Advance Sheet No. 2 | September 1, 2010 | Pages 1345-1568 Acts 162-221

2010 REGULAR SESSION

Acts and Joint Resolutions

of the

GENERAL ASSEMBLY
OF THE STATE OF SOUTH CAROLINA

(continued on inside cover)

Numbers in parenthesis to left of act numbers (numbers in bold face) refer as follows: number with R before it refers to ratification number, number with S before it refers to bill number in Senate, and number with H before it refers to bill number in House of Representatives.

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If the first portion of the act on the opposite page is incomplete, see the preceding Advance Sheet for the first portion.

"(2) 'Commencement date' means the last day of the property tax year during which economic development property is placed in service, except that this date must not be later than the last day of the property tax year which is three years from the year in which the county and the sponsor enter into a fee agreement. The commencement date for an economic development project as defined in Section 12-44-30(16A) is the last day of the first property tax year in which economic development property is placed in service."

B. Section 12-44-30(13) of the 1976 Code, as last amended by Act 116 of 2007, is further amended to read:

"(13) 'Investment period' means the period beginning with the first day that economic development property is purchased or acquired and ending five years after the commencement date; except that for a project with an enhanced investment as described above, the period ends eight years after the commencement date. The minimum investment must be completed within five years of the commencement date. For an enhanced investment, the applicable minimum investment and job requirements under Section 12-44-30(7) must be completed within eight years of the commencement date. Investment period means for a qualified nuclear plant facility the period beginning with the first day that economic development property is purchased or acquired and ending ten years after the commencement date. For those sponsors that, after qualifying for the enhanced investment, have more than five hundred million dollars in capital invested in this State and employ more than one thousand people in this State, the investment period ends ten years after the commencement date. If the sponsor does not anticipate completing the project within these periods, the sponsor may apply to the county before the end of the investment period for an extension of time to complete the project. The extension may not exceed five years. If a project receives an extension of less than five years, the sponsor may apply to the county before the end of the extension period for an additional extension of time to complete the project for an aggregate extension of not more than five years. Unless approved as part of the original fee documentation, the county council of the county may approve an extension by resolution, a copy of which must be delivered to the department within thirty days of the date the resolution was adopted. An extension is not allowed for the time period in which the sponsor must meet the minimum investment requirement."

C. Section 12-44-30 of the 1976 Code, as last amended by Act 150 of 2010, is further amended by adding a new item after item (16) to read:

"(16A) 'Qualified nuclear plant facility' means a nuclear electric power generating plant regulated by the Nuclear Regulatory Commission and includes all real and personal property incorporated into or associated with the facility located or to be located within this State with a total minimum level of investment of one billion dollars."

D. Section 12-44-30(18) of the 1976 Code, as last amended by Act 69 of 2003, is further amended to read:

"(18) 'Sponsor' means one or more entities which sign the fee agreement with the county and makes the minimum investment, subject to the provisions of Section 12-44-40, each of which makes the minimum investment as provided in Section 12-44-30(13) and also includes a sponsor affiliate unless the context clearly indicates otherwise. If a project consists of a manufacturing, research and development, corporate office, or distribution facility, as those terms are defined in Section 12-6-3360(M) and including a qualified nuclear plant facility as defined in item (16A) of this section, each sponsor or sponsor affiliate is not required to invest the minimum investment if the total investment at the project exceeds ten million dollars."

Fee in lieu, qualified nuclear plant facility, schedule

SECTION 3. Section 12-44-40 of the 1976 Code, as last amended by Act 116 of 2007, is further amended by adding a new subsection at the end to read:

"(K) Notwithstanding another provision of this chapter, in the case of a qualified nuclear plant facility, the sponsor has five years from the end of the calendar year in which the Nuclear Regulatory Commission grants the sponsor a combined license to construct and operate a nuclear power plant to enter into a fee agreement with the county but in no event more than fifteen years from the latter of the adoption of an inducement resolution or execution of an inducement agreement by the county."

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 6th day of May, 2010.

Approved the 12th day of May, 2010.

No. 162

(R189, S1145)

AN ACT TO AMEND SECTIONS 9-1-1540, AS AMENDED, 9-9-65, AND 9-11-80, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DATE UPON WHICH AN APPLICATION FOR DISABILITY RETIREMENT MUST BE FILED WITH THE SOUTH CAROLINA RETIREMENT SYSTEM, SO AS TO PROVIDE THAT A MEMBER IS CONSIDERED TO BE IN SERVICE ON THE DATE THE APPLICATION IS FILED IF THE MEMBER IS NOT RETIRED AND THE LAST DAY THE MEMBER WAS EMPLOYED BY A COVERED EMPLOYER IN THE SYSTEM OCCURRED NOT MORE THAN NINETY DAYS PRIOR TO THE DATE OF FILING.

Be it enacted by the General Assembly of the State of South Carolina:

Filing disability retirement

SECTION 1. Section 9-1-1540 of the 1976 Code, as last amended by Section 67D, Part II, Act 387 of 2000, is further amended to read:

"Section 9-1-1540. Upon the application of a member in service or of his employer, a member in service on or after July 1, 1970, who has had five or more years of earned service or a contributing member who is disabled as a result of an injury arising out of and in the course of the performance of his duties regardless of length of membership on or after July 1, 1985, may be retired by the board not less than thirty days and not more than nine months next following the date of filing the application on a disability retirement allowance if the system, after a

medical examination of the member, certifies that the member is mentally or physically incapacitated for the further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired. For purposes of this section, a member is considered to be in service on the date the application is filed if the member is not retired and the last day the member was employed by a covered employer in the system occurred not more than ninety days prior to the date of filing.

The South Carolina Retirement System may contract with the Department of Vocational Rehabilitation to evaluate the medical evidence submitted with the disability application relative to the job being performed and make recommendations to the medical board. The system may approve a disability retirement subject to the member participating in vocational rehabilitation with the Department of Vocational Rehabilitation. Upon determination by the department that a member retired on disability is able to reenter the job market and work is available, the retirement system may adjust the benefit paid by the system in accordance with Sections 9-1-1580, 9-1-1590, 9-9-60, and 9-11-90."

Disability retirement

SECTION 2. Section 9-9-65(1) of the 1976 Code is amended to read:

"(1) Upon the application of a member in service or of the State, any member in service on or after July 1, 1977, who has five or more years of credited service or any contributing member who is disabled as a result of an injury arising out of and in the course of the performance of his duties regardless of length of membership on or after July 1, 1985, may be retired by the board not less than thirty days nor more than ninety days next following the date of filing the application on a disability retirement allowance if the system, after a medical examination of the member, shall certify that the member is mentally or physically incapacitated for further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired. For purposes of this section, a member is considered to be in service on the date the application is filed if the member is not retired and the last day the member held office as a member of the General Assembly occurred not more than ninety days prior to the date of filing."

