to make recommendations to Secretary of State as to whether or not minimum service standards for municipal incorporation are met. The bill requires the joint committee to render a written opinion and that the Secretary of State must provide the applicants with a copy of the joint committee's written decision.

This bill revises the current definition of the term 'contiguous.' Under this bill, contiguous means adjacent properties that share a continuous border. The bill also provides if a publicly owned property intervenes between two areas proposed to be incorporated that, but for the intervening publicly owned property would be adjacent and share a continuous border, the intervening publicly owned property does not destroy contiguity.

Current law sets out limitations for incorporation when the area to be incorporated is within five miles of the boundary of an active incorporated municipality. Current law provides that the five-mile limit does not apply when the population of the area seeking incorporation exceeds 15,000 persons. This bill lowers the threshold population amount for the five-mile limit not to apply from 15,000 persons to 7,000 persons. Current law provides that another exception to the five-mile limit is when the area seeking incorporation has petitioned the nearest incorporated municipality to be annexed and has been refused annexation for six months. This bill requires that a refusal to annex the area by the municipality includes a statement from the municipality that the area does not meet the statutory requirements for annexation.

H.3537 AMENDMENTS TO THE SOUTH CAROLINA TORT CLAIMS ACT
Rep. J.E. Smith

The bill includes members of the South Carolina National Guard and members of the South Carolina State Guard as employees that are covered under the South Carolina Tort Claims Act.

The bill further provides that an employee for purposes of the South Carolina Tort Claims Act includes persons acting on behalf or in service of a governmental unit without pay or compensation.

The bill also amends S.C. Code Ann. §15-78-60, which relates to exemptions to the waiver of immunity in the State Tort Claims Act, so as to include certain home security and counter-terrorist activities in the exemption relating to activities of the South Carolina National Guard and the South Carolina State Guard.

H.3538 WARRANTS FOR LITTERING Rep. J.E. Smith

This bill provides that a person who witnesses littering may swear out a warrant in an appropriate court to initiate the prosecution of the offender.

H.3539 INDIGENT DEFENSE Rep. Wilkins

Currently there is a Commission and Office of Indigent Defense as well as a separate Commission and Office of Appellate Defense. The bill provides that all of the allied, advisory, affiliated, or related entities as well as the employees, funds, property, and all contractual rights and obligations associated with the Commission and Office of Appellate Defense are transferred to and incorporated in and must be administered as a part of the Commission and Office of Indigent Defense.

Current law provides that the Commission on Indigent Defense is comprised of seven members appointed by the Governor on the recommendation of the South Carolina Public Defender Association. The bill increases membership on the Commission from seven members to 15 members. The bill further provides and makes changes regarding how members are recommended to serve on the Commission.

Among other things, the bill provides that the Commission shall cooperate and consult with state agencies, professional associations, and other groups concerning the causes of criminal conduct, the rehabilitation and correction of persons charged with and convicted of crimes, the administration of criminal justice and the improvement and expansion of defender services.

Current law provides that an executive director must administer the Office of Indigent Defense. The bill outlines specific duties of the executive director, which include maintaining records and coordination of services. The bill requires the Division of Appellate Defense to be administered by a chief attorney and outlines the duties of the Division.

H.3543 "MARY LYNN'S LAW" Rep. G.M. Smith

This bill enacts "Mary Lynn's Law." This bill makes revisions with regards to victim notification as well as revisions pertaining to certain criminal offenses, including stalking and harassment.

This bill provides that a person with a current charge or a prior conviction for a violent offense, a harassment or stalking offense, or a burglary offense or a person subject to a restraining order or valid order of protection may not be considered for a diversion program such as pre-trial intervention, drug court, or mental health court. This bill prohibits those offenders convicted of a violent offense, a harassment or stalking offense, and/or a burglary offense from participating in work release.

With regards to victim notification for certain criminal proceedings, this bill provides that victim notification may not be by electronic or other automated communication or recording.

