



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 concurred in Senate amendments to **H.3133**, a **PROPOSED STATE CONSTITUTIONAL AMENDMENT RELATING TO SAME SEX MARRIAGE**, and enrolled the joint resolution for ratification. This joint resolution proposes to submit to the electors at the next general election whether or not the State Constitution should be amended to provide that marriage is exclusively defined as the union between one man and one woman and that all other attempted unions, including those recognized by other jurisdictions, are void.

The House and Senate approved the conference committee report on **H.3152** and enrolled the bill for ratification. The legislation **REVISES THE MOTION PICTURE INCENTIVE ACT**. Revisions include: extending the exemption from sales and use tax to include an exemption from local, as well as state sales and use taxes; allowing up to seven percent of the general fund portion of admissions tax collected and funded to the State Film Commission to be used by the Department of Commerce exclusively for marketing and special events; and deleting a rebate to a motion picture company for sales tax paid on accommodations. The legislation authorizes the South Carolina Film Commission to rebate to a motion picture production company not more than fifteen percent of the total aggregate South Carolina payroll for persons subject to South Carolina income tax withholdings employed in connection with the production when total production costs in South Carolina are at least one million dollars during the taxable year. The rebates in total may not annually exceed ten million dollars and shall come from the state's general fund. This rebate does not apply to the salary of an employee whose salary is equal to or greater than one million dollars for each motion picture. The bill also authorizes the Department of Commerce to carry-forward their portion of the admissions tax for rebates and grants.

The House concurred in Senate amendments to **H.3682** and enrolled the bill for ratification. The bill revises provisions for **UNEMPLOYMENT COMPENSATION**. **H.3682** provides that the termination of an employee for violating an employer's drug policy is to be considered a discharge for cause, which makes the employee ineligible to receive unemployment compensation. Violating an employer's drug policy includes refusing to submit to a required drug test, providing an adulterated sample, or testing positive for illegal drugs. An exception to the ineligibility is provided for a worker's voluntary admissions of illegal drug use in instances where the employer has a policy that protects an employee from immediate termination when making such voluntary admissions.

H.3682 provides that an employee who has left work voluntarily or has been discharged because of circumstances directly resulting from domestic abuse is eligible for unemployment compensation. Such an employee must: (1) reasonably fear future domestic abuse at or en route to the workplace; (2) need to relocate to avoid future domestic abuse; or (3) reasonably believe that leaving work is necessary for his safety or the safety of his family. To be eligible, the employee must provide documentation of domestic abuse from the police, court records, a shelter worker, attorney, member of the clergy, or medical or other professional. All such documentation or evidence must be kept confidential unless written consent for disclosure is given.

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H.3682 revises provisions for violations of the State Unemployment Tax Act by replacing “willfully” with “knowingly”. The legislation also requires the South Carolina Employment Security Commission to establish procedures to identify the transfer of a business.

The House approved **S.509** and enrolled the bill for ratification. This legislation requires a person to be a licensed barber or cosmetologist or a registered hair braider to perform **HAIR BRAIDING**. The bill defines “hair braiding” as the weaving or interweaving of natural human hair for compensation without cutting, coloring, permanent waving, relaxing, removing, or chemical treatment and does not include the use or hair extensions or wefts. In order to become a hair braider registered by the Barber Board an applicant must complete a one day, six hour board-approved hair braiding course, pass an examination, and pay a \$25 registration fee. Registration is valid for two years and can be renewed by paying the renewal fee. Anyone practicing hair braiding on the legislation’s effective date has one year to complete the education, examination, and registration requirements. The bill establishes the content of the hair braiding course and requires all combs and implements used to braid hair to be disposable or to be sanitized in an approved disinfectant.

The House concurred in Senate amendments to **H.3257** and enrolled the bill for ratification. This bill provides that a person retired or discharged from the Armed Services of the United States who has filed his/her **RELEASE OR DISCHARGE CERTIFICATE NOW KNOWN AS DD FORM 214** with the clerk of court of any county of this State for safekeeping or other purposes may invalidate this filing and remove it from the public records. The person filing the certificate must notify the clerk of court in writing and under oath that he/she wishes the certificate to be removed from the public records. The clerk of court shall remove the certificate from the public records and return the original to him/her if available and in possession of the clerk.

The House approved **S.405** and enrolled the bill for ratification. This legislation authorizes and provides for the **CREATION AND ISSUANCE OF FRATERNAL ORDER OF POLICE SPECIAL LICENSE PLATES**. After the regular motor vehicle license fee has been placed in a special account to be used by the Department of Motor Vehicles, any funds remaining from sale of the plates must be distributed to the State Lodge of the Fraternal Order of Police to be used to support the families of officers killed in the line of duty.

The House approved **S.102** and enrolled the bill for ratification. This legislation provides that the special **PURPLE HEART LICENSE PLATES FOR MOTOR VEHICLES MAY ALSO BE ISSUED FOR USE ON MOTORCYCLES**.

The House and Senate appointed a conference committee to resolve the bodies’ differences on **S.49**. This bill **REQUIRES HEALTH INSURERS TO PROVIDE COVERAGE FOR TREATMENT OF MENTAL HEALTH CONDITIONS**.

The House and Senate appointed a conference committee to resolve the bodies’ differences on **S.22**, a bill **EXPANDING THE JURISDICTION OF THE STATE GRAND JURY TO INCLUDE ENVIRONMENTAL OFFENSES**.

The House amended, approved, and sent to the Senate **H.3638**, regarding **SALE OF ALCOHOL BY THE DRINK**. As approved by the House, the bill:

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- Allows for sale of liquor by the drink except in 1.75 liter bottles;
- Allows persons licensed to sell alcohol for on-premises consumption to purchase from a wholesale distributor and a licensed retail dealer with a wholesaler's basic permit;
- Allows both wholesale distributors and licensed retail dealers with a wholesaler's basic permit to deliver liquor to establishments for on-premises consumption;
- Prohibits substitution of another brand of liquor in place of the brand specified by the customer, except with customer's approval;
- Requires that any delivery charge or transportation fee for delivering alcohol to a retail establishment be clearly stated;
- Prohibits refilling bottles and provides penalties for first and subsequent violations of this provision;
- Allows a wholesale distributor to discount prices under certain conditions;
- Requires the State Treasurer, in making quarterly distributions to counties, to notify counties of the amount that must be used for educational and rehabilitative purposes, and allows counties to pool funds with other counties for these purposes;
- Imposes an excise tax of 5% to replace the minibottle tax, and includes a provision that agencies and entities must receive at least the same amount of revenues from this tax as they did from minibottle revenues during fiscal year 2004-05; any differences must be made up from the general fund;
- Provides the excise tax is separate from sales tax and will not be considered sales tax;
- Prohibits liquor manufacturers and distributors from giving free products, services, or other things of value to a retailer, and prohibits the retailer from accepting these things;
- Prohibits retail dealers from selling alcohol: between 7 p.m. and 9 a.m.; for on-premises consumption; to persons under the age of 21; to an intoxicated person; to a mentally incompetent person;
- Prohibits retail dealers from selling alcohol on credit and prohibits redemption of proof-of-purchase certificates for any promotional item;
- Requires a retail dealer to keep a record of all sales of liquor to establishments for on-premises consumption;
- Prohibits a bar or restaurant that sells alcohol by the drink from also being a retail liquor dealer on the same premises.

The House amended, approved, and sent to the Senate **H.3060**. This bill provides that a person who knowingly subjects another person to forced labor or services, or recruits, entices, harbors, transports, provides, or obtains by any means another person knowing that the person will be subjected to forced labor or services, or aid, abets, attempts, or conspires to do any of the above acts is guilty of a **FELONY KNOWN AS TRAFFICKING IN PERSONS FOR FORCED LABOR OR SERVICES** and, upon conviction, must be imprisoned for not more than 15 years. Under the bill the term, 'forced labor or services' means any type of labor or services performed or provided by a person rendered through another person's exertion of physical, financial, or other means of control over the person providing the labor or services.

The House approved and sent to the Senate **H.3588**. The bill repeals current law relating to the validity of a marriage contracted without the issuance of a license; the 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 House amended, approved, and sent to the Senate **H.3621**, a **PROPOSED CONSTITUTIONAL AMENDMENT TO ALLOW CERTAIN CHARITABLE ORGANIZATIONS TO CONDUCT RAFFLES**. This joint resolution proposes to submit to the electors at the next general election whether or not a raffle conducted by certain charitable organizations is a lottery prohibited by the State Constitution. All raffle proceeds, except for the costs of the prizes and the costs of printing tickets, would have to be used exclusively for the organization's tax-exempt purposes. A charitable organization would be limited to holding a raffle not more than four times in a calendar year. For purposes of this provision, all raffles occurring on one date are defined as one raffle.