Qualifications for disability retirement

SECTION 3. Section 9-11-80(1) of the 1976 Code, as last amended by Section 67N, Part II, Act 387 of 2000, is further amended to read:

"(1) On the application of a member in service or the member's employer, a member who has five or more completed years of earned service or any contributing member who is disabled as a result of an injury arising out of and in the course of the performance of the member's duties regardless of length of membership may be retired by the retirement board not less than thirty days and not more than nine months next following the date of filing the application on a disability retirement allowance if the system, after a medical examination of the member, certifies that the member is mentally or physically incapacitated for the further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired. For purposes of this section, a member is considered to be in service on the date the application is filed if the member is not retired and the last day the member was employed by a covered employer in the system occurred not more than ninety days prior to the date of filing.

The South Carolina Retirement System may contract with the Department of Vocational Rehabilitation to evaluate the medical evidence submitted with the disability application relative to the job being performed and make recommendations to the system. The system may approve a disability retirement subject to the member participating in vocational rehabilitation with the Department of Vocational Rehabilitation. Upon determination by the department that a member retired on disability is able to reenter the job market and work is available, the retirement system may adjust the benefit paid by the system in accordance with Sections 9-1-1580, 9-1-1590, 9-9-60, and 9-11-90."

Time effective

SECTION 4. This act takes effect upon approval by the Governor and applies to any application for disability retirement filed with the South Carolina Retirement Systems on or after May 12, 2008.

Ratified the 6th day of May, 2010.

Approved the 12th day of May, 2010.

No. 163

(R190, S1351)

AN ACT TO AMEND SECTION 7-7-120, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN BERKELEY COUNTY, SO AS TO CREATE NEW PRECINCTS, REDESIGNATE AND RENAME CERTAIN PRECINCTS, AND CHANGE THE MAP DESIGNATION ON WHICH THE LINES OF THOSE PRECINCTS ARE DELINEATED.

Be it enacted by the General Assembly of the State of South Carolina:

Voting precincts in Berkeley County, redesignated

SECTION 1. Section 7-7-120 of the 1976 Code, as last amended by Act 198 of 2008, is further amended to read:

"Section 7-7-120. (A) In Berkeley County there are the following voting precincts:
Alvin
Bethera
Beverly Hills
Bonneau
Bonneau Beach
Boulder Bluff No. 1
Cainhoy
Carnes Cross Road No. 1
Carnes Cross Road No. 2
Cordesville
Cross
Daniel Island No. 1
Daniel Island No. 2
Devon Forest No. 1
Devon Forest No. 2

Eadytown
Foster Creek
Goose Creek No. 1
Goose Creek No. 2
Hanahan No. 1
Hanahan No. 2
Hanahan No. 3
Hanahan No. 4
Hilton Cross Roads
Howe Hall No. 1
Howe Hall No. 2
Huger
Jamestown
Lebanon
Liberty Hall
Macedonia
McBeth
Medway
Moncks Corner No. 1
Moncks Corner No. 2
Moncks Corner No. 3
Moncks Corner No. 4
Pimlico
Pinopolis
Russellville
Sangaree No. 1
Sangaree No. 2
Sangaree No. 3
Shulerville
St. Stephen No. 1
St. Stephen No. 2
Stratford No. 1
Stratford No. 2
Stratford No. 3
Stratford No. 4
Wassamassaw No. 1
Wassamassaw No. 2
Westview No. 1
Westview No. 2
Westview No. 3
Whitesville No. 1

Whitesville No. 2
Absentee

(B) The precinct lines defining the precincts provided in subsection (A) are as shown on the official map prepared by and on file with the Office of Research and Statistics of the State Budget and Control Board designated as document P-15-10 and as shown on copies provided to the Board of Elections and Voter Registration of Berkeley County.

(C) The polling places for the precincts provided in this section must be established by the Board of Elections and Voter Registration of Berkeley County subject to the approval of a majority of the Senators and a majority of the House members of the Berkeley County Delegation."

Time effective

SECTION 2. This act takes effect upon approval by the Governor and is effective for all elections conducted after the primary election of 2010.

Ratified the 6th day of May, 2010.

Approved the 12th day of May, 2010.

No. 164

(R194, H3720)

AN ACT TO AMEND SECTION 15-9-720, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SERVICE ON UNKNOWN PARTIES BY PUBLICATION IN CERTAIN ACTIONS CONCERNING REAL PROPERTY, SO AS TO PROVIDE FOR SERVICE OF ALL COURT-REQUIRED DOCUMENTS BY PUBLICATION AND, FURTHER, IN AN ACTION INVOLVING MULTIPLE UNITS IN A SINGLE HORIZONTAL PROPERTY REGIME, FOR SERVICE BY PUBLICATION BY CONSOLIDATING THE SERVICES INTO A SINGLE SERVICE THAT IDENTIFIES EACH APARTMENT INCLUDED IN THE ACTION BASED ON THE APARTMENT'S DESCRIPTION IN THE MASTER DEED.

Be it enacted by the General Assembly of the State of South Carolina:

Service by publication on unknown parties, actions involving multiple units in single horizontal property regime

SECTION 1. Section 15-9-720 of the 1976 Code is amended to read:

"Section 15-9-720. (A) For the purposes of this section, 'court' means a court, judge, clerk of court, master-in-equity, special referee, or judge of probate of competent jurisdiction in the county where the action is pending.

(B)(1) A court shall grant an order allowing a party with an interest in or lien on a parcel of real property subject to a partition action, mortgage foreclosure action, or other action affecting the property's title to serve by publication any unknown party to the action and who has an interest in or lien on the real property, any such legal notice as will accomplish the underlying purposes set forth in this section, if the:

(a) residence of the unknown party cannot, with a reasonably diligent effort, be ascertained by the plaintiff; and

(b) plaintiff presents an affidavit to the court stating he has been unable to ascertain the residence of the unknown party after making a reasonably diligent effort.

(2) A court order allowing a party to serve an unknown party by publication must require the party serving by publication to publish the service once a week for three weeks in a newspaper of general circulation in the county where the property is situated. Service by publication under this section is equal to personal service on the unknown party.

(C) A party may accomplish service by publication pursuant to this section for multiple units in a single horizontal property regime by consolidating the services into a single service that identifies each apartment included in the action based on the apartment's description in the master deed. This consolidated service must comply with the other requirements of this section and other applicable statutes, including the requirement that publication must take place once a week for three weeks in a newspaper of general circulation in the county where the property is situated."

Time effective

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 6th day of May, 2010.

Approved the 12th day of May, 2010.

