



South Carolina House of Representatives

Legislative Update

Robert J. Sheheen, Speaker of the House

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House Week in Review

Elections to the State Public Service Commission took up most of the House of Representatives' time early last week. Meeting in joint assembly Tuesday, the General Assembly reelected the seven incumbents running for PSC seats. Those incumbents reelected were Rudolph Mitchell for the PSC's at-large seat; Marjorie Amos-Frazier for the 1st District seat; Henry Yonce for the 2nd District seat; Guy Butler for the 3rd District seat; Fred Fuller Jr. for the 4th District seat; Cecil Bowers for the 5th District seat, and Caroline H. Maass for the 6th District Seat.

On Thursday, a number of significant bills were ratified as acts. These included H.4190, waiving school days due to Hurricane Hugo; S.567, the early intervention for pre-school age handicapped children; S.885, making littering from a motor vehicle a two point offense; S.668, dealing with the maximum compensation a doctor or medical school employee, employed by the state, could make, and H.3811, relating to the Legislative Audit Council.

Also ratified on Thursday was H.3844, which will provide a civil remedy for fraudulent check writing.

The House also gave third reading to Rep. McLellan's bill, H.4233, establishing new offenses and penalties for the taking of bears and bear parts.

In addition, the House also took time Thursday to debate H.3577, the bill requiring smoke detectors in rental units, and H. 3169, dealing with hazardous waste landfilling limits and other requirements dealing with hazardous waste. Objections placed both bills on the House contested calendar.

Bills Introduced

Here is a sampling of bills introduced in the House during the past week. Not all the bills introduced are featured here. The bills are organized by the standing committees to which they were referred.

Agriculture and Natural Resources Committee

Pet Shop Animals (H.4642, Rep. J. Bailey). This legislation would require a pet dealer or pet shop owner to provide the buyers of animals with a statement from a licensed veterinarian that the animal being purchased is free of disease and deformity.

If the owner or dealer fails to comply, the purchaser can return the animal within 12 months of the sale. The legislation also provides remedies for relief if a dealer or shop owner refuses to refund the money.

Study of the S.C. Mining Act (H.4652, Rep. J. Rogers). This joint resolution would establish a committee to study the success of the state's Mining Act. The resolution states the law was enacted to ensure that the usefulness and scenic value of lands and waters involved in mining would receive the "greatest practical degree of protection and restoration." No comprehensive study of the law has been undertaken since its enactment in 1973. Under this resolution, a moratorium on mining permits would be imposed until the study is completed, no later than Jan. 1, 1991. The study panel would be made up of the state geologist, a member of the State Mining Council and a member of the Land Resources Conservation Commission.

Education and Public Works Committee

Points for Littering (H.4623, Rep. Rama). If enacted, this legislation would require the assessment of two points against the driver's license of any person convicted of littering, in addition to the current fine.

Toll Roads and Bridges (H.4629, Rep. Elliott). This bill would allow the State Highway Department to impose tolls on roads, bridges or highways in order to pay for them. Drivers who frequently use the roads or bridges put under a toll system could be exempted or receive discounts, under this legislation. The bill directs the department to use the proceeds from the tolls to pay for the road, bridge or highway. Once it is paid for, the toll would be lifted.

Dealer License Plates (H.4631, Rep. Hayes). In order to qualify to receive dealer license tags, this legislation would require the applicant to furnish proof that he has a retail business license and has sold at least ten motor vehicles in the past 12 months.

Dealer Plates on Demonstrators (H.4632, Rep. Hayes). This bill would add language to the current law providing that a dealer plate may be used on a vehicle only when it is being demonstrated for sale. Currently, the law simply states that the dealer plate may be used exclusively on motor vehicles owned by the dealer or wholesaler.