The House amended, approved, and sent to the Senate **H.3224**. Under this bill, any document or writing containing the following provisions is deemed to comply with the requirements for a **HEALTH CARE POWER OF ATTORNEY**: (1) the name and address of the person who is authorized to make health-care related decisions if the principal becomes mentally incompetent; (2) the types of health-care related decisions that the health care agent is authorized to make; (3) the signature of the principal; (4) the signature of at least two persons who witnessed the principal's signature; and, (5) the attestation of a notary public. Additionally, any document that meets the requirements listed above and also provides expressions of the principal's intentions or wishes with respect to the following health care issues authorizes the health care agent to act in accordance with these provisions: (1) organ donations; (2) life-sustaining treatment; (3) tube feeding; (4) other kinds of medical treatment that the principal wishes to have or not to have; (5) comfort and treatment issues; (6) provisions for interment or disposal of the body after death; and, (7) any statements that the principal may wish to have communicated on his behalf.

The House amended, approved, and sent to the Senate **H.3222**, "**AUTUMN'S LAW**". This bill pertains to the **ADOPTION AND TERMINATION OF PARENTAL RIGHTS WHEN THE CHILD IS CONCEIVED AS A RESULT OF CRIMINAL SEXUAL CONDUCT OR INCEST**. Under the bill, consent or relinquishment for adoption is not required when the biological parent of a child conceived as a result of that parent's criminal sexual conduct or incest as found by a court of competent jurisdiction unless, with respect to a conviction for criminal sexual conduct, the sentencing court made a specific finding on the record that the conviction resulted from consensual sexual conduct where the victim was younger than the actor. If a person is convicted or pleads guilty or no contest to a criminal sexual conduct with a minor offense or a similar offense under laws of another jurisdiction, that person's parental rights to any child conceived as a result of the conduct underlying the conviction or pleas are automatically terminated upon conviction or entry of a plea unless the sentencing court made a specific finding on the record that the conviction resulted from consensual sexual conduct where the victim was younger than the actor. If the biological parent's conviction is reversed on appeal, the bill outlines a procedure for the biological parent to petition the court to restore his or her parental rights.

The House amended, approved, and sent to the Senate **H.3141**, a bill requiring **REGULATIONS TO HAVE AFFIRMATIVE APPROVAL BY THE GENERAL ASSEMBLY**. Under the current law, there is no affirmative approval by both legislative

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bodies required to enact a regulation. This bill removes the 120-day clock for automatic approval of a regulation and replaces it with a requirement for approval by the General Assembly. Additionally, the bill requires specific agency power to modify or establish any fee set by regulation.

In general, this bill requires an agency submitting a regulation to file the regulation with Legislative Council along with a detailed summary of the proposed changes. The bill enhances the requirement that regulations be submitted in the same format as a bill (underline and strikethrough). The bill requires that the Speaker of the House and the President of the Senate refer the legislation to a standing committee and that Legislative Council inform the membership of the General Assembly electronically upon receipt of a regulation for review. Both the House and Senate committees that are most concerned with the functions of the submitting agency will review the regulation. There will be an affirmative vote by the General Assembly required for enactment of the regulation. A regulation will be deemed withdrawn if it has not become effective at the end of the two-year session in which it was submitted.

Under the bill, an agency may not submit any regulation that went through public notice and comment period and was changed afterwards without the changes being raised, discussed or considered during the public comment period. The bill disallows the filing of an emergency regulation, if a joint resolution disapproving that same regulation has received a favorable report by the standing committee to which the regulation was referred. The bill does allow any agency that has submitted a regulation for review to withdraw that regulation at any time and resubmit the regulation without the requirements of notice and comment if there is no substantive change.

The House approved and sent to the Senate **H.3650**. This bill relates to the **BROWNFIELDS VOLUNTARY CLEANUP PROGRAM AND CONTRACT REQUIREMENTS ENTERED INTO BY OR ON BEHALF OF A NONRESPONSIBLE PARTY**. Brownfields are real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. The bill provides that a nonresponsible party is not liable to any third-party for contribution, equitable relief, or claims for damages arising from a release of contaminants which is the subject of a response action included in the nonresponsible party voluntary cleanup contract. This limitation of liability commences on the date of execution of the nonresponsible party voluntary cleanup contract by the Department of Health and Environmental Control; however, this limitation must be withdrawn automatically if the nonresponsible party voluntary cleanup contract is lawfully terminated by any party. This limitation applies only to: (1) the parties to the nonresponsible party voluntary cleanup contract and to the nonresponsible party's lenders, signatories, parents, subsidiaries, and successors; and (2) 'existing contamination', as defined in the nonresponsible party voluntary cleanup contract. This limitation of liability does not apply to any release caused by or attributable to the nonresponsible party or its lenders, signatories, parents, subsidiaries, or successors.

The House amended, approved, and sent to the Senate **H.3613**, the “**COMMON SENSE CONSUMPTION ACT**”. Under this legislation, a manufacturer, packer, distributor, carrier, holder, marketer, seller, or an association of one or more of these entities of a food or nonalcoholic beverage intended for human consumption is not subject to civil liability in an action brought by a party based on a person's purchase or consumption of food or nonalcoholic beverages in a case when liability is based on weight gain, obesity,

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or a health condition associated with weight gain or obesity resulting from the person's long-term purchase or consumption of food or nonalcoholic beverages. In an action to dismiss one or more claims pursuant to the provisions of this legislation, all discovery and other proceedings are stayed while a motion to dismiss is pending. The provisions of this legislation apply only when a manufacturer, packer, distributor, carrier, holder, seller, or marketer of a food establishes it has complied with the federal content and nutrition labeling disclosure provisions so that a consumer has ready access to this information and may be informed about the content and nutritional value of the food prior to consumption. A retail establishment that serves food and nonalcoholic beverages complies with this requirement by making information available upon request to the consumer.

The House approved and sent to the Senate **H.3700**. This bill provides that **MATTERS BETWEEN A LANDLORD AND A TENANT** must be tried where the subject matter or some part of the property is situated.

The House amended, approved, and sent to the Senate **H.3328**, a bill pertaining to the **SEX OFFENDER REGISTRY**. Under this bill, the State Law Enforcement Division (SLED) must cross-reference alias names in the registry.

This bill expands the list of convictions that render a person a "sex offender."

- Under this bill, any person, regardless of age, residing in South Carolina who in this State has been convicted of, adjudicated delinquent for, pled guilty or no contest to certain offenses, or who has been convicted, adjudicated delinquent, pled guilty or no contest, or found not guilty by reason of insanity in any comparable court in the United States, or a foreign country, or who has been convicted, adjudicated delinquent, pled guilty or no contest, or found not guilty by reason of insanity in the United States federal courts of a similar offense, or who has been convicted of, adjudicated delinquent for, pled guilty or no contest, or found not guilty by reason of insanity to an offense for which the person was required to register in the state where the conviction or plea occurred, shall be required to register.
- Under this bill, people convicted of administering, distributing, dispensing, delivering, or aiding, or abetting, or conspiring to administer, distribute, dispense or deliver a controlled substance or gamma hydroxyl butyrate or derivatives thereof to a person with the intent to commit crimes must register.
- The bill provides that a sex offender whose name is contained on the sex offender registry, and who has been granted a pardon, must remain on the registry and must continue to register annually.

Current law provides that a sex offender must register with the sheriff of the county in which the offender intends to reside within 24 hours of release; this bill changes the requirement to one business day. The bill also provides that an offender's photograph must be provided to SLED before the offender is released from prison. Current law provides that an offender who is sentenced to probation must register within 10 days of sentencing; this bill changes the requirement to one business day.

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Current law requires a convicted sex offender to only register in the county where the offender resides. The bill requires that the offender must also register with the sheriff of the county or counties where the offender owns real property, attends any public or private school, including but not limited to, a secondary school, technical college, or higher education institution. The bill also provides that a registered sex offender who acquires real property or attends any public or private school within this State must provide notice of the address to the sheriff in the county where the real property or school is located. The bill further provides that a person who is required to register as a sex offender who moves to this State, acquires real property in this State, or is attending, or being employed by or carrying on a vocation at any public or private school and is not under the jurisdiction of certain correctional agencies, must register within 10 days.

If a previously registered offender fails to notify the sheriff upon moving within the same county or to another county, then the offender will not be considered registered and shall be prosecuted for failing to register.

This bill provides that if, in connection with the sale, exchange, purchase or rental of real property, a real estate licensee receives a request from a person to whom the licensee is providing brokerage services in connection with the sale, exchange, purchase or rental for information related to whether a particular person is required to register as a sex offender or any other information about the sex offender registry, the licensee has a duty to disclose such information, if the licensee has actual knowledge of the information. The bill does provide immunity from liability for any act or omission related to disclosure if the certain information is disclosed in writing to the buyer. The notice may be included as part of a listing agreement, buyer representation agreement, or sales agreement.

The House approved and sent to the Senate **H.3647**, a bill **ELIMINATING SUNDAY BLUE LAW RESTRICTIONS**. The bill eliminates throughout the state Blue Law provisions which restrict the sale of certain items and prohibit certain work and other activities on Sundays. The legislation provides that an employee of a business that operates on Sunday has the option of refusing to work until 1:30 p.m. on Sunday if he is conscientiously opposed to Sunday work. This conscientious objector provision does not apply to employees, including support, maintenance, repair, and other service personnel, of a manufacturing establishment or a research and development operation that by its nature or for economic reasons involves processes requiring continuous and uninterrupted operation. The legislation makes no changes to provisions that prohibit or otherwise regulate the sale of alcoholic liquors, beer, or wine on Sunday.