No. 165

(R195, H3778)

AN ACT TO AMEND SECTION 44-7-2430, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE COLLECTION OF DATA PURSUANT TO THE "HOSPITAL INFECTIONS DISCLOSURE ACT", SO AS TO AUTHORIZE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO COMBINE DATA FROM MULTIPLE REPORTING PERIODS IN COMPILING THE DEPARTMENT'S REPORTS ON HOSPITAL ACQUIRED INFECTIONS AND TO REQUIRE THE BOARD OF HEALTH AND ENVIRONMENTAL CONTROL, RATHER THAN THE COMMISSIONER OF THE DEPARTMENT, TO APPOINT AN ADVISORY COMMITTEE ON HOSPITAL ACQUIRED INFECTIONS; TO AMEND SECTION 44-7-2440, AS AMENDED, RELATING TO REPORTS COMPILED BY THE DEPARTMENT ON HOSPITAL ACQUIRED INFECTIONS, SO AS TO REQUIRE REPORTS TO THE GENERAL ASSEMBLY TO BE SUBMITTED BEFORE APRIL SIXTEENTH OF EACH YEAR; AND TO AMEND SECTION 44-7-2460, RELATING TO THE REQUIREMENT THAT COMPLIANCE WITH THE HOSPITAL INFECTIONS DISCLOSURE ACT IS A CONDITION OF HOSPITAL LICENSURE AND PERMITTING, SO AS TO ALSO AUTHORIZE THE IMPOSITION OF CIVIL MONETARY PENALTIES FOR NONCOMPLIANCE.

Be it enacted by the General Assembly of the State of South Carolina:

Hospital acquired infection reports

SECTION 1. Section 44-7-2430(B)(1) and (C)(1) of the 1976 Code, as added by Act 293 of 2006, is amended to read:

"(B)(1) Hospitals shall submit reports at least every six months on their hospital acquired infection rates to the department. Reports must be submitted in a format and at a time as provided for by the department. Data in these reports must cover a period ending not earlier than one month prior to submission of the report. These reports must be made available to the public at each hospital and through the department. The first report must be submitted before February 1, 2008. Subsequent reports must be submitted at least every six months on dates determined by the department. When compiling its reports, the department may combine data from multiple reporting periods in order to better demonstrate hospital acquired infection rates.

(C)(1) The Board of Health and Environmental Control shall appoint an advisory committee that must have an equal number of members representing all involved parties. The board shall seek recommendations for appointments to the advisory committee from organizations that represent the interests of hospitals, consumers, businesses, purchasers of health care services, physicians, and other professionals involved in the research and control of infections."

Annual reports to the General Assembly

SECTION 2. Section 44-7-2440(A) of the 1976 Code, as added by Act 293 of 2006, is amended to read:

"(A) The department annually shall submit to the General Assembly a report summarizing the hospital reports submitted pursuant to Section 44-7-2430 and shall publish the annual report on its website. The first annual report must be submitted and published before February 1, 2009. Subsequent annual reports to the General Assembly must be submitted before April sixteenth of each year. The department may issue quarterly informational bulletins summarizing all or part of the information submitted in the hospital reports."

Civil penalties for noncompliance

SECTION 3. Section 44-7-2460 of the 1976 Code, as added by Act 293 of 2006, is amended to read:

"Section 44-7-2460. (A) The department shall ensure and enforce compliance with this article and regulations promulgated pursuant to this article by the imposition of civil monetary penalties and as a

condition of licensure or permitting under this chapter pursuant to Section 44-7-320.

(B) The department may promulgate regulations as necessary to carry out its responsibilities under this article."

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 6th day of May, 2010.

Approved the 11th day of May, 2010.

No. 166

(R196, H3871)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44-29-15 SO AS TO SPECIFY REPORTING REQUIREMENTS FOR LABORATORIES THAT TEST FOR INFECTIOUS OR OTHER DISEASES REQUIRED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO BE REPORTED AND TO PROVIDE A CIVIL MONETARY PENALTY FOR VIOLATIONS.

Be it enacted by the General Assembly of the State of South Carolina:

Reporting requirements for laboratories testing for infectious diseases and other diseases

SECTION 1. Chapter 29, Title 44 of the 1976 Code is amended by adding:

"Section 44-29-15. (A) A laboratory, within or outside the State, responsible for performing a test for any of the infectious or other diseases required by the Department of Health and Environmental Control to be reported pursuant to Section 44-29-10, shall report positive or reactive tests to the department. This includes, but is not limited to, all laboratories, within or outside the State, which collect

specimens in South Carolina or which receive the initial order for testing from a practitioner, blood bank, plasmapheresis center, or other health care provider located in South Carolina. The department also may require that all results of certain, specifically identified laboratory tests be reported. All reports must be submitted within the time frame and in the form and manner designated by the department.

(B) Laboratories, within or outside the State, which perform tests as described in subsection (A) and which determine positive or reactive test results, shall, if required by the department, provide clinical specimens and isolates to the department or another laboratory designated by the department for further testing to determine incidence and other epidemiological information. These clinical specimens and isolates must be submitted within the time frame and in the form and manner designated by the department. The testing must be performed for epidemiological surveillance only; source consent is not required, and results are not required to be returned to the source patient or physician. The clinical specimens and isolates must be destroyed after tests are successfully completed, unless otherwise directed by the department.

(C) Persons and entities, which are required to report test results to the department pursuant to this section and which send clinical specimens and isolates out of state for testing, are responsible for ensuring that results are reported and clinical specimens and isolates are submitted to the department, or a laboratory designated by the department, as required under this section and related regulations.

(D) If a laboratory forwards clinical specimens and isolates out of state for testing, the originating laboratory retains the duty to comply with this section and related regulations, either by:

(1) reporting the results, providing the name and address of the testing laboratory, and submitting the clinical specimens and isolates to the department; or

(2) ensuring that the results are reported and that the clinical specimens and isolates are submitted to the department or another laboratory designated by the department.

(E) A person, laboratory, or other entity violating a provision of this section or related regulations is subject to a civil monetary penalty of not more than one thousand dollars for the first offense and not more than five thousand dollars for each subsequent offense. Each instance of noncompliance constitutes a separate violation and offense."

Time effective

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 6th day of May, 2010.

Approved the 12th day of May, 2010.

No. 167

(R197, H4205)

AN ACT TO AMEND SECTION 17-1-40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DESTRUCTION OF CRIMINAL RECORDS WHEN A CHARGE IS DISMISSED OR THE PERSON IS FOUND INNOCENT, SO AS TO PROVIDE THAT THE PROVISIONS OF THE SECTION DO NOT APPLY TO CERTAIN OFFENSES INVOLVING VIOLATIONS OF BOATING AND DRIVING LAWS, CERTAIN ENACTMENTS PURSUANT TO THE AUTHORITY OF COUNTIES AND MUNICIPALITIES, AND OTHER STATE CRIMINAL OFFENSES IF THE VIOLATOR IS NOT FINGERPRINTED; AND TO ALLOW FOR THE ELECTRONIC TRANSMISSION OF INFORMATION WITH REGARD TO THIS SECTION.