This bill makes various amendments pertaining to the criminal offense of stalking and harassment. The bill redefines the criminal offense of stalking and harassment as well as revises the penalties for stalking and harassment. The bill requires that when a restraining order is issued as a condition of bond for harassment or stalking, a copy of

the restraining order must be sent by the court to the victim. This bill requires that a mental evaluation must be made before bail is set on a stalking or harassment charge. The bill requires that the evaluation be scheduled within 10 days of the order's issuance and that the report be issued within 48 hours of evaluation. The bill requires the solicitor to arrange for a bond hearing upon receipt of the report before a circuit court judge.

This bill provides that a temporary restraining order granted without notice must be entered of record with the magistrate court. The bill provides that the duration of a temporary restraining order is extended from six months to one year.

This bill allows law enforcement or another person to sign a warrant for a person engaged in harassment or stalking in place of the victim. The bill also allows for service of a restraining order to be made by mail return receipt to the defendant's last known address.

With regards to a change of address listed on a driver's license, this bill requires proof of address for the change to be made and provides examples of sufficient proof.

H.3570 AMENDMENTS TO FREEDOM OF INFORMATION ACT Rep. Simrill

Current law provides that certain records of a public body must be made available for public inspection and copying during the hours of operations of the public body without the individual being required to make a written request to inspect or copy the records when the individual appears in person. This bill amends this particular provision and requires requests for information to be in writing.

This bill also provides that documents and other information containing disciplinary actions taken against an employee of a public body are exempt from disclosure for purposes of the Freedom of Information Act.

H.3588 COMMON LAW MARRIAGE Rep. Whipper

This bill provides that a common law marriage in this State may not be recognized on and after January 1, 2006. Exceptions are provided for common law marriages existing as of December 31, 2005. The bill repeals current law relating to the validity of a marriage contracted without the issuance of a license.

H.3590 VOTING MACHINE REQUIREMENTS Rep, Rutherford

This bill requires all electronic voting machines to print out a receipt showing how the voter cast his/her vote, and the voter must deposit the receipt in a receptacle. In the event there is a recount, the receipts will be used to verify the vote tally.

H.3593 ESTABLISHMENT OF THE MISDEMEANOR CRIMINAL OFFENSE OF DEATH BY A VEHICLE AND CHEMICAL BLOOD TESTS FOR DRIVERS INVOLVED IN A FATAL VEHICLE ACCIDENT Rep. Walker

This bill establishes the misdemeanor offense of death by a vehicle. The offense would be applicable when death is proximately caused through the use or operation of a vehicle, and the driver of the vehicle was not under the influence of drugs or alcohol. The maximum sentence for the offense is three years imprisonment and a fine of not more than \$1,000 dollars.

This bill provides that a driver of a vehicle involved in a fatal motor vehicle accident must submit to a chemical blood test of the driver's breath to determine the presence of

alcohol, if there are reasonable grounds to believe that the driver is under the influence of alcohol to the extent that the driver's faculties to drive are materially and appreciably impaired. There are provisions outlining when the law enforcement officer requesting the test may be the one to administer the test. The administration of one test does not preclude the administration of other tests. A driver has the right to have additional tests conducted at his/her own expense and must be advised of this right and provided affirmative assistance by law enforcement. However, the driver's request or failure to request an additional test is not admissible against the person in a criminal trial. Also, failure by law enforcement to provide affirmative assistance (which as a minimum includes providing transportation for the person to the nearest medical facility which provides blood tests to determine a person's alcohol concentration) bars the admissibility of the breath test result in any judicial or administrative proceeding.

The bill requires written notification of certain rights and information be provided to the driver before any test is administered or samples obtained. The driver must be provided with a written report containing, among other things, the test results. Any person that obtains additional tests must furnish certain information about the tests to the officer before any proceeding in which the person attempts to use the additional tests as evidence.

Failure to submit to a breath test results in a suspension of driving privileges for 30 days; drivers must be advised of their right to an administrative hearing. The bill requires the administrative hearing to be held within 30 days of the request for the hearing. The bill provides that an administrative hearing is a contested proceeding under the Administrative Procedures Act.