The House approved and sent to the Senate **H.3906**. This bill provides that, in addition to current **QUALIFICATIONS REQUIRED FOR A PALMETTO FELLOWS SCHOLARSHIP**, a student shall have either of the following:

- a minimum score of 1200 on the SAT or an equivalent ACT score; a cumulative 3.5 grade point ratio at the end of the junior year; and rank in the top six percent of the class at the end of the sophomore or junior year or at the end of the first semester of the senior year, as provided in the bill;

OR

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- A minimum score of 1400 on the SAT or an equivalent ACT score; and a cumulative 4.0 grade point ratio at the end of the junior year.

The bill also provides that a student who met the initial eligibility requirements for the Palmetto Fellows Scholarship as a high school senior and has met the continuing eligibility requirements shall receive the award. Also, a student who received this scholarship as a high school senior, but who declined the award may reapply for the annual scholarship if he meets the initial and continuing academic eligibility requirements, if he transfers to a qualifying in-state institution. The bill requires that the number of semesters or years a student attends an out-of-state institution must be deducted from the number of semesters or academic years a student is eligible for the scholarship.

The House returned **S.581**, the “**BOILER SAFETY ACT**”, to the Senate with amendments. Under the legislation, the Department of Labor, Licensing and Regulation is charged with promulgating regulations for the safe installation and inspection of boilers in this state. All new installations shall conform to generally accepted nationwide engineering standards (conformity with the most recent edition of the Boiler and Pressure Vessel Code or the ASME Code shall be accepted as conformity). The department shall promulgate regulations for installation and inspection of boilers that were in use in this State prior to the implementation of the statewide building code. The regulations must be based upon, and at all times follow, generally accepted nationwide engineering standards and practices and may adopt applicable sections of the Inspection Code of the National Board of Boiler and Pressure Vessel Inspectors. Certain boilers are exempted from regulation under this legislation. Under the legislation, the Director of the Department of Labor, Licensing and Regulation shall appoint a chief boiler administrator. The legislation establishes certification requirements for boiler inspectors. The bill provides for boiler inspection timeframes, criteria, and reporting requirements. Failure to comply in a timely manner after written notice by the department of a violation subjects the violator to a penalty of up to one hundred dollars per day. A fee not to exceed fifty dollars per facility or per certificate filed with the department may be assessed, collected, and adjusted by the Department of Labor, Licensing and Regulation.

The House amended, approved, and sent to the Senate **H.3383**, the “**FIRE PROTECTION SPRINKLER SYSTEMS ACT.**” Under the legislation, the South Carolina Contractors’ Licensing Board is charged with administering the Fire Protection Sprinkler Systems Act to protect the health, safety, and welfare of the public through regulation of the fire sprinkler industry. The legislation establishes procedures for the licensure of fire sprinkler contractors by the Department of Labor, Licensing and Regulation to engage in the planning, sale, installation, repair, alteration, addition, maintenance, or inspection of fire sprinkler systems. The procedures include requirements for initial licensure, license renewal, fees, and grounds and sanctions for misconduct. A fire sprinkler contractor may not engage in fire sprinkler system work unless it has in its employment a primary qualifying party who has been designated by the licensee as the principle individual responsible for directing or reviewing fire sprinkler contractor work. A primary qualifying party is a full-time employee of a fire sprinkler contractor who holds a valid National Institute for Certification in Engineering Technologies (NICET) Level III or IV Technician Certificate in ‘Fire Protection Engineering Technology Automatic Sprinkler System Layout’ and who has been issued a qualifying party certificate by the board to qualify an entity as a fire sprinkler contractor.

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A qualifying party is an individual who has received a NICET Level III or IV Technician Certification in "Fire Protection Engineering Technology Automatic Sprinkler System Layout" and who is an employee of a fire sprinkler contractor who has been issued a qualifying party certificate. The legislation establishes provisions for grandfathering in certain individuals as primary qualifying parties for fire sprinkler contractors. Licensees may be held accountable by the board for improper work. The legislation provides for disciplinary actions for misconduct as well as a civil penalty of up to five thousand dollars for each violation.

The House amended and approved **H.3525**. This bill establishes **CONDITIONS UNDER WHICH MUNICIPALITIES ARE TO EXTEND SEWER AND WATER SERVICES**. The bill provides that, upon the written request of a property owner requesting the municipality to extend water or sewer service, the municipality shall provide the service and levy an assessment against the property of the owner requesting the service for the costs of the service. The property owner shall agree to pay the costs either by (1) paying the costs before the municipality begins construction or (2) insuring the costs in the form of a performance bond before the municipality begins construction. This legislation applies only to property located within the corporate limits of a municipality.

The House amended, approved, and sent to the Senate **H.3840**, a bill that **PROHIBITS COMMUNICATIONS SERVICE PROVIDERS FOR ENTERING INTO CERTAIN EXCLUSIVE ARRANGEMENTS**. This bill provides that no communications service provider or parent, subsidiary, or affiliate of such a provider may enter into any contract or agreement that requires another person to restrict or limit the ability of any other communications service provider from obtaining easements or rights-of-way for the installation of facilities or equipment to provide communications services in this state or otherwise deny or restrict access to the real property by any other communications service provider. The bill prohibits the offering of grants, incentives, or rewards to an owner of real property or the owner's agent that are contingent upon the provision of communications service on the premises by a single communications service provider. All contracts, agreements, or arrangements in violation of these provisions that are made on or after the effective date of this legislation are void and unenforceable. A communications service provider who violates this legislation is subject to a monetary penalty of not less than twenty-five dollars nor more than five hundred dollars for each offense and reasonable expenses including attorneys' fees. Each day that an unlawful contract, agreement, or arrangement remains in effect constitutes a separate violation. The bill also provides that no communications service provider shall be obligated to provide any communications service to the occupants of a property if an owner or developer of any multi-tenant business or residential property (including apartments, condominiums, subdivisions, office buildings, or office parks) either: (1) permits only one provider of communications service to install its facilities or equipment during the construction phase of the property; (2) accepts or agrees to accept incentives or rewards from a provider of communications service to the owner, developer, or occupants of the property that are contingent upon the provision of communications service by that provider to the exclusion of other providers; (3) collects from the occupants of the property charges for the provision of communications service to the occupants in any manner, including through rent, fees, or dues; or (4) enters into an agreement with a communications service provider that violates this legislation's prohibitions on exclusive access to property.

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The House amended, approved, and sent to the Senate **H.3883**, a bill regarding the **SALE OF A USED MANUFACTURED HOME IN CONJUNCTION WITH THE SALE OF UNDERLYING REAL ESTATE**. This bill exempts from the manufactured housing license requirement a licensed real estate salesman or licensed real estate broker who negotiates or attempts to negotiate the sale or other disposition of a used manufactured or mobile home in conjunction with the sale or other disposition of the underlying real estate.

The House amended, approved, and sent to the Senate **H.3853**. This bill expands **QUALIFICATIONS FOR LICENSURE AS A REAL ESTATE BROKER, SALESPERSON, OR PROPERTY MANAGER** by providing for criminal record reports and the provision of evidence to satisfy the commission that applicant possesses the competency, honesty, truthfulness, integrity, and general moral character necessary to protect the public interest and promote public confidence in the real estate brokerage business. The commission must notify an applicant who has an unsatisfactory examination and investigation. The applicant has sixty days from the date of notification to respond.

The House approved and sent to the Senate **H.3479**. This bill revises criteria for issuance of **ASBESTOS ABATEMENT** licenses by altering the definitions of “asbestos abatement entity” and “asbestos project”. The bill eliminates existing licensure fee provisions and, instead, authorizes the Department of Health and Environmental Control to establish such fees in regulation that are sufficient to cover reasonable costs of administering the asbestos program. The bill increases the maximum civil penalty for violations from one thousand dollars to ten thousand dollars.

The House amended, approved, and sent to the Senate **H.3832**, the “**LEWIS BLACKMAN HOSPITAL PATIENT SAFETY ACT**”. This bill requires each hospital staff member whose duties include the personal care or medical treatment of patients to wear badges clearly stating their name, their department and their job or trainee title. All clinical trainees, medical students, interns, and resident physicians must be explicitly identified on their badges. The identifying information must be clearly visible and must be stated in terms or abbreviations reasonably understandable to the average person. Except in emergency admissions, a hospital is required to provide each patient with written information about the role of clinical trainees, medical students, interns, and resident physicians in patient care. The patient must be notified that the attending physician is the person responsible for the patient’s care in the hospital. The notification must state generally whether medical students, interns, or resident physicians may be participating in a patient’s care, making treatment decisions, or performing surgery. If at any time a patient or the patient’s representative requests that a nurse call his or her attending physician, the nurse is required to place a call to inform the attending physician of the patient’s concerns. If the patient or his designee wants to speak to the attending physician, the nurse must provide the telephone number and assist in making the call. Each hospital must provide a mechanism that the patient can use to get prompt assistance for urgent patient care concerns. A description of this mechanism must be included in the patient notification. This legislation does not create a civil cause of action. However, the legislation must not be construed to preclude a claim that may have otherwise been asserted under common law or any other provision of law. Also, the provisions of this legislation do not apply to hospitals owned or operated by the Department of Mental Health.