Be it enacted by the General Assembly of the State of South Carolina:

Expungement of criminal charges, exceptions, electronic transmission of information

SECTION 1. Section 17-1-40 of the 1976 Code, as last amended by Act 36 of 2009, is further amended by adding appropriately lettered subsections at the end to read:

"( ) This section does not apply to a person who is charged with a violation of Title 50, Title 56, an enactment pursuant to the authority of counties and municipalities provided in Titles 4 and 5, or any other state criminal offense if the person is not fingerprinted for the violation.

( ) The State Law Enforcement Division is authorized to promulgate regulations that allow for the electronic transmission of information pursuant to this section."

Time effective

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 6th day of May, 2010.

Approved the 12th day of May, 2010.

No. 168

(R198, H4248)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-19-117 SO AS TO REQUIRE AN INDIVIDUAL HIRED TO SERVE IN ANY CAPACITY IN A PUBLIC SCHOOL DISTRICT TO UNDERGO A CRIMINAL RECORD SEARCH BY THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION, TO REQUIRE THE DISTRICT BOARD TO ADOPT A WRITTEN POLICY ON THE CRIMINAL RECORD SEARCHES, AND TO PROVIDE FOR TRAINING FOR APPROPRIATE DISTRICT PERSONNEL ON THE CRIMINAL RECORD SEARCHES; TO REQUIRE EACH SCHOOL DISTRICT TO PERFORM A NATIONAL SEX OFFENDER REGISTRY CHECK ON ALL DISTRICT EMPLOYEES AND ON CERTAIN VOLUNTEERS, TO PROVIDE FOR TRAINING FOR APPROPRIATE DISTRICT PERSONNEL ON APPROPRIATE USES OF THE DATABASE, AND TO REQUIRE EACH DISTRICT BOARD TO ADOPT A WRITTEN POLICY ON THE SEX OFFENDER REGISTRY CHECK; AND TO AMEND SECTION 23-3-115, RELATING TO FEES FOR CRIMINAL RECORD SEARCHES, SO AS TO PROVIDE FOR WAIVER OF THE FEE IMPOSED FOR A CRIMINAL RECORD SEARCH WHEN IT IS CONDUCTED ON A SUBSTITUTE TEACHER ON BEHALF OF A SCHOOL DISTRICT.

Be it enacted by the General Assembly of the State of South Carolina:

Individuals hired by districts to undergo criminal record searches; board policy on criminal record searches; training on criminal record searches; employees and certain volunteers hired by district to undergo National Sex Offender Registry check; training on the sex offender registry check; board policy on the sex offender registry check

SECTION 1. Chapter 19, Title 59 of the 1976 Code is amended by adding:

"Section 59-19-117. (A) An individual hired by a local school district board of trustees to serve in any capacity in a public school in this State shall undergo a name-based South Carolina criminal record search conducted by the local school district using records maintained by the State Law Enforcement Division pursuant to regulations contained in subarticle 1, Article 3, Chapter 73 of the Code of Regulations. By August 1, 2010, a school district board of trustees shall adopt a written policy that specifies the required criminal record search as well as how the information received from the search impacts hiring decisions. The district policy must stipulate whether the district assumes the cost of the criminal record search or that the applicant assumes the cost. The policy must include, at a minimum, a prohibition of hiring individuals convicted of violent crimes as defined in Section 16-1-60 and hiring recommendations relative to felony convictions and relevant just-cause examples provided in Section 59-25-160. The South Carolina Law Enforcement Division, working with the Department of Education, shall provide training to appropriate school district personnel regarding appropriate use of the information provided in criminal record searches.

(B) Each school district of this State shall perform a National Sex Offender Registry check on all district employees hired to serve in any capacity in a public school and all volunteers who work in a school on an interim or regular basis as mentors, coaches, or any other capacity, or volunteers who serve as student chaperones or any other capacity having direct interaction with students. The South Carolina Law Enforcement Division, working with the Department of Education, shall provide training to appropriate district personnel on the appropriate uses of the database. By August 1, 2010, the district board of trustees shall adopt a written policy that specifies the sex offender registry check as well as how information received from the search

impacts hiring decisions. The policy must include, at a minimum, a prohibition of hiring individuals required to register as sex offenders pursuant to Section 23-3-430."

Waiver of fee for criminal record search on substitute teachers

SECTION 2. Section 23-3-115 of the 1976 Code, as last amended by Act 353 of 2008, is further amended by adding:

"(C) The fee allowed in subsection (A) is waived if the criminal record search is conducted on a substitute teacher on behalf of a school district."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 6th day of May, 2010.

Approved the 11th day of May, 2010.

No. 169

(R201, H4444)

AN ACT TO AMEND SECTION 50-5-1705, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CATCH LIMITS FOR ESTUARINE AND SALTWATER FINFISH, INCLUDING WEAKFISH CYNOSCION, SO AS TO PROVIDE THAT A PERSON ONLY MAY TAKE OR POSSESS ONE, RATHER THAN TEN, SUCH WEAKFISH IN ANY ONE DAY.

Be it enacted by the General Assembly of the State of South Carolina:

Weakfish daily catch limit

SECTION 1. Section 50-5-1705(G) of the 1976 Code, as last amended by Act 85 of 2007, is further amended to read:

"(G) It is unlawful for a person to take or have in possession more than one weakfish Cynoscion regalis in any one day."

Time effective

SECTION 2. This act takes effect July 1, 2010.

Ratified the 6th day of May, 2010.

Became law without the signature of the Governor -- 5/13/2010.

No. 170

(R193, H3584)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12-21-625 SO AS TO IMPOSE A SURTAX ON EACH CIGARETTE IN AN AMOUNT OF TWO AND ONE-HALF CENTS, TO PROVIDE FOR THE CREDITING OF THE REVENUE FROM THE SURTAX TO THE MEDICAL UNIVERSITY OF SOUTH CAROLINA HOLLINGS CANCER CENTER FOR TOBACCO-RELATED CANCER RESEARCH, THE SMOKING PREVENTION AND CESSATION TRUST FUND, AND THE MEDICAID RESERVE FUND, TO PROVIDE FOR REPORTING, PAYMENT, COLLECTION, AND ENFORCEMENT OF THE SURTAX, AND TO DEFINE "CIGARETTE"; TO AMEND SECTION 12-21-620, RELATING TO THE ORIGINAL CIGARETTE TAX, SO AS TO INCLUDE THE DEFINITION OF "CIGARETTE"; BY ADDING SECTION 11-11-230 SO AS TO CREATE AND ESTABLISH THE SMOKING PREVENTION AND CESSATION TRUST FUND AND THE MEDICAID RESERVE FUND, BOTH SO AS TO RECEIVE DEPOSITS OF THE REVENUES FROM THE CIGARETTE SURTAX AS SPECIFIED; AND BY ADDING SECTION 11-49-55 SO AS TO PROVIDE THAT IF FUNDS FROM THE SMOKING PREVENTION AND CESSATION TRUST FUND ARE AVAILABLE, AND NOT OTHERWISE COMMITTED, THE DEPARTMENT OF AGRICULTURE SHALL RECEIVE ONE MILLION DOLLARS ANNUALLY FOR FIVE YEARS FOR MARKETING AND BRANDING

STATE-GROWN CROPS AND TO ASSIST IN RELIEF FROM NATURAL DISASTERS AFFECTING STATE-GROWN CROPS.