Parental Notification Before Suspension (H.4663, Rep. Ferguson). Under this legislation, the parents or legal guardians of students likely to be suspended would be notified by certified mail of the student's conduct by school authorities. The notification required by this bill would state:

- the conduct that would likely result in suspension
- that the parents must contact the administrator in five days to schedule a conference;
- that if no conference is scheduled by the parents or legal guardian and the conduct continues, the student would be suspended.

Felony Notice on Driver's License (H.4679, Rep. Waldrop). If this legislation is enacted, driver's license applicants would have to state whether or not they were convicted of a felony, and if so, what felony. This information would be displayed in a two digit code on each driver's license, indicating the person was either convicted of a felony not considered a violent crime or convicted of a felony considered a violent crime. If the driver has the felony conviction overturned or is pardoned, he may request the State Highway Department to remove the code from his license. The Corrections Department and the Department of Probation, Parole and Pardon Services would be required to turn over information to the Highway Department so that the department could appropriately mark the licenses of those inmates or parolees, convicted of felonies.

Judiciary Committee

Legal Representation and Child Abuse (H.4655, Rep. Keesley). This legislation would change the legal representation in child abuse and neglect proceedings from the circuit solicitor's office to the legal representatives of the state Department of Social Services.

Possessing Guns Like Law Enforcement (H.4657, Rep. Stoddard). Under this bill, licensed retail dealers would be able to purchase, possess and sell to qualified persons any firearm or pistol that law enforcement officers can use in the line of duty as authorized by state or federal law. Persons qualified to buy these weapons would also be allowed to use and possess them in the manner provided by law.

Volunteer Protection Act of 1989 (S.774, Sen. Martschink). The preamble to this bill recognizes the cost saving contribution made to society by volunteers and the need to protect volunteers from personal liability. To this end, this bill would bring the volunteer under the definition of "employee" in connection with a state agency, department or political subdivision. The legislation would also add "non-profit organization" to the definition of organization. To this end, the bill would protect employees of charitable and non-profit organizations from any personal liability in a tort actions brought against either of these two types of organizations.

Mental Health Patients, Weapons and Drugs (S.938, Sen. Bryan). This legislation parallels H.4240, prefiled last Fall, which places specific penalties on a state in-patient mental health patient who possesses illegal drugs, alcohol or weapons. Like the House bill, this bill also provides stiff penalties against the person who intentionally or negligently allows the patient access to drugs, alcohol or weapons. In either circumstance covered by this bill, possession of a firearm or weapon by a state mental health patient would be a felony.

Public Accommodations (S.1157, Senate Judiciary Committee). This anti-discrimination bill, passed by the Senate, differs from the public accommodation bill, passed by the House. The first article this bill provides for equal enjoyment and privileges to public accommodations without discrimination or segregation on the basis of race, color, religion or national origin.

Establishments defined in the bill are those places of public accommodation that the discrimination or segregation action would be "supported by state action." "Supported by state action" would be considered the licensing or permitting of any establishment or agent of the establishment by a state or local government. Establishments falling under this bill include any inn, hotel, motel or other establishment that provides lodging to transient guests. This excludes any establishment which has five rooms or less for rent, which also is occupied by the owner as his residence.

Also included is any restaurant, cafeteria, lunchroom, lunch counter, soda fountain or other facility engaged in selling food for consumption on the premises; hospital clinics or other overnight medical facility, any wholesale or retail establishment, any movie house, theater, concert hall, billiard parlor, saloon, barroom, golf course, sports arena, stadium or other places of amusement.

The bill specifically excludes from these provisions "private clubs or other establishments not in fact open to the general public." The bill prohibits anyone from denying the rights of public accommodation; intimidating or threatening anyone in an attempt to interfere with the use of accommodations, or punishing anyone for using this right.

Under Article 3 of this bill, the Attorney General would notify SLED to investigate any pattern or practice of discrimination prohibited by this legislation. After the results of the investigation are reported, the Attorney General may file a complaint with the State Human Affairs Commission. The commission would conduct a hearing. Failure to appear at the hearing could result in revocation of licenses or permits.