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The House approved and sent to the Senate **H.3582**. This bill updates the **CHILDHOOD LEAD POISONING PREVENTION AND CONTROL ACT** and makes technical changes to conform to Centers for Disease Control and Prevention (CDC) definitions and program standards as well as U.S. Environmental Protection Agency standards for lead based substances.

The bill also requires a laboratory doing business in this State to notify the Department of Health and Environmental Control (DHEC) of the results of any blood lead analyses conducted on children under six years old. The report must be made to DHEC within 30 days of the analysis. In addition, the bill updates the procedures for the issuance and execution of an administrative warrant to investigate a property involving a lead poisoning case to be consistent with the way DHEC handles investigations in other areas. This bill also provides, in addition to a penalty imposed by a magistrate for a misdemeanor violation, anyone who violates a provision of this article or a final determination or order of DHEC is subject to a civil penalty not to exceed \$1,000 dollars. The provisions of this legislation are contingent upon the appropriation of state general funds or the availability of financial support from other sources to support the program. Currently, the CDC provides funding for most of DHEC's lead poisoning prevention efforts.

The House amended, approved, and sent to the Senate **H.3640**, relating to the **PREPARATION OF GROUND BEEF BY A FOOD-SERVICE PROVIDER**. The Department of Health and Environmental Control regulations require retail food establishments to cook ground beef and any food containing ground beef so that all parts of the food are heated to at least 155°F. This bill will allow a customer to order ground beef to be cooked to a lower temperature. The bill specifies a food service provider will not be liable for any adverse affects for providing ground beef cooked less than 155°F, if it is at the request of the customer. The provider must notify the customer in advance of the possible health risk. The warning may be given in writing; as stated on the menu; or by visible sign warning.

The House amended, approved, and sent to the Senate **H.3318**. The bill allows the **BOARD OF COSMETOLOGY TO APPROVE CONTINUING EDUCATION COURSES TAKEN OUT OF STATE**. In addition to cosmetologists, the board licenses nail technicians, estheticians, and cosmetology school instructors.

The House amended, approved, and sent to the Senate **H.3513**, pertaining to **FIDELITY BONDS FOR COUNTY OFFICIALS**. A fidelity bond is an "honesty bond" that would indemnify a county for loss due to embezzlement, larceny, or gross negligence by a county official or employee holding a position of trust. This bill would permit counties to purchase a fidelity bond covering all county officials who are statutorily required to be bonded and any other officials and or employees that a county may feel necessary. Currently, new individual bonds are required to be purchased anytime there is turnover because the bonds cover the individual person and not the position the person holds with the county. Blanket fidelity bonds cover county officials' positions rather than individuals and do not need to be repurchased each time there is turnover. This bill also permits counties to bond county officials and employees for an amount higher than is currently statutorily required. There is nothing that currently prevents counties from doing this, however this bill clarifies that counties are able to do so.

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The House amended, approved, and sent to the Senate **H.3674**, a bill **AUTHORIZING THE SOUTH CAROLINA STATE BOARD OF DENTISTRY TO ISSUE LICENSES BY CREDENTIALS TO PRACTICE DENTISTRY**. This bill will allow, but not require, the Board of Dentistry to issue a license to an applicant from any state or territory of the United States, if the applicant is at least 21 and has graduated from a dental college approved by the board and:

1. Passed a state or regional clinical examination approved by the Board and an exam given in English on S.C. dental laws and regulations;
2. Holds a current unrestricted license to practice dentistry in another U.S. state or territory;
3. Has been actively practicing at least five years immediately preceding the application;
4. Completed seventy hours of continuing education over the preceding five years;
5. Has not been the subject of a final or pending license disciplinary action;
6. Has no felony convictions or other criminal convictions that would affect his or her ability to provide competent dental care;
7. Allows a record check with the National Practitioner Data Bank and verification of his or her Drug Enforcement Administration registration;
8. Agrees to a substance abuse test if requested by the board; and
9. Agrees, if requested by the board, to provide proof he or she has no physical or psychological impairment that would affect his or her ability to practice dentistry.

The board will be allowed to conduct examinations and interviews with an applicant to determine the applicant's fitness to practice dentistry in South Carolina. If the licensee from another state or territory does not establish an active practice within two years, the license will automatically be revoked.

The House approved and sent to the Senate **H.3301**. This bill provides that the **\$50,000 HOMESTEAD EXEMPTION PROVIDED TO PERSONS OVER SIXTY-FIVE YEARS AND TO PERSONS WHO ARE DISABLED, MUST BE INDEXED TO INFLATION** in the same manner and percentage that federal income tax brackets are adjusted to reflect increases in the consumer price index.

The House amended, approved, and sent to the Senate **H.3453**, regarding **PROPERTY TAXES ON CERTAIN BOATS**. The bill provides that a boat on which the interest portion of indebtedness is deductible under the IRS Code as an interest expense on a qualified primary or second residence is also a primary or second residence for purposes of *ad valorem* taxation in South Carolina and is considered real property for property tax purposes. This provision would change the assessment ratio on these boats from 10.5% to 6%. The bill provides an exemption from property taxes for an amount of the fair market value of any watercraft sufficient to limit to one thousand, five hundred dollars the total property tax on the watercraft for a property tax year. The bill provides criteria under which a trailer used for camping a recreational travel that is pulled by a motor vehicle is to be considered real property rather than personal property for property tax purposes.

The House approved and sent to the Senate **H.3305**, a bill which **AUTHORIZES MONTHLY INSTALLMENT PAYMENTS OF REAL PROPERTY TAXES**.

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The House amended, approved, and sent to the Senate **H.3885**. This bill **OFFERS INCENTIVES TO MANUFACTURING, WAREHOUSING, AND DISTRIBUTION COMPANIES WHO INCREASE THEIR BASE PORT CARGO BY A MINIMUM OF 5% OVER 2005 TOTALS**. The bill allows companies to take one of two tax credits: (1) an additional \$500 tax credit for each new job created or (2) an additional 2% investment tax credit for investments in new facilities, plant, and equipment. In addition, for every incremental 2.5% over the minimum 5%, companies may take either (1) an additional \$250 tax credit for each new job created, up to a maximum of \$1,500, or (2) an additional 1% investment tax credit, up to a maximum of 6%. In order to be eligible for the credit, base year port cargo volume must be at least 75 tons of noncontainerized cargo or ten loaded TEUs (twenty-foot equivalent units). Companies may only take one of the credits. These credits are capped at \$8 million with an additional \$2 million discretionary for the Coordinating Council.

The House amended, approved, and sent to the Senate **H.3673**. This bill revises numerous provisions regarding **PUBLIC INSTITUTIONS OF HIGHER LEARNING**. As reported by the Committee, the bill:

- Allows public institutions of higher learning to spend federal and other nonstate revenue to provide lump-sum bonuses, according to the university's guidelines and with proper documentation;
 - Allows public institutions of higher learning to offer education fee waivers to no more than four percent of the undergraduate student body;
 - Allows public institutions of higher learning to establish research grant positions funded by grant money without regard to authorized FTE positions allocated to the institution under conditions delineated in the bill;
 - Allows public institutions of higher learning to offer and fund, from any source of revenue other than state-approved sources, health insurance to full-time graduate assistants under a plan developed and approved by the institution;
 - Provides that the board of a public institution is vested with the power of eminent domain over private lands as provided in the bill, and subject to approval of the State Budget and Control Board;
 - Allows a public institution of higher learning to negotiate for its annual audit and quality review process with firms selected from a list preapproved by the State Auditor's Office;
 - Provides that one-half of the funds appropriated from the Education Lottery for technology must be used for a University Technology Program and awarded to public four-year universities, excluding USC-Columbia, Clemson, and MUSC, and provides a formula for awarding these funds;
 - Repeals a section of law which authorizes establishment of a four-year culinary arts program at Trident Technical College;
 - Provides that, in addition to current **qualifications required for a Palmetto Fellows Scholarship**, a student shall have either of the following:
 - a minimum score of 1200 on the SAT or an equivalent ACT score; a cumulative 3.5 grade point ratio at the end of the junior year; and rank in the top six percent of the class at the end of the sophomore or junior year or at the end of the first semester of the senior year, as provided in the bill;
- OR**
- A minimum score of 1400 on the SAT or an equivalent ACT score; and a cumulative 4.0 grade point ratio at the end of the junior year;

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- Provides that a student who met the initial eligibility requirements for the Palmetto Fellows Scholarship as a high school senior and has met the continuing eligibility requirements shall receive the award. Also, a student who received this scholarship as a high school senior, but who declined the award may reapply for the annual scholarship if he meets the initial and continuing academic eligibility requirements, if he transfers to a qualifying in-state institution.

Requires that the number of semesters or years a student attends an out-of-state institution must be deducted from the number of semesters or academic years a student is eligible for the scholarship.