Be it enacted by the General Assembly of the State of South Carolina:

Cigarette surtax imposed; distribution of revenue; "cigarette" defined

SECTION 1. Article 5, Chapter 21, Title 12 of the 1976 Code is amended by adding:

"Section 12-21-625. (A) Effective July 1, 2010, there is imposed a surtax on cigarettes subject to the tax imposed pursuant to Section 12-21-620(1) in an amount equal to two and one-half cents on each cigarette.

(B) Notwithstanding another provision of law providing for the crediting of the revenues of license or other taxes, the revenue of the surtax imposed pursuant to this section must be credited as follows:

(1) five million dollars annually to the Medical University of South Carolina Hollings Cancer Center to be used for tobacco-related cancer research;

(2) five million dollars annually to the Smoking Prevention and Cessation Trust Fund created pursuant to Section 11-11-230(A);

(3) the remaining annual revenue shall be deposited in the South Carolina Medicaid Reserve Fund created pursuant to Section 11-11-230(B).

(C) For all purposes of reporting, payment, collection, and enforcement, the surtax imposed by this section is deemed to be imposed pursuant to Section 12-21-620.

(D) For purposes of this section, 'cigarette' means:

(1) any roll for smoking containing tobacco or any substitute for tobacco wrapped in paper or in any substance other than a tobacco leaf; or

(2) any roll for smoking containing tobacco or any substitute for tobacco, wrapped in any substance, weighing three pounds per thousand or less, however labeled or named, which because of its appearance, size, type of tobacco used in the filler, or its packaging, pricing, marketing, or labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in item (1)."

"Cigarette" defined

SECTION 2. Section 12-21-620 of the 1976 Code is amended to read:

"Section 12-21-620. (A) There shall be levied, assessed, collected, and paid in respect to the articles containing tobacco enumerated in this section the following amounts:

(1) upon all cigarettes made of tobacco or any substitute for tobacco, three and one-half mills on each cigarette;

(2) upon all tobacco products, as defined in Section 12-21-800, five percent of the manufacturer's price.

Manufacturer's price as used in this section is the established price at which a manufacturer sells to a wholesaler.

(B) As used in this section, 'cigarette' means:

(1) any roll for smoking containing tobacco or any substitute for tobacco wrapped in paper or in any substance other than a tobacco leaf; or

(2) any roll for smoking containing tobacco or any substitute for tobacco, wrapped in any substance, weighing three pounds per thousand or less, however labeled or named, which because of its appearance, size, type of tobacco used in the filler, or its packaging, pricing, marketing, or labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in item (1) of this subsection."

Smoking Prevention and Cessation Trust Fund created; Medicaid Reserve Fund created

SECTION 3. Article 1, Chapter 11, Title 11 of the 1976 Code is amended by adding:

"Section 11-11-230. (A) There is created in the State Treasury the Smoking Prevention and Cessation Trust Fund. This fund is separate and distinct from the general fund of the State and all other funds. Earnings and interest on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year. The trust fund must transfer five million dollars annually to the Department of Health and Environmental Control to administer a statewide smoking prevention and cessation program. The funds must not be appropriated for any other purpose and the Department of Health and Environmental Control may not use the funds for any purposes other than administering a statewide smoking prevention and cessation program.

(B) There is created the South Carolina Medicaid Reserve Fund. This fund is separate and distinct from the general fund of the State and all other funds. Earnings and interest on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year. The fund only may be appropriated for the restoration and maintenance of effort of the Medicaid program as structured at the time this act takes effect, and must not be appropriated for any other purpose. The fund must not be used to expand any component of the existing Medicaid program."

Funds to Department of Agriculture for marketing and branding state-grown crops and disaster relief for state-grown crops

SECTION 4. Chapter 49, Title 11 of the 1976 Code is amended by adding:

"Section 11-49-55. Notwithstanding any other provision of law, and to the extent that funds are available and not otherwise committed or restricted by law or by contract, from the trust fund created pursuant to this chapter, the State Treasurer shall direct one million dollars annually for five fiscal years beginning with the first fiscal year in which funds are available, to the Department of Agriculture to cause the marketing and branding of South Carolina agricultural crops or produce as being grown in South Carolina when offered for sale in retail establishments and to assist in relief from natural disasters affecting state-grown crops."

Time effective

SECTION 5. Except where otherwise provided, this act takes effect upon approval by the Governor.

Ratified the 6th day of May, 2010.

Vetoed by the Governor -- 5/11/2010.
Veto overridden by House -- 5/12/2010.
Veto overridden by Senate -- 5/13/2010.

No. 171

(R202, H4511)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 50 TO TITLE 11 SO AS TO ENACT THE "SOUTH CAROLINA RURAL INFRASTRUCTURE ACT", TO ESTABLISH THE SOUTH CAROLINA RURAL INFRASTRUCTURE AUTHORITY, AND TO PROVIDE FOR ITS GOVERNANCE, POWERS, AND DUTIES; TO AUTHORIZE THE AUTHORITY TO PROVIDE LOANS AND OTHER FINANCIAL ASSISTANCE TO A MUNICIPALITY, COUNTY, SPECIAL PURPOSE OR PUBLIC SERVICE DISTRICT, AND A PUBLIC WORKS COMMISSION TO FINANCE RURAL INFRASTRUCTURE FACILITIES; TO ALLOW STATE APPROPRIATIONS, GRANTS, LOAN REPAYMENTS, AND OTHER AVAILABLE AMOUNTS TO BE CREDITED TO THE FUND OF THE AUTHORITY; TO AUTHORIZE LENDING TO AND BORROWING BY ELIGIBLE ENTITIES THROUGH THE AUTHORITY.

Be it enacted by the General Assembly of the State of South Carolina:

Rural Infrastructure Act

SECTION 1. Title 11 of the 1976 Code is amended by adding:

"CHAPTER 50

South Carolina Rural Infrastructure Act

Section 11-50-10. This chapter may be referred to as the 'South Carolina Rural Infrastructure Act'.

Section 11-50-20. The General Assembly finds that:

(1) Adequate infrastructure facilities are an essential element in promoting economic growth and development that will provide jobs for the citizens of South Carolina.