H.3594 TERMS OF COUNTY OFFICERS Rep. Hagood

This bill provides that the terms of office of various county officers is four years and begins at noon on the first Tuesday in January following the November general election and ends at noon on the first Tuesday in January following the November general election four years later. These provisions apply to those officers whose terms of office are not otherwise set by another provision of law.

LABOR, COMMERCE AND INDUSTRY

**H.3536 INSURANCE COVERAGE REQUIREMENT FOR COLORECTAL
CANCER EARLY DETECTION Rep. J. E. Smith**

This bill requires health insurers to provide coverage for colorectal cancer early detection for specified high-risk individuals.

**H.3546 MEDICAL TREATMENT IN WORKERS' COMPENSATION CASES
Rep. Clyburn**

This bill provides that an employee has the right to select his treating physician under provisions for medical, surgical, hospital, and other treatment furnished and in workers' compensation cases. The legislation eliminates the requirement that the disability of an injured employee must be total and permanent to receive treatment or care payments during the life of the injured employee. The legislation eliminates the provision which provides for payment to an injured employee without regard to any limitation, including the maximum compensation limit.

H.3547 APPEAL FROM A DECISION BY THE WORKERS' COMPENSATION COMMISSION Rep. Clyburn

This bill provisions relating to the conclusiveness of an award by the Workers' Compensation Commission, an appeal from the decision and payment of compensation during appeal, so as to provide for the payment of weekly compensation and the provision of medical treatment ordered by the Commission while an appeal is pending. The legislation provides for the payment of interest on the unpaid portion of the award not paid while an appeal is pending.

H.3548 ANNUITIES Rep. Cato

This bill provides for minimum nonforfeiture amounts for individual deferred annuities. The legislation revises provisions relating to the calculation of minimum nonforfeiture amounts of contracts issued after June 30, 2007, so as to change the time of applicability on these contracts. The legislation revises certain temporary provisions relating to minimum values of any paid-up annuity, cash surrender, or death benefits available under certain annuities, so as to change the date of applicability from 2005 to 2007 to these contracts and provide that contracts entered into after the effective date of this act and before July 1, 2007, may apply, at the insurer's option, the minimum values as provided in this legislation on certain annuities on a contract-form-by-contract-form basis.

H.3549 RIGHTS AND REMEDIES EXCLUDED UNDER WORKERS' COMPENSATION LAW Rep. Clyburn

This bill revises provisions relating to employee's rights and remedies excluded under Workers' Compensation law, so as to provide that an employee's rights and remedies do not exclude an action against the employer or carrier for: a willful, intentional, or reckless injury resulting from the violation of a statute or regulation enacted by federal, state, or local authorities to ensure a safe workplace; the intentional removal of a safety device, or warning label from a machine or equipment used in the employment; or for the bad faith refusal of an employer or carrier to pay benefits or provide medical treatment.

H.3550 REVIEW OF A WORKERS' COMPENSATION COMMISSION AWARD FOR A CHANGE IN CONDITION Rep. Clyburn

This bill extends from twelve months to two years the period for requesting the review of a Workers' Compensation Commission award when there has been a change in condition.

H.3551 THIRD PARTY SETTLEMENTS SUBJECT TO APPORTIONMENT UNDER WORKERS' COMPENSATION LAW Rep. Clyburn

This bill revises provisions relating to the right of compensation not being affected by the liability of a third party under Workers' Compensation law, so as to provide that the carrier's lien on proceeds of a third party settlement for future compensation and medical benefits is subject to equitable apportionment.

H.3552 CALCULATION OF AVERAGE WEEKLY WAGES UNDER WORKERS' COMPENSATION LAW Rep. Clyburn

This bill revises the definition of "average weekly wages" under Workers' Compensation law, so as to include the cost of health, life, and disability insurance premiums and retirement contributions. The legislation provides that when allowances are made to an

employee instead of wages as part of a verbal or written wage contract they are considered a part of his earnings.