The panel, set up by the commission, could issue subpoenas. Any person or group charged in the complaint would have a right to an attorney and to produce evidence. All testimony would be given under oath. Any vote of the panel on the complaint would be made in executive session.

Permits and licenses could not be taken away from an owner due to the actions of an employee unless the discriminatory practice was known, open and notorious. In addition, the panel could not revoke a permit or license, even if discrimination is found, if:

- the panel concludes the establishment is one of public necessity and revoking its permit would be severely detrimental to the community;
- the panel concludes that the discrimination is limited to one segment of the establishment's operation. The permits or licenses for that segment only would be revoked;
- the panel concludes the discriminatory conduct is limited to one person or group of people whose permits and licenses could be revoked.

The final decision of the panel would be in writing and must list the licenses or permits to be revoked. The determination of the panel could not be appealed to the full commission and is the final administrative review. Upon the panel's findings, the Attorney General must notify the appropriate state agencies to revoke the license or permits. If the license or permit is revoked, the owner may not apply for another for three years.

In addition, violations of Article 1 would be a misdemeanor punishable by a fine of not more than \$2,000 and/or imprisonment for less than a year. In addition, the aggrieved party may take action of his or her own in the circuit courts to recover damages due to violation of Article 1 of this bill. The amount of damages would be a minimum of \$5,000. Anyone suffering discrimination must bring a complaint before the State Human Affairs Commission prior to bringing an action in circuit court.

Felony Contraband for DYS Youths (H.4661, Rep. Nettles). This bill would make it a felony for a juvenile committed to the Department of Youth Services to possess or be provided certain contraband articles. The punishment for furnishing the juvenile with contraband or for a DYS juvenile to possess the contraband would be a fine of between \$1,000 and \$10,000 and/or imprisonment of between one and 10 years.

Contraband, as defined by this legislation, would include weapons of any kind, illegal drugs, poisons or other dangerous chemicals, alcoholic drinks, keys, locks or tools not officially issued by DYS, items that cannot be purchased at the canteen, items that the juvenile does not have written permission to possess, and other items determined by the DYS Commissioner. These contraband items must be posted in a conspicuous place.

Cane Toad Kissing (H.4667, Rep. P. Harris). According to the federal Drug Enforcement Administration, cane toad licking is the latest way to hallucinate, because the toad, which can grow to the size of a dinner plate, secretes a toxin called "bufotenine." In order to nip this potential problem in the bud, this bill would make it a misdemeanor for anyone in South Carolina to kiss or lick a cane toad. If convicted, the person (besides getting warty lips) would have to do 30 days of community service at the Aquarium/Reptile Complex at Riverbanks Zoo in Columbia.

Interstate Cooperation Committee

Short-billed, Drop-tailed, Yellow-speckled Carolina Sparrow (H.4666, Rep. McTeer). This concurrent resolution asks the people of South Carolina to unofficially recognize this sparrow, last spotted deep in the Congaree Swamp, as the state bird. For a depiction of this creature, please refer to the newest state license plate.

Labor, Commerce and Industry Committee

Drug Free Workplace Act (H.4624, Rep. Rama). Under this bill, no person could receive a state grant or be considered for a state procurement contract unless the person has certified to the state agency he will provide a drug-free workplace. The legislation outlines what the person must do to certified his work place as drug free, including notifying his employees that as a condition of employment on the grant or contract, they must abide by the stipulations of this legislation. Additionally, the contractor would have to take appropriate personnel action, including firing the employee, if an employee is convicted of a drug violation. If the state agency finds the contractor has falsified the certification information, the agency can terminate the contract.

Beer and Wine at Gas Stations (H.4643, Rep. Haskins). This bill would make it illegal for gasoline stations with beer and wine permits to sell chilled beer or wine or to sell fewer than six separate containers of beer to one customer. Violation would be a misdemeanor with a fine of \$200 or 30 days in jail. Following a conviction, the beer and wine license of the station would be revoked.