(2) Traditional infrastructure financing methods in South Carolina cannot generate the resources necessary to fund the cost of rural infrastructure which are required for economic development.

(3) The State of South Carolina has the ability to provide for alternative methods of financing rural infrastructure which when combined with existing financing sources and methods will allow the State to address its rural infrastructure needs in a more timely and responsive manner.

(4) Loans and other financial assistance to municipalities, counties, special purpose and public service districts, and public works commissions can play an important part in meeting rural infrastructure needs. This assistance is in the public interest for the public benefit and good as a matter of legislative intent.

(5) The chapter provides an instrumentality to assist municipalities, counties, special purpose and public service districts, and public works commissions in constructing and improving rural infrastructure by providing loans and other financial assistance.

Section 11-50-30. (A) There is created a body corporate and politic and an instrumentality of the State to be known as the South Carolina Rural Infrastructure Authority.

(B) The authority is governed by a board of directors as provided in this chapter.

(C) The corporate purpose of the authority is to select and assist in financing qualified rural infrastructure by providing loans and other financial assistance to municipalities, counties, special purpose and public service districts, and public works commissions for constructing and improving rural infrastructure facilities. The exercise by the authority of a power conferred in this chapter is an essential public function.

(D) The authority shall establish and maintain the South Carolina Rural Infrastructure Fund into which monies for the purposes of the authority must be deposited.

Section 11-50-40. As used in this chapter, unless the context clearly indicates otherwise:

(1) 'Authority' means the South Carolina Rural Infrastructure Authority.

(2) 'Board' means the board of directors of the authority.

(3) 'Eligible cost' means as applied to a qualified project to be financed from the Rural Infrastructure Fund, the costs that are permitted under applicable laws, requirements, procedures, and guidelines in regard to establishing, operating, and providing assistance from the authority.

(4) 'Eligible project' means rural infrastructure as defined in item (13).

(5) 'Eligible entity' means a municipality, county, special purpose or public service district, and public works commission. The term 'eligible project' also includes a not-for-profit water company.

(6) 'Financing agreement' means any agreement entered into between the authority and an eligible entity pertaining to a loan or other financial assistance. This agreement may contain, in addition to financial terms, provisions relating to the regulation and supervision of a qualified project, or other provisions as the board may determine. The term 'financing agreement' includes, without limitation, a loan agreement, trust indenture, security agreement, reimbursement agreement, guarantee agreement, bond or note, ordinance or resolution, or similar instrument.

(7) 'Loan' means an obligation subject to repayment which is provided by the authority to a qualified borrower for all or a part of the eligible cost of a qualified project. A loan may be disbursed in anticipation of reimbursement for or direct payment of eligible costs of a qualified project.

(8) 'Loan obligation' means a bond, note, or other evidence of an obligation issued by a qualified borrower.

(9) 'Other financial assistance' means, but is not limited to, grants, contributions, credit enhancement, capital or debt reserves for bonds or debt instrument financing, interest rate subsidies, provision of letters of credit and credit instruments, provision of bond or other debt financing instrument security, and other lawful forms of financing and methods of leveraging funds that are approved by the board.

(10) 'Qualified borrower' means any eligible entity which is authorized to construct, operate, or own a qualified project.

(11) 'Qualified project' means an eligible project which has been selected by the authority to receive a loan or other financial assistance from the authority to defray an eligible cost.

(12) 'Revenues' means, when used with respect to the authority, any receipts, fees, income, or other payments received or to be received by the authority including, without limitation, receipts and other payments deposited in the Rural Infrastructure Fund and investment earnings on the Rural Infrastructure Fund.

(13) 'Rural infrastructure project' means the acquisition, construction, installation, modification, renovation, repair, extension, renewal, replacement, or rehabilitation of land, interest in land, buildings, structures, facilities, or other improvements and the acquisition, installation, modification, renovation, repair, extension,

renewal, replacement, rehabilitation, or furnishing of fixtures, machinery, equipment, furniture, or other property of any nature whatsoever used on, in, or in connection with any such land, interest in land, building, structure, facility, or other improvement, for the essential public purpose of providing environmental facilities and services to meet public health and environmental standards and to aid the development of trade, commerce, industry, agriculture, aquaculture, and employment opportunities, all of which must be primarily located in a county designated as distressed or least developed pursuant to Section 12-6-3360 for 2009 or located in a county with a project that otherwise meets the requirements of this item. A rural infrastructure project also includes water supply and aquaculture projects.

Section 11-50-50. The board of directors is the governing board of the authority. The board consists of seven voting directors appointed as follows:

(1) six members who reside in counties designated as distressed or least developed pursuant to Section 12-6-3360 for 2009; one appointed by the President Pro Tempore of the Senate, one appointed by the Speaker of the House of Representatives, one appointed by the Chairman of the Senate Finance Committee, one appointed by the Chairman of the House Ways and Means Committee, and two appointed by the Governor; and

(2) the Secretary of Commerce, ex officio, who shall serve as chairman.

Appointed members shall serve for terms of four years and until their successors are appointed and qualify except that of the members first appointed by the Speaker of the House, President Pro Tempore of the Senate, and one of the members first appointed by the Governor, the member shall serve for a term of two years and the term must be noted on the appointment. Vacancies must be filled in the manner of original appointment for the unexpired portion of the term. Members shall serve without compensation but are allowed mileage, subsistence, and per diem allowed by law for members of state boards, committees, and commissions.

Section 11-50-60. (A) In addition to the powers contained elsewhere in this chapter, the authority has all power necessary, useful, or appropriate to fund, operate, and administer the authority, and to perform its other functions including, but not limited to, the power to:

(1) have perpetual succession;

(2) adopt, promulgate, amend, and repeal bylaws, not inconsistent with provisions in this chapter for the administration of the authority's affairs and the implementation of its functions including the right of the board to select qualifying projects and to provide loans and other financial assistance;

(3) sue and be sued in its own name;

(4) have a seal and alter it at its pleasure, although the failure to affix the seal does not affect the validity of an instrument executed on behalf of the authority;

(5) make loans to qualified borrowers to finance the eligible costs of qualified projects and to acquire, hold, and sell loan obligations at prices and in a manner as the board determines advisable;

(6) provide qualified borrowers with other financial assistance necessary to defray eligible costs of a qualified project;

(7) enter into contracts, arrangements, and agreements with qualified borrowers and other persons and execute and deliver all financing agreements and other instruments necessary or convenient to the exercise of the powers granted in this chapter;

(8) enter into agreements with eligible entities of this State for the purpose of planning and providing for the financing of qualified projects;

(9) establish policies and procedures for the making and administering of loans and other financial assistance, and establish fiscal controls and accounting procedures to ensure proper accounting and reporting by the authority and eligible entities;

(10) acquire by purchase, lease, donation, or other lawful means and sell, convey, pledge, lease, exchange, transfer, and dispose of all or any part of its properties and assets of every kind and character or any interest in it to further the public purpose of the authority;