The House approved and sent to the Senate **H.3932**. This bill revises certain definitions included in the State General Obligation Economic Development Bond Act and provides further for the manner in which these bonds shall be issued. The bill **ADDRESSES THE STATE SUPREME COURT'S DECISION WHICH HELD THAT CERTAIN PROVISIONS OF ACT 187 OF 2004 (LIFE SCIENCES ACT, ET AL) WERE UNCONSTITUTIONAL** because of a multiplicity of subjects in the same enactment. The bill includes a determination by the General Assembly to reenact certain of these provisions with amendment in particular cases in a separate act, including initiatives which have the commonality of being funded from the same funding source relating to the issuance of general obligation bonds for stated public purposes authorized by the South Carolina Constitution. The bill includes a finding by the General Assembly that the funding of these projects with these bonds serves a valid public purpose and benefits South Carolina with subsequent economic and employment benefits.

The House amended, approved, and sent to the Senate **H.3905**, regarding the State Auditor. This comprehensive bill revises numerous provisions regarding the **DUTIES, OVERSIGHT FUNCTIONS, AND RESPONSIBILITIES OF THE STATE AUDITOR**. The bill deletes archaic language and out-of-date requirements and practices, and specifies more modern audit practices to be followed by the State Auditor.

The House amended, approved, and sent to the Senate **H.3742**. Currently, resident **VENDORS** or vendors whose products are indigenous to South Carolina are provided a seven percent preference for purposes of the State Procurement Code. This bill replaces this preference with a "Best Value Preference," which is provided to vendors who show the most positive economic impact based on a model to be determined by the Board of Economic Advisors and approved by the State Budget and Control Board. These provisions do not apply to any solicitation, bid, offer, or procurement where the contract award is less than twenty-five thousand dollars.

The House approved and sent to the Senate **H.3725**. This bill **EXEMPTS FROM ACROSS THE BOARD REDUCTIONS AMOUNTS APPROPRIATED IN THE ANNUAL BUDGET AS SALARY SUPPLEMENTS FOR COUNTY CLERKS OF COURT, PROBATE JUDGES, SHERIFFS, REGISTRARS OF DEEDS, COUNTY AUDITORS, COUNTY TREASURERS, AND COUNTY CORONERS**. The bill also adds county coroners to the list of county officers to whom the General Assembly shall appropriate annually salary supplements.

They amended, approved, and sent to the Senate **H.3296**, a bill which **REALLOCATES TO THE DEPARTMENT OF TRANSPORTATION (DOT) STATE NON-FEDERAL AID HIGHWAY FUND, CERTAIN FINES AND FEES** including but not limited to fines and

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fees related to: use of dyed motor vehicle fuels; petroleum products; driver's licenses, permits, and special identification cards; and motor vehicle registration and licensing. The bill eliminates, over a five-year period, funding provided to the South Carolina Coordinating Council for Economic Development from the gasoline user fee, but phases in a new funding source to compensate for this loss of revenue. The bill provides that DOT operational revenues must be placed in either the State Highway Fund or the State Non-Federal Aid Highway Fund (currently this revenue may only be placed in the State Highway Fund), and the bill provides for a declining schedule of payments for DOT's cost of administration.

The House amended, approved, and sent to the Senate **H.3523**, regarding the **PRISON INDUSTRY PROGRAM**. This bill requires the Department of Corrections, in conjunction with the Department of Commerce, to develop and maintain a marketing plan to attract private sector businesses for the employment of inmates through the prison industries program. The marketing plan must include, but not be limited to, provisions of public advertising to establish a prison-based industry and a certification by the Department of Commerce that each new contract does not create an unfair competitive wage disadvantage to the local economy. The bill requires that the marketing plan and procedures for negotiating new contracts and contract renewals be approved by the Budget and Control Board prior to implementation. The bill requires the Department of Corrections to submit annual audit reports of the program to the General Assembly. The bill also provides for deductions from inmate wages for victim restitution, the South Carolina Victim's Compensation Fund, and the Department of Corrections to defray costs of the inmate's room and board.

The House amended, approved, and sent to the Senate **H.3726**, "**CHANDLER'S LAW**," received a favorable with amendment report from the full committee. This legislation enacts the "**ALL-TERRAIN VEHICLE SAFETY ACT**." Among other things, this bill provides that a person 16 years of age or younger may not operate an all-terrain vehicle (ATV) within this State unless the person: (1) has successfully completed an ATV safety education course provided by or approved by the Department of Natural Resources (DNR), and has been issued a safety certificate; or (2) is operating the ATV as part of a prescribed ATV safety education, training, and skills program and is under the direct supervision of a certified ATV safety instructor.

The bill further provides that a person 16 years of age or younger may not operate, ride, or otherwise be propelled on an ATV within this State unless the person wears a safety helmet and eye protection meeting United States Department of Transportation standards for motorcycles.

Under the bill, ATVs are exempt from ad valorem personal property taxes beginning January 1, 2005.

The restrictions in this legislation apply to operation of an ATV's on those lands open to the public.

Under the bill, it is unlawful to operate an ATV except in compliance with the local regulations and restrictions for an ATV operation. The bill requires a person 16 years of age or younger must be accompanied by an adult.

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The bill further provides that it is unlawful to operate an ATV between one-half hour after sunset to one-half hour before sunrise unless it is equipped with operational headlights, and they are on.

Under the bill, it is unlawful to cross an unbridged stream except at a designated ford or crossing. Riding in any water bodies or watercourses is unlawful.

The bill requires that an ATV have an effective muffler system in good working condition; a United States Department of Agriculture Forest Service approved spark arrester in good working condition, and a brake system in good operating condition.

Under this bill, it is unlawful to operate an ATV while under the influence of alcohol or any controlled substance. The bill provides that it is unlawful to operate an ATV in a negligent or reckless manner. Also, it is unlawful to operate an ATV in a manner that damages flora or fauna, roads, trails, firebreaks, signs, gates, guardrails, bridges, fencing, or other public property.

The bill provides that no governmental entity and no property owner is liable for injuries or damage resulting from an ATV operation on lands open to the public for an ATV operation. Under this legislation, the State is absolutely immune from liability for any injury or damage as a result of operating an ATV on any lands at any time.

Violations of this legislation, unless otherwise specified, are misdemeanors punishable by a fine of not less than \$50 dollars nor more than \$200 dollars.

The House amended, approved, and sent to the Senate **H.3724**, a bill which **AMENDS THE TAX INCREMENT FINANCING ACT FOR COUNTIES** by extending the application of the Act to more rural areas and by adding additional elements to development projects necessary to assist such rural areas. The bill adds to the factors which may lead to an area's designation of "blighted," areas which are impaired by presence of or potential environmental hazard; lack of storm drainage; and inadequate transportation infrastructure. The bill adds to the factors which may lead to an area's designation of "conservation area," presence of or potential environmental hazard; lack of storm drainage; inadequate transportation infrastructure; agricultural foreclosures; static or declining agricultural land rental rates; depopulation; area-wide economic decline; or static *per capita* income. The bill also expands the definition of a "sprawl area" which is a rural development zone, and expands the definition of "redevelopment plan," "redevelopment project," "redevelopment project area," and "redevelopment project costs."

The House approved and sent to the Senate **H.3819**, a bill relating to the **PARTICIPATION OF DISABLED LAW ENFORCEMENT OFFICERS IN STATE HEALTH/DENTAL INSURANCE**. This bill provides that a law enforcement officer employed by an entity whose employees are eligible for state insurance plans who is permanently disabled in the line of duty and whose employment is terminated as a result of the disability is eligible for state health and dental insurance plans and state-paid premiums.

The House returned **S.418** to the Senate with amendments. This legislation authorizes and provides for the **CREATION AND ISSUANCE OF "ARTS AWARENESS" SPECIAL LICENSE PLATES**. These special plates would be sold for a biennial fee of

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seventy dollars, in addition to the regular license plate fee. After deducting funds to defray the costs of producing and administering the plates, remaining funds from sale of the plates would go to the South Carolina Arts Commission and be used to support activities that "build a thriving arts environment in South Carolina."

The House amended, approved, and sent to the Senate **H.3340**, a joint resolution authorizing **PUBLIC INSTITUTIONS OF HIGHER LEARNING TO DEVELOP ENERGY SAVINGS PLANS** which over an average ten-year period will realize tangible savings in utilities cost more than the cost of the funds expended to make the improvements. The bill also encourages institutions implementing such plans to use the South Carolina Energy Office's ConserFund Program and the Master Lease Plan of the State Treasurer's Office.

The House amended, approved, and sent to the Senate **H.3827**, pertaining to **COASTAL TIDELANDS AND WETLANDS**. This bill relates to the authority of the Department of Health and Environmental Control to permit or deny alteration or utilization within coastal tidelands and wetlands areas designated as critical areas. Under this bill, a survey delineating coastal waters or wetlands must include in bold type the following statement: "The area shown on this plat is a representation of department permit authority on the subject property. Critical areas by their nature are dynamic and subject to change over time. By delineating the permit authority of the department, the department in no way waives its right to assert permit jurisdiction at any time in any critical area on the subject property, whether shown hereon or not." Current law provides that a critical area line established expires after three years from the department date on the survey; this bill increases that time frame from three years to five years. The bill also provides an exception for eroding coastal stream banks where it can be expected that the line will move due to the meandering of the stream before the expiration of the five- year time limit and where manmade alterations change the critical area line.