H.3553 GENERAL DISABILITY PAYMENTS OR SCHEDULED AWARD UNDER

WORKERS' COMPENSATION Rep. Clyburn

This bill revises workers' compensation provisions for the amount of compensation paid to an employee for partial disability and the amount of compensation and period of disability for certain injuries, so as to give the employee the option of receiving general disability payments or a scheduled award.

H.3554 CERTIFICATION OF TAXIS AND SELF-INSURERS FOR MOTOR VEHICLES Rep. Huggins

This bill revises provisions for the public taxi plate which must be affixed to a taxi, so as to provide that the plate must be affixed only to the rear of a taxi. The legislation provides that a sticker may be affixed to the taxi in lieu of a metal plate. The legislation provides that the city where the taxi principally operates must approve the dimensions of the sticker or plate instead of the governing body of the county. The legislation removes the term "public" and the taxi license number from the contents of the sticker or plate and eliminates the requirement that the color of the plate must be changed annually. The legislation provides that an applicant for self-insurer status for motor vehicles may submit to the Department of Motor Vehicles an irrevocable letter of credit issued by a bank chartered in this State or a member bank of the Federal Reserve System to satisfy financial responsibility requirements instead of a cash deposit. The legislation provides that a person or company that qualifies as a self-insurer may issue certificates of insurance for all purposes only on the vehicles listed in the applicant's name. The legislation provides that the owner of a taxi that qualifies as a self-insurer must issue to each operator a certificate of insurance which must be maintained in the taxi while it is in operation.

S.135 PAYMENT OF WORKERS' COMPENSATION PREMIUMS FOR VOLUNTEER STATE CONSTABLES FROM THE STATE GENERAL FUND Sen. Gregory

This bill provides that workers' compensation premiums for volunteer state constables must be paid from the state general fund upon warrant of the Chief of the State Law Enforcement Division. The bill eliminates the current requirements that the governing body of the entity using a voluntary state constable's services must approve and fund the premiums for his participation in the workers' compensation system.

S.97 REDEVELOPMENT OF PROPERTY UNDER THE TAX INCREMENT FINANCING ACT FOR COUNTIES Sen. Land

This bill extends the application of the Tax Increment Financing Act for counties to more rural areas and adds additional elements to development projects necessary to assist such rural areas. The legislation authorizes counties jointly by intergovernmental agreements to establish a multi-county or regional authority to establish redevelopment plans and property when such projects have economic impact beyond a single county.

S.131 BUILDING CODE MODIFICATIONS DO NOT REQUIRE READOPTION BY THE BUILDING CODES COUNCIL Sen. Leatherman

This bill provides that provides that modifications promulgated by the South Carolina Building Codes Council do not require re-adoption of subsequent editions of the building codes. The legislation provides a procedure for reconsideration of those modifications.

H.3592 CHARITY OR NONPROFIT CORPORATION NAMED A BENEFICIARY OF A LIFE INSURANCE POLICY Rep. Limehouse

This bill provides conditions under which a charitable organization has an insurable interest in the life of an individual insured under a policy of insurance in which the charitable organization is named as a beneficiary.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

S.216 ORGANIZATION AND PURPOSES OF MILITARY CORPORATIONS OF THE NATIONAL GUARD OF SOUTH CAROLINA Sen. Hayes

This bill provides that enlisted personnel or the officers and enlisted personnel or support groups of an organization or unit of the National Guard of South Carolina may organize themselves into a corporation for certain purposes. The bill provides that the organizations may include the following: enlisted, officer, or all-rank clubs; family support groups; auxiliary organizations; service branch organizations; battalion; brigade or unit fund organizations; or any other such organizations that provide support to personnel and their families.

The bill authorizes these corporations to raise funds and provide services, if retained funds are used for unit support or charitable purposes. The bill allows for the use of armory or national guard facilities, if there is no cost to the government. The bill provides that the Adjutant General and the Secretary of State shall coordinate provisions to standardize applications for incorporation. No incorporation may be made without the approval of the Adjutant General and the State Judge Advocate. Accounts and documents of the organizations are subject to review by the Adjutant General

H.3566 EMERGENCY ROOM CARE Rep. Bailey

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 a 72-hour supply of the medication.