(11) procure insurance, guarantees, letters of credit, and other forms of collateral or security or credit support from any public or private entity, including any department, agency, or instrumentality of this State, for the payment of any bonds issued by it, including the power to pay premiums or fees on any insurance, guarantees, letters of credit, and other forms of collateral or security or credit support;

(12) collect or authorize the trustee under any trust indenture securing any bonds to collect amounts due under any loan obligations owned by it, including taking the action required to obtain payment of any sums in default;

(13) unless restricted under any agreement with holders of bonds, consent to any modification with respect to the rate of interest, time,

and payment of any installment of principal or interest, or any other term of any loan obligations owned by it;

(14) borrow money through the issuance of bonds and other forms of indebtedness as provided in this chapter;

(15) expend funds to obtain accounting, management, legal, financial consulting, and other professional services necessary to the operations of the authority;

(16) expend funds credited to the authority as the board determines necessary for the costs of administering the operations of the authority;

(17) establish advisory committees as the board determines appropriate, which may include individuals from the private sector with banking and financial expertise;

(18) procure insurance against losses in connection with its property, assets, or activities including insurance against liability for its acts or the acts of its employees or agents or to establish cash reserves to enable it to act as a self-insurer against any and all such losses;

(19) collect fees and charges in connection with its loans or other financial assistance;

(20) apply for, receive and accept from any source, aid, grants, and contributions of money, property, labor, or other things of value to be used to carry out the purposes of this chapter subject to the conditions upon which the aid, grants, or contributions are made;

(21) enter into contracts or agreements for the servicing and processing of financial agreements; and

(22) do all other things necessary or convenient to exercise powers granted or reasonably implied by this chapter.

(B) The authority is subject to the provisions of Article 1, Chapter 23, Title 1, the Administrative Procedures Act.

Section 11-50-70. The following sources may be used to capitalize the Rural Infrastructure Fund and for the authority to carry out its purposes:

(1) state general fund appropriations made by the General Assembly;

(2) federal funds made available to the State;

(3) federal funds made available to the State for the authority;

(4) contributions and donations from government units, private entities, and any other source as may become available to the authority;

(5) all monies paid or credited to the authority, by contract or otherwise, payments of principal and interest on loans or other financial assistance made from the authority, and interest earnings

which may accrue from the investment or reinvestment of the authority's monies; and

(6) other lawful sources as determined appropriate by the board.

Section 11-50-80. Earnings on balances in the Rural Infrastructure Fund must be credited and invested as provided by law. Earnings must be credited to the Rural Infrastructure Fund. The authority may establish accounts and subaccounts within the Rural Infrastructure Fund as considered desirable to effectuate the purposes of this chapter, or to meet the requirements of any state or federal program. All accounts must be held in trust by the State Treasurer.

Section 11-50-90. (A) The authority may provide loans and other financial assistance to an eligible entity to pay for all or part of the eligible cost of a qualified project. Before providing a loan or other financial assistance to a qualified borrower, the authority must obtain the review and approval of the Joint Bond Review Committee. The term of the loan or other financial assistance must not exceed the useful life of the project. The authority may require the eligible entity to enter into a financing agreement in connection with its loan obligation or other financial assistance. The authority shall determine the form and content of loan applications, financing agreements, and loan obligations including the term and rate or rates of interest on a financing agreement.

(B) The board shall determine which projects are eligible projects and then select from among the eligible projects those qualified to receive from the authority a loan or other financial assistance.

Section 11-50-100. (A) Eligible entities are authorized to obtain loans or other financial assistance from the authority through financing agreements. Qualified borrowers entering into financing agreements and issuing loan obligations to the authority may perform any acts, take any action, adopt any proceedings, and make and carry out any contracts or agreements with the authority as may be agreed to by the authority and any qualified borrower for the carrying out of the purposes contemplated by this chapter.

(B) In addition to the authorizations contained in this chapter, all other statutes or provisions permitting eligible entities to borrow money may be utilized by any eligible entity in obtaining a loan or other financial assistance from the authority to the extent determined necessary or useful by the eligible entity in connection with any financing agreement and the issuance, securing, or sale of loan

obligations to the authority. Notwithstanding the foregoing, obligations secured by ad valorem taxes may be issued by an eligible entity and purchased by the authority without regard to any public bidding requirement.

(C) An eligible entity may receive, apply, pledge, assign, and grant a security interest in revenues or ad valorem taxes, to secure its obligations as provided in this chapter, to meet its obligations under a financing agreement, or to provide for the construction and improving of a qualified project.

Section 11-50-110. The authority is performing an essential governmental function in the exercise of the powers conferred upon it and is not required to pay taxes or assessments upon property or upon its operations or the income from them, or taxes or assessments upon property or loan obligations acquired or used by the authority or upon the income from them.

Section 11-50-120. (A) If an eligible entity fails to collect and remit in full all amounts due to the authority on the date these amounts are due under the terms of any note or other obligation of an eligible entity, the authority shall notify the State Treasurer who, subject to the withholding of amounts under Section 14, Article X of the Constitution, shall withhold all or a portion of the funds of the State and all funds administered by the State allotted or appropriated to the eligible entity and apply an amount necessary to the payment of the amount due.

(B) Nothing contained in this section mandates the withholding of funds allocated to an eligible entity which would violate contracts to which the State is a party or judgments of a court binding on the State.

Section 11-50-130. Neither the authority nor any officer, employee, or committee of the authority acting on behalf of it, while acting within the scope of this authority, is subject to any liability resulting from carrying out any of the powers given in this chapter.

Section 11-50-140. Notice, proceeding, or publication, except those required in this chapter, are not necessary to the performance of any act authorized in this chapter nor is any act of the authority subject to any referendum.

Section 11-50-150. All money of the authority and in the Rural Infrastructure Fund, except as authorized by law or provided in this

chapter, must be deposited with and invested by the State Treasurer. Funds of the authority not needed for immediate use or disbursement may be invested by the State Treasurer in obligations or securities which are declared to be legal obligations by the provisions of Section 11-9-660.

Section 11-50-160. Following the close of each state fiscal year, the authority shall submit an annual report of its activities for the preceding year to the Governor and to the General Assembly. An independent certified public accountant shall perform an audit of the books and accounts of the authority at least once in each state fiscal year.

Section 11-50-170. (A) This chapter, being for the welfare of this State and its inhabitants, must be liberally construed to effect the purposes specified in this chapter. However, nothing in this chapter must be construed as affecting any proceeding, notice, or approval required by law for the issuance by an eligible entity of the loan obligations, instruments, or security for loan obligations.

(B) Where the governing body of an eligible entity does not have unlimited fiscal autonomy granting them the right to impose ad valorem property taxes for general operating purposes without limitation, the public entity, if applicable, which has the authority to approve ad valorem property taxes for general operating purposes without limitation also must approve a loan or security obligation provided by this chapter.