The House amended, approved, and sent to the Senate **H.3615**. This bill relates to the **PRACTICE OF VETERINARY MEDICINE**, so as to conform current law to the statutory organizational framework for boards under the administration of the Department of Labor, Licensing and Regulation. The bill provides for the licensure and regulation of veterinarians and veterinary technicians including, but not limited to the following: establishing an investigative review committee, revising procedures for conducting hearings, providing for licensure by endorsement, authorizing student preceptor programs, providing procedures for veterinarians if an animal is abandoned in their custody, providing for a lien on an animal when payment for care is not made, and establishing certain standards for emergency veterinary care facilities and mobile veterinary facilities.

The House approved and sent to the Senate **H.4003**, a bill that provides for safety criteria that a **CATAPULTING AMUSEMENT RIDE** must meet before the Department of Labor, Licensing and Regulation may issue a permit

The House amended, approved, and sent to the Senate **H.3240**, relating to the **GRAIN DEALERS GUARANTY FUND**. Current law authorized the Insurance Reserve Fund of the State Budget and Control Board to lend an amount up to four million two hundred thousand dollars on a one-time basis to the South Carolina Department of Agriculture for the use of the Grain Dealers Guaranty Fund. This bill provides that when all monies

received from the Insurance Reserve Fund or State General Fund have been paid, the rate of assessment shall drop from two cents each bushel to one cent each bushel. This bill also creates a committee to study the grain dealers and grain producers guaranty funds; before January 14, 2006, the committee must report to the General Assembly on steps necessary to make the funds more efficient and equitable.

The House amended, approved, and sent to the Senate **H.3235**. This bill relates to **DROUGHT RESPONSE AND THE CURTAILMENT OF NONESSENTIAL WATER USE DURING SEVERE OR EXTREME DROUGHT**. Under this bill, certain agricultural purposes are considered essential water use and are exempt from mandatory curtailment of nonessential water uses. The bill further provides that water used for human health and safety has the highest priority in the essential water category.

The House approved **S.719** and enrolled the joint resolution for ratification. This joint resolution authorizes the Department of Corrections to utilize **INMATE LABOR** until July 1, 2007, to perform any portion of the construction or renovation, or both, of a food service facility at the Stevenson Correctional Institution and the relocation of a 96 bed housing unit from the former Greenwood work release facility to the Stevenson Correctional Institution.

The House approved and sent to the Senate **H.3963**, a bill that designates the portion of United States Highway 17 located in Colleton County as **ACE BASIN SCENIC PARKWAY**.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

S.558 REVISING THE SIZE OF THE BOARD OF WATER DISTRICTS Sen. Knotts

This bill authorizes the board of a rural community water district to revise the size of the board to not less than five members nor more than 10 members. To revise the board membership, the board must hold a public hearing in the district and adopt a resolution to increase or reduce the board membership by a vote of not less than 75 percent of the existing board members. A resolution to increase the board must include the initial term of appointment for each seat added, not to exceed six years. A board member's seat that is eliminated because of a resolution reducing the size of the board must cease to exist upon the expiration of the term of the board member serving in the seat being eliminated.

S.765 REPEAL OF SEVERAL LAWS IN TITLE 47 AND TITLE 50 WHICH ARE UNCONSTITUTIONAL OR ANTIQUATED Sen. Gregory

This legislation repeals several laws in Title 47 and Title 50 which are either unconstitutional or antiquated:

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- section 47-3-310 relating to the disposal or removal of feral dogs from certain property
- section 47-3-320 relating to training of conservation officers to remove dogs
- section 47-3-510 relating to the authority of an owner of a hunting dog to register the dog with the Department of Natural Resources
- section 50-1-20 relating to definition of hunters and hunting
- section 50-3-360 relating to employment of deputy officers in game zone 2;
- section 50-3-396 relating to the use of an official summons for littering violations
- section 50-5-2517 relating to prohibited acts in connection with a dolphin or porpoise
- section 50-11-30 relating to extension of hunting seasons opening or closing on Sunday
- section 50-11-1070 relating to authority to kill bobcats without a license
- section 50-13-60 relating to the department's authority to declare a closed season on fish in streams on recommendation of county legislative delegations
- section 50-13-70, relating to notice of a season closed pursuant to section 50-13-60
- section 50-13-80 relating to conduct which is prima facie evidence of violating a season closed pursuant to section 50-13-60
- section 50-13-120 relating to no size limit on fresh-water game fish or cold-water trout
- section 50-13-350 relating to unlawful fishing or trespassing in private artificial ponds used to breed fish or oysters
- section 50-13-980 relating to presumptions from possession of fish in excess of legal limits
- section 50-13-1760, relating to sale of white perch and invoices required for imported fish
- sections 50-19-750, 50-19-760, 50-19-960, 50-19-1160, 50-19-1170, 50-19-1180, 50-19-1510, and 50-19-2310, all relating to special hunting and fishing provisions
- section 50-21-60 relating to certain personnel, expenses, and salaries of the Department of Natural Resources required to be approved by the budget and control board

H.3978 LICENSING AND REGULATION OF FORESTERS Rep. Witherspoon

This bill conforms the licensing and regulation of foresters to the statutory organizational and administrative framework established for professional and occupational licensing boards. The bill further provides for and clarifies professional forestry standards and practices. The bill revises procedures for licensing of forestry professionals as well as provides penalties for certain violations.

EDUCATION AND PUBLIC WORKS

S.57 HANDICAPPED LICENSE PLATES Sen. Sheheen

This bill makes numerous changes to provisions regarding handicapped license plates. Revisions include but are not limited to: revising the definition of "handicapped" for purposes of acquiring a handicapped license plate; revising the criteria/procedure for obtaining handicapped plates and handicapped placards (including requirements for

picture identification cards for persons using handicapped plates); penalties for illegally duplicating, forging, or selling a handicapped placard or plate; and a provision that a handicapped person must be allowed to park in metered or timed parking spaces without being subject to parking fees or fines.

S.138 ALL-TERRAIN VEHICLES Sen. Hayes

This bill adds provisions for the registration and licensing of all-terrain vehicles, defined in the bill as motorized vehicles designed primarily for recreational non-highway travel and traveling on three or more low-pressure tires.

S.466 PERSONALIZED LICENSE PLATES Sen. Moore

Currently, every personalized license plate issued to members of the General Assembly and members of licensed state commissions and boards expires January 31 each year in which a new session of the General Assembly begins. This will apply this provision also to federal commissions and boards.

**S.597 MANUFACTURERS' SERIAL PLATES OF
SCRAP/DISMANTLED/DESTROYED/SALVAGED/
ABANDONED VEHICLES Sen. Ryberg**

This bill revises provisions regarding scrap, dismantled, destroyed, salvaged, and abandoned vehicles, including defining a "total loss paid vehicle" as any motor vehicle which is damaged to the extent that the cost of repairing the motor vehicle, including both parts and reasonable market charges for labor, does not equal or exceed seventy-five percent of the fair market value of the motor vehicle.

**H.3979 SPECIAL LICENSE PLATES FOR PURPLE HEART
RECIPIENTS Rep. Barfield**

This bill provides that a person who qualifies for the special "Disabled Veteran" license plate also who also qualifies for the special "Purple Heart" recipient license plate, may be issued a "Disabled Veteran" license plate with a Purple Heart insignia, and numbers showing that the license plate was issued to a disabled American Veteran who also is the recipient of a Purple Heart.

S.100 TEACHER SALARY SCHEDULES Sen. Richardson

This bill requires the State Department of Education to create a commission to study and determine necessary changes to the salary schedule for teachers. The bill provides for the composition of the commission and specifies that the commission is to report to the General Assembly by January 1, 2006, regarding - among other things - strategies that facilitate the improvement of recruitment, retention, and education or professional development of teachers in schools scoring below average or unsatisfactory and hard-to-staff schools.

S.114 PUBLIC SCHOOL INSTRUCTIONAL MATERIALS Sen. Ritchie

This bill revises the criteria for the adoption of instructional materials for public schools by providing that all instructional materials placed on the approved list of instructional materials and textbooks for use in South Carolina public schools shall contain the substance and level of performance outlined in the grade and subject specific academic standards adopted by the State Board of Education.

S.415 PALMETTO FELLOWS SCHOLARSHIPS Sen. Fair

This bill provides that a Palmetto Fellows Scholarship is available to an eligible resident student of this state who attends or will attend an eligible four-year public or independent institution. The bill includes a definition of "public or independent institution" and "resident student," and revises the definition of "eligible institution."

S.613 FEES FOR SPECIAL LICENSE PLATES Sen. Fair

This bill provides that a specified portion of the fee collected for special license plates must be returned to the organization which requested creation of the plates, provided that the organization is a 501(C)(3), 501(C)(7), or 501(C)(8) and has been chartered for five years.