H.3582 AMENDMENTS TO THE LEAD POISONING PREVENTION AND CONTROL ACT Rep. McLeod

This bill renames the 'Lead Poisoning Prevention and Control Act' to the 'Childhood Lead Poisoning Prevention Control Act.' This bill makes revisions to clarify that this particular piece of legislation addresses circumstances relating to children and lead poisoning.

The bill further specifies surfaces in a dwelling or facility that may contain a lead-based hazard. The bill updates requirements for education and public awareness programs, investigations and recordkeeping.

The bill revises procedures for the issuance and execution of an administrative warrant to investigate lead-based hazards. Under the bill, probable cause exists for a warrant

when the circumstances indicate there is reason to believe a child has been exposed or is at risk of being exposed to a lead-based hazard at the premises specified in the warrant. The bill requires the warrant to be executed and returned within 10 days of the date of issuance.

The bill requires laboratories to report to the Department of Health and Environmental Control results of any blood lead analyses conducted on children under the age of six.

The bill deletes certain obsolete provisions. The bill revises criminal penalties as well as provides for civil fines not to exceed \$1,000 dollars per day.

H.3591 REGULATION OF SALE OF PSEUDOEPHEDRINE Rep. Brady

Pseudoephedrine is an over-the-counter nasal decongestant that is used in the illegal manufacturing of methamphetamine. Under this bill, any compound containing pseudoephedrine would be considered a Schedule V controlled substance. Under this bill, only a licensed pharmacist or licensed pharmacist technician could dispense compounds containing pseudoephedrine. The bill requires a picture identification to purchase such compounds as well as limits the amount of the compound that may be purchased in a 30 day time period.

The bill provides that any compounds, mixtures, or preparations which are liquid, liquid capsule or gel capsule form and which pseudoephedrine is not the only active ingredient are not Schedule V controlled substances. The bill also authorizes the Director of the Department of Health and Environmental Control to exempt other products from this schedule if the director finds the products are not used in the illegal manufacture of methamphetamine or other controlled dangerous substances.

WAYS AND MEANS

H.3567 ELIGIBILITY FOR PARTICIPATION IN STATE HEALTH AND DENTAL PLAN Rep. Barfield

This bill provides that a member of the governing board of a state-supported public institution of higher learning (including technical and comprehensive educational institutions) is eligible to participate in the State health and dental insurance plans by paying the full premium costs as determined by the State Budget and Control Board.

H.3568 COMMISSION FOR THE BLIND Rep. Rice

This bill abolishes the Commission for the Blind and establishes and provides for that agency as the Division of Services for the Blind (the Division) within the South Carolina State Agency of Vocational Rehabilitation. Under the provisions of the bill, the Governor would appoint the Director of Vocational Rehabilitation, and the Director would assume the duties and responsibilities of the agency's Board (the Board of the agency would serve as an advisory board).

H.3580 TAX DEDUCTION FOR GUARD MEMBERS Rep. Scott

This bill allows an annual deduction of up to three thousand dollars from taxable income of members of the State Guard who meet certain requirements delineated in the bill.

H.3583 SCHOOL FUNDING REFORM Rep. Walker

Legislative Update, February 22, 2005

Effective July 1, 2006, this bill eliminates property taxes collected to fund schools, raises the state sales tax 2.5 cents (does not apply to accommodations), and raises from \$300 to \$1,000 the maximum sales tax which may be charged on various personal items, including but not limited to motor vehicles, certain aircraft, and boats. Revenue from the sales tax increases would be deposited into a separate fund known as the "School Trust Fund" and would be distributed to school districts based on the district's weighted pupil units as determined pursuant to the Education Finance Act. The bill also requires that a referendum be held in counties in which the local option sales tax is currently imposed to determine whether to rescind the tax.

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