ABC Commissioners (H.4649, Rep. Kirsh). Under this legislation, no member of the Alcoholic Beverage Control Commission could hold any other position of trust or profit. The legislation states plainly that a ABC commissioner "shall devote his entire time to the duties of the office. " If enacted, this legislation would apply to commissioners appointed after July 1, 1990.

Athlete Agents and Student Athletes (S.1202, Senate Education Committee). This legislation would regulate the actions of athlete agents and their dealings with student athletes. Under this bill, athlete agents would have to register with the state Department of Consumer Affairs every two years. Failure to register would be a felony punishable by a fine of \$5,000 and/or five years in jail.

Student athletes would be required to notify in writing the athletic director or president of their college if they enter into a professional sports contract or sign with an athlete agent before the student has completed his last intercollegiate contest, including post season games. The bill stipulates the time frame in which the student must give notification. Failure of the student to notify the college would be a misdemeanor punishable by a \$1,000 fine and/or one year in jail.

Athlete agents also would be required to give written notification to the athletic director or college president if they sign a student. The bill specifies the timing of the notice. Failure by an agent to give notification would be a felony, punishable by a \$5,000 fine and/or five years in jail. A bold face warning of the notification requirement must appear on any agent contract a student athlete signs.

If notification is not given as required by this legislation, the contract would be considered unenforceable and void. The student and agent who fail to provide the required notification would be liable for any damages to the college resulting from the student's ineligibility. Damages could be assessed equal to three times the value of the student's athletic scholarship. Student athletes are given ten days after notifying the college to rescind the contract.

Certain prohibitions for athletic agents are outlined in the bill. These include accepting a student as a client, who is referred by a university employee or coach, in exchange for legal services, or offering anything of value to a coach or college employee in exchange for student referrals.

Medical, Military, Public or Municipal Affairs Committee

Lawmen's Guns (H.4634, Rep. Carnell). Retiring law enforcement officers could purchase their service weapons for \$1, if this legislation is enacted.

Interstate Adoption Compact (H.4650, Rep. Hayes). The purpose of this legislation is to authorize the state Department of Social Services to enter into interstate agreements with out-of-state agencies to assist in carrying out services and providing medical assistance to families of adopted special needs children when they move out of state.

Forced Feeding of Prisoners (S.548, Sen. Shealy). This legislation would prohibit the forced feeding or intravenous feedings of a prisoner against his will.

Ways and Means Committee

Tax Payments Over \$20,000 (H.4625, Rep. McLellan). This bill would authorize the State Tax Commission to require any person owing \$20,000 or more in connection with their state tax return to make the payment in funds that would be immediately available to the state on the date of payment. The taxpayer would be required to submit evidence of the payment on or before the tax deadline. Failure to provide the evidence of immediate payment or failure to make the payment in funds immediately available would result in delinquent tax penalties and interest.

Probate Judges' Salaries (H.4626, Rep. Washington). In counties with populations of 200,000 or more, this legislation would require the salaries of probate judges to be not less than 90 percent of that paid to circuit judges. The primary associate probate judge in these counties would be paid no less than 80 percent of the circuit judges' salaries.

In addition, this bill would require probate and primary associate probate judges to be residents of the state at least five years before their election or appointment, at least 26-years-old, and a licensed attorney for at least five years. Probate judges may not practice law, under this legislation. Part time associate probate judges could practice law, but not before the probate court.

Kaolin and the High Technology Development Fund (H.4633, Rep. Kirsh). Unlike other states, South Carolina imposes no tax on mining natural resources. In other states, these taxes are used for the advancement of education, local governments and economic development. The mineral kaolin is mined in significant amounts in South Carolina and shipped throughout the world. This legislation would impose a five percent privilege tax on the value of production of the first sale of kaolin produced from a mine. The proceeds from this privilege tax would be distributed to the High Technology Development Fund. The use of this fund would be established annually by the General Assembly, with proceeds going only to projects that further the development of high technology in the state.