S.736 VIETNAM VETERAN SPECIAL LICENSE PLATES Sen. Ryberg

This bill provides that only Vietnam veterans who served on active duty in Vietnam at any time during the period of February 28, 1961, to May 7, 1975, may be issued the special Vietnam Veteran license plates. The bill also requires the motor vehicle owner to present certain proof, specified in the bill, that he served in the military on active duty in Vietnam.

S.737 SPECIALIZED VEHICLES Sen. Ryberg

This bill repeals a current section of law relating to the Department of Motor Vehicles' refusal to renew licenses and registrations for non-payment of property tax; biennial plates; validation and revalidation decals; and fees, and adds the provisions in this section to Article 1, Chapter 1, Title 56, of the 1976. The bill re-establishes this repealed section as "Specialized Vehicles," and includes in the newly-titled section provisions relating to "low speed vehicles," defined in the bill as four-wheeled motor vehicles, other than all-terrain vehicles, whose speed attainable in one mile is more than twenty miles an hour and not more than twenty-five miles an hour on a paved level surface.

H.4006 ASSOCIATED DEGREE STUDENTS IN FOUR-YEAR INSTITUTIONS Rep. Moody-Lawrence

This bill requires that a four-year state institution of higher learning that accepts students with an associate degree in early childhood education for work toward a four-year degree in early childhood education shall implement a mechanism for evaluating the competency level of the students for appropriate placement in the four-year course of study.

H.4017 STIPENDS FOR STATE COLLEGE/UNIVERSITY ATHLETES Rep. F.N. Smith

This bill requires state colleges or universities to provide a \$350 per month stipend to football and basketball players during each month of their respective seasons.

H.4019 MERCURY PROHIBITION IN SCHOOLS Rep. Merrill

This bill provides that beginning January 1, 2007, schools may not possess, use, or purchase elemental mercury or a mercury compound for use in the classroom. The bill also requires the Department of Health and Environmental Control to sponsor a statewide mercury collection effort to ensure that existing mercury supplies are collected, removed, and recycled.

JUDICIARY

S.47 CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE AND SEX OFFENDER REGISTRY Sen. Cromer

This bill expands the definition of criminal sexual conduct in the first degree. Current law provides that a person commits criminal sexual conduct in the first degree if the actor engages in sexual battery with the victim who is less than 11 years of age. Under this bill, criminal sexual conduct in the first degree is expanded to include when the actor engages in sexual battery with a victim who is less than 16 years of age and the actor has previously been convicted of, pled guilty or no contest to, or adjudicated delinquent for certain sexual offenses or has been ordered to be included in the sex offender registry. This bill provides that upon conviction for criminal sexual conduct in the first degree, the actor must be punished by imprisonment for not less than 10 years nor more than 30 years, no part of which may be suspended or probation granted.

The bill also provides that any person required to register as a sex offender is prohibited from living in campus student housing at a public institution of higher learning supported in whole or in part by the State.

S.137 FAMILY COURT MAY ORDER THAT CUSTODY OF A MINOR CHILD BE AWARDED TO THE CHILD'S 'DE FACTO CUSTODIAN' UNDER CERTAIN CIRCUMSTANCES Sen. Hayes

Under this bill, the Family Court may order that custody of a minor child be awarded to the child's de facto custodian under certain circumstances. 'De facto custodian' means, unless the context requires otherwise, a person who has been shown by clear and convincing evidence to have been the primary caregiver for and financial supporter of a child who: (1) has resided with the person for a period of six months or more if the child is under three years of age, or (2) has resided with the person for a period of one year or more if the child is three years of age or older. Any period of time after a legal proceeding has been commenced by a parent seeking to regain custody of the child shall not be included in determining whether the child has resided with the person for the required minimum period. No proceeding to establish whether a person is a de facto custodian may be brought concerning a child in the custody of the Department of Social Services.

S.139 "UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT" Sen. Hayes

This bill revises procedures for establishing and enforcing child custody and visitation when one of the parties resides in this State and the other does not. The legislation repeals the current Uniform Child Custody Jurisdiction Act.

S.161 INCREASED PENALTIES FOR UNLAWFUL SALE OF BEER, WINE OR ALCOHOLIC LIQUORS TO A MINOR Sen. Elliott

This bill increases penalties for the unlawful sale of beer, wine or alcoholic liquors to a minor. In addition to other penalties, this bill requires for a first offense that a person attend a server education course approved by the South Carolina Department of Alcohol and Other Drug Abuse Services. Under this bill, a second offense is punishable by a

fine of not less than \$1,000 dollars or imprisonment for not more than one year, or both, in the discretion of the court. A third or subsequent offense is punishable by a fine of not less than \$2,000 or imprisonment not more than two years, or both, in the discretion of the court.

S.370 COSTS AND ATTORNEYS FEES FOR ELECTION PROTESTS AND QUALIFIED CIVIL IMMUNITY FOR POLL WORKERS Sen. Hawkins

This bill provides for an award for costs and attorney fees associated with an election protest if the proceeding is frivolous. Under this bill, a poll worker, whether or not compensated, while acting pursuant to or in furtherance of the holding or conduct of an election, shall be immune from personal civil liability for any act or omission when the act or omission is done or made in good faith and does not constitute gross negligence, recklessness, willfulness, or wantonness.

S.578 USE OF THE COMPUTER BY A COUNTY FOR DRAWING AND SUMMONING JURORS Sen. Martin

At the discretion of the governing body of the county, this bill allows jury commissioners to use a computer for drawing and summoning jurors. Computer software employed for the purpose of drawing and summoning jurors must be designed so as to ensure a random selection of jurors from the population available for jury service. The physical presence of all the jury commissioners is not required at the computerized drawing and summoning of jurors, if the governing body of the county establishes a secure procedure allowing for their participation by other means. The computerized drawing and summoning of jurors must take place in the office of the clerk of court as a public event to ensure the absolute integrity of the random selection process. The Supreme Court shall direct by order procedures required to implement these provisions. The bill also requires a clerk of court to use one of the following methods for drawing the names of jurors for the purpose of impaneling a jury: (1) drawing of the names of jurors by a responsible and impartial person designated by the clerk of court, with the approval of the presiding judge; or (2) drawing of the names of jurors by computer.

S.417 "UNIFORM INTERSTATE FAMILY SUPPORT ACT" Sen. Hayes

This bill replaces the Uniform Interstate Family Support Act with the most current version of the legislation. This bill provides uniform legislation to assist with the interstate enforcement of support, including civil and criminal enforcement procedures.

S.596 UNIFORM TRAFFIC TICKETS Sen. Sheheen

Under this bill, a law enforcement agency may utilize computers and other electronic devices to issue uniform traffic citations and store information resulting from the issuance of a traffic citation if this method of issuing a citation has been approved by the Department of Public Safety. A law enforcement agency that issues uniform traffic tickets in an electronic format may generate a printed copy of this ticket by using an in-car data terminal. A copy of the ticket must be given to the offender. The agency may then transmit the ticket data electronically to the Department of Motor Vehicles (DMV) for its records and for audit purposes, the law enforcement agency by which the arresting officer is employed, and the trial officer for his/her records. If any of these entities does not have the capability to accept the ticket data solely using electronic means, the arresting agency must provide the entity with a printed copy of the ticket generated by the in-car data terminal. Data transmissions to the DMV must be made pursuant to that agency's electronic system specifications. Printed copies provided to the DMV must meet that agency's document processing requirements.

The bill further requires that each ticket shall have a unique identifying number. Each printed copy must be labeled at the bottom with the purpose of the copy. A handwritten traffic ticket must consist of four copies; current law requires five copies. An electronic traffic ticket must consist of at least one, blue printed copy that must be given to the vehicle operator who is the alleged traffic violator and as many as three additional white printed copies if needed to communicate with the DMV, the police agency, and the trial officer.

S.654 FIREARMS Sen. Campsen

In order to purchase a pistol, current law requires that the purchaser complete an application in triplicate providing certain information such as: name, address, date of birth, social security number, and driver's license number. This bill deletes the requirement for the application. Relating to the issuance, duration, conditions placed on, and forfeiture of a firearms retail dealer's license, this bill deletes the provision that requires a record to be made of every pistol sold on a firearm transaction form. Current law requires a dealer to make available for inspection by the State Law Enforcement Division all records he/she is required to maintain; this bill deletes this requirement. This bill also deletes a provision that penalizes a licensed dealer for giving false information on an application for purchase or transfer of a firearm.

S.659 CONCEALABLE WEAPONS PERMITS Sen. Campsen

This bill revises the procedure for renewing a concealable weapons permit; a permit is valid for four years. Under this bill, the State Law Enforcement Division shall renew a permit upon payment of a \$50 dollar renewal fee; the fee must be waived for disabled veterans and retired law enforcement officers. The bill also requires the completion of the renewal application and submission of a photocopy of the applicant's valid South Carolina driver's license or identification card.

S.681 CAMPAIGN CONTRIBUTIONS Sen. Moore

With regards to campaign practices, this bill amends the definition of the term 'campaign finance contributions' so as to provide that contributions expended to influence the outcome of an elective office, which do not expressly advocate a vote for or against a candidate, but which, when taken in context have no reasonable meaning other than to urge the election or defeat of a clearly identified candidate must be disclosed in the same manner as contributions disclosed pursuant to S.C. Code Ann. §8-13-1308(F) but are not subject to the contribution limits of S.C. Code Ann. §8-13-1322. The bill also amends the definition of the term 'contribution.' Under the bill, a contribution does not include volunteer personal services on behalf of a candidate or committee for which the volunteer or any person acting on behalf of or instead of the volunteer receives no compensation either in cash or in-kind, directly or indirectly, from any source.

**H.3976 "SOUTH CAROLINA NOTICE AND OPPORTUNITY TO CURE
NONRESIDENTIAL CONSTRUCTION DEFECTS ACT" Rep. Harrison**

This bill outlines procedures for right to cure nonresidential construction defects before a civil action or other remedy provided by law or contract may be instituted or continued.

**H.3988 CONTRACT OF SALE AND BOND FOR TITLE MUST HAVE A
DERIVATION CLAUSE BEFORE IT IS ACCEPTED FOR RECORDING
Rep. Huggins**

This bill requires that a derivation clause be included on a contract of sale or bond for title of real property before it is accepted for recording. For purposes of this legislation, 'contract of sale' or 'bond for title' is the conveyance of real property by a grantor who finances the sale and retains title as security for the debt.

H.3990 PROVISIONS FOR ADOPTEE TO OBTAIN A COPY OF HIS OR HER ORIGINAL RECORD OF BIRTH Rep. Toole

This bill provides that an adoptee 21 years of age or older may obtain a copy of his or her original record of birth from the State Registrar, unless within the past three years the adoptee's birth parent has filed a notarized form with the State Registrar prohibiting release of identifying information. The bill requires a birth parent to be given information about prohibiting release of such information at the time of executing a consent or relinquishment for adoption. This bill applies to adoptions finalized after June 30, 2005, and applies to all other adoptions beginning July 1, 2009. The bill also requires the State Registrar to carry out a public service campaign educating the public about the provisions of this legislation.

H.3992 "SOUTH CAROLINA RED LIGHT RUNNING ACT" Rep. Hamilton

This bill authorizes local governments to adopt ordinances for the civil enforcement of certain traffic laws by the use of traffic control signal monitoring systems. The bill grants summary courts jurisdiction over noncriminal traffic citations. A violation detected solely by a traffic control signal monitoring system is deemed a noncriminal violation for which a civil penalty shall be assessed. No court costs, assessments, or surcharges may be assessed against the owner or driver of the vehicle, and no points may be assigned to the owner or driver of the vehicle. A civil penalty may not exceed \$100 dollars.

H.4004 SHORT-TERM VEHICLE SECURED LOANS Rep. Howard

This bill pertains to short-term vehicle secured loans. Under this bill, a secured party's exclusive remedy in the event of default is repossession, by judicial process and in the presence of a law enforcement officer, and sale. The bill further requires the secured party to remit the excess derived from the sale to the borrower.

H.4013 "SOUTH CAROLINA STARVATION AND DEHYDRATION OF PERSONS WITH DISABILITIES PREVENTION ACT" Rep. Clark

This bill provides a presumption that every person legally incapable of making health care decisions has directed to be provided with nutrition and hydration sufficient to sustain life. The bill provides for certain exceptions, including, among other things, that providing nutrition and hydration is not medically possible or would hasten death or that there is clear and convincing evidence that the person, when capable, gave contrary directives. The bill provides for injunctive relief in the event a person in violation of these provisions.

LABOR, COMMERCE AND INDUSTRY

S.353 COMMISSIONERS OF PILOTAGE Sen. McConnell

This bill revises provisions relating to relating to pilots and pilotage, so as to revise the jurisdiction of the Commissioners of Pilotage for Charleston and Georgetown and provide that these are the only Commissioners of Pilotage in this state. The bill further

provides for the manner in which commissioners are selected and operate and pilots are licensed, trained, and regulated.

S.607 CONSUMER CREDIT COUNSELING Sen. Lourie

This bill provides for the licensing and regulation of consumer credit counseling in this state by the Department of Consumer Affairs. The legislation includes: definitions, licensing requirements, a written contract, a thorough budget analysis, a trust account with at least quarterly accountings to the consumer, a surety bond, a limitation on fees, reports to the department, a list of prohibited activities, civil and criminal penalties for violations, and provisions making violations subject to the Unfair Trade Practices Act.

S.660 LICENSURE REQUIREMENTS FOR ARCHITECTS Sen. Rankin

This bill revises licensure requirements for architects, so as to eliminate provisions providing partial credit to applicants for those examination subject areas passed.

H.3987 DISSOLUTION OF A MECHANIC'S LIEN Rep. Huggins

This bill revises provisions relating to dissolution of a mechanic's lien if suit for enforcement of the lien is not commenced within six months of its filing, so as to provide for the form and substance of an "affidavit of cancellation of mechanic's lien" for filing as record proof of dissolution of the lien.

H.3996 INSURANCE PROVISIONS Rep. Cato

This bill revises various insurance provisions.

H.4008 REQUIREMENTS FOR HEALTH INSURANCE THAT COVERS MATERNITY OR NEWBORN CARE Rep. Lee

This bill provides for the regulation of and requirements for health insurance that provides coverage, benefits, or services for maternity or newborn care.

H.4009 FREE ACCESS TO WORKING PUBLIC RESTROOMS Rep. Hosey

This bill provides that a person doing business in this State who sells or offers for sale on a permanent basis merchandise to the public at a location open to the public for that purpose shall provide free access to the public to a working public restroom on the premises at that location.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.3993 TRAINING AND EXPERIENCE REQUIREMENTS TO BE A COUNSELOR FOR VOCATIONAL REHABILITATION Rep. Edge

This bill outlines training and experience requirements that a counselor for vocational rehabilitation must have.

H.4015 AMENDMENTS TO THE "SOUTH CAROLINA PHYSICIAN ASSISTANTS PRACTICE ACT" Rep. White

A physician assistant means a health care professional licensed to assist in the practice of medicine with a physician supervisor. This bill updates and clarifies several aspects of the practice of a physician assistant from licensure requirements to supervision requirements.

H.4018 REPORT TO THE GENERAL ASSEMBLY CONCERNING MERCURY

Rep. Merrill

This joint resolution directs the Department of Health and Environmental Control to prepare a report to be submitted to the General Assembly before January 1, 2007, that, among other things, provides a strategy for minimizing and eliminating mercury use in priority products in South Carolina.

WAYS AND MEANS

H.3977 LAW ENFORCEMENT TRAINING COUNCIL Rep. Thompson

This bill establishes and provides for the Law Enforcement Training Council, transferring to this Council all functions, duties, responsibilities, accounts, and authority statutorily exercised by the South Carolina Criminal Justice Academy Division of the Department of Public Safety. It is the stated intent of the bill to maximize training opportunities for law enforcement officers and criminal justice personnel, to coordinate training, and to set standards for the law enforcement and criminal justice service.

H.3986 REAL PROPERTY CONVEYANCES Rep. Huggins

This bill deletes the requirement of, and fee for, the Auditor's endorsement on deeds of conveyance for real property. The bill also repeals a relevant section requiring the Auditor's endorsement before a deed may be recorded and repeals a section requiring the Assessor's endorsement when a deed is recorded.

H.3989 PROPERTY TAX REASSESSMENTS Rep. Toole

This bill adds provisions concerning the notice required to be furnished to a taxpayer with regard to *ad valorem* property tax reassessments.

**H.3991 CONSTITUTIONAL AMENDMENT REGARDING
TAX INCREASES Rep. Vaughn**

This joint resolution proposes an amendment to the South Carolina Constitution providing that a bill or joint resolution imposing or increasing a tax, the revenue of which is credited to the State general fund, may not become law without the approval of two-thirds of the members elected to the House and two-thirds of the membership elected to the Senate.

S.128 SALE OF LOTTERY TICKETS Sen. Malloy

This bill deletes the prohibition against selling lottery tickets or shares on the date of any general or primary election.

H.4005 FREE TUITION FOR CERTAIN VETERANS' CHILDREN Rep. J. Brown

This bill amends provisions relating to free tuition for certain veterans' children by adding a provision that the veteran must have been born in, educated in, and entered the military in South Carolina.

H.4011 SCHOOL FINANCING/SCHOOL TRUST FUND Rep. Walker

This bill imposes an additional 2-1/2% sales tax (does not apply to accommodations) and raises maximum taxes/sales tax caps on certain other items. The additional revenue would be dedicated to a separate fund known as the "School Trust Fund" and must be paid monthly to school districts in an amount that is the district's proportionate

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share of School Trust Fund revenues based on the district's weighted pupil units as a percentage of statewide weighted pupil units as determined pursuant to the Education Finance Act.

The bill provides a property tax exemption for both real and personal property from school operating millage not otherwise exempt.

The bill revises provisions of the Education Finance Act, including revising the manner in which weightings are determined

The bill includes a provision which requires that beginning with fiscal year 2007, the General Assembly in the annual appropriations act with general fund revenue must appropriate sufficient revenues to provide allocations to school districts based on the full amount of the base student cost.

The bill provides for a referendum in counties in which the local option sales tax is currently imposed to determine whether to rescind the tax.

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