Section 11-50-180. If any provision of this chapter is held or determined to be unconstitutional, invalid, or otherwise unenforceable by a court of competent jurisdiction, it is the intention of the General Assembly that the provision is severable from the remaining provisions of the chapter and that the holding does not invalidate or render unenforceable another provision of the chapter."

Time effective

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 6th day of May, 2010.

Vetoed by the Governor -- 5/12/2010.
Veto overridden by House -- 5/19/2010.
Veto overridden by Senate -- 5/26/2010.

No. 172

(R203, H4607)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 37-2-308 SO AS TO DEFINE NECESSARY TERMS AND PROVIDE PROCEDURES THAT MUST BE FOLLOWED BY MOTOR VEHICLE DEALERS IN ADVERTISEMENTS MADE IN THE COURSE OF SOLICITING FOR THE SALE OR LEASE OF MOTOR VEHICLES; AND TO AMEND SECTION 37-6-108, AS AMENDED, RELATING TO ADMINISTRATIVE ENFORCEMENT ORDERS, SO AS TO PROVIDE PENALTIES FOR MOTOR VEHICLE DEALERS WHO VIOLATE THE PROVISIONS OF SECTION 37-2-308.

Be it enacted by the General Assembly of the State of South Carolina:

Consumer protection, motor vehicle dealer advertisements

SECTION 1. Part 3, Chapter 2, Title 37 of the 1976 Code is amended by adding:

"Section 37-2-308. (A) As used in this section, unless the context requires otherwise, the term:

(1) 'Advertisement' means an oral, written, graphic, or pictorial statement made in the course of soliciting for the sale or lease of a motor vehicle in a newspaper, magazine, or on radio, television, or the Internet. A manufacturer's federal Monroney Sticker or a motor vehicle dealer's addendum to the sticker is not considered an advertisement.

(2) 'Clear and conspicuous' means that the statement, representation, or disclosure regarding a motor vehicle for sale or lease is of a size, color, contrast, and audibility that is presented to be readily noticed and understood. All language and terms, including

abbreviations, must be used in accordance with their common or ordinary usage and meaning.

(a) In a print advertisement, eight point type or larger must be used in all disclosures.

(b) In a broadcast commercial, if the statement is made orally it must be clear and understandable in pace and volume; however, if the statement is in visual form it must be displayed so that the average viewer can easily read and understand it and it must be at least twenty scan lines and each disclosure must appear continuously on the screen for at least five seconds.

(B) All disclosures regarding a motor vehicle for sale or lease must be clear and conspicuous. Credit advertisements must comply with Federal Truth in Lending Act and Regulation Z. Lease advertisements must comply with Federal Truth in Leasing Act and Regulation M.

(C) A motor vehicle dealer may not advertise in a manner that is false, deceptive, or misleading, or that misrepresents a vehicle offered for sale.

(D) Discounts or savings on the sale or lease of a new motor vehicle indicated in an advertisement must be those that are deducted from the Manufacturer's Suggested Retail Price as stated on the Monroney Sticker. An advertisement that offers a discount or savings not deducted from the manufacturer's suggested retail price on the sale or lease of a new motor vehicle must display the prediscounted price and the discounted price. No qualification such as 'with trade' or 'with down payment' may be used.

(E) If a rebate on the sale or lease of a motor vehicle is indicated as part of an advertised price, the rebate must be one that is available to the majority of the general buying public. If the rebate is not available to the majority of the general buying public, it may not be figured in the advertised price. The amount of the rebate may be listed as an additional incentive to those who qualify.

(F) When the price of a motor vehicle is quoted, the advertisement must clearly identify the motor vehicle as new or used and include the make, model, and year.

(G) Motor vehicle dealers may not use the term 'free' when a purchase or other consideration is required to obtain the item represented as free.

(H) Advertisements for the sale or lease of a motor vehicle must include the name of the motor vehicle dealership and may not imply that the dealer has some special arrangement with the manufacturer that is not available to other similarly situated dealerships.

(I) Advertisements for the sale or lease of a motor vehicle may not use statements that guarantee the value or range of value for trade-in motor vehicles.

(J) For purposes of this section, 'advertising agencies' are agents of the motor vehicle dealer.

(K) Penalties and hearing rights for violations of this section are governed by the provisions of Section 37-6-108."

Consumer protection, administrative enforcement orders, penalties

SECTION 2. Section 37-6-108 of the 1976 Code, as last amended by Act 128 of 2005, is further amended to read:

"Section 37-6-108. (A) After notice, the administrator may order a creditor, a person acting on his behalf, or a person subject to this title to cease and desist from engaging in violations of this title. A respondent aggrieved by an order of the administrator may request a contested case before the Administrative Law Court in accordance with the Administrative Law Court's rules of procedure. The administrator may obtain an order from the Administrative Law Court for enforcement of his orders as provided in the Administrative Procedures Act and the Administrative Law Court's rules of procedure. The proceeding for enforcement must be initiated by filing a petition with the Administrative Law Court in accordance with the Administrative Law Court's rules of procedure, and copies of the request for a contested case hearing must be served upon all parties of record.

(B) The jurisdiction of the Administrative Law Court is exclusive, and its final order may be appealed as provided in Sections 1-23-610 and 1-23-380.

(C) A request for a contested case hearing pursuant to this section must be initiated within thirty days after a copy of the order of the administrator is received. If a request is not initiated, the administrator may move for an order from the Administrative Law Court for enforcement of his order upon a showing that the order was issued in compliance with this section, that a request for a contested case hearing was not initiated within thirty days after a copy of the order was received, and that the respondent is subject to the jurisdiction of the Administrative Law Court.

(D) For purposes of this section and Sections 37-6-117 and 37-6-118, a violation of the South Carolina Unfair Trade Practices Act arising out of the production, promotion, or sale of consumer goods, services, or interests in land is considered a violation of this title

subject to action by the administrator before the Administrative Law Court.

(E) Unless otherwise specifically provided by law, the following administrative penalties may be levied against persons found to have engaged in violations of this title pursuant to subsection (A):

(1) If the violator is found to have violated repeatedly and intentionally a provision of this title, the violator must be fined in an amount not to exceed two thousand five hundred dollars and not to exceed ten thousand dollars for a transaction or occurrence or set of transactions or occurrences which violated multiple provisions of this title.

(2) If the violator is shown to have violated a previous lawful order of the tribunal of competent jurisdiction, the violator may be fined in an amount not to exceed five thousand dollars for each violation.

(3) The penalties in items (1) and (2) are in addition to any other penalties provided by law or any other remedies provided by law.

(F) Notwithstanding the other provisions of this section, a person who violates the provisions of Section 37-2-308 must be punished as follows:

(1) for a first violation, the department shall send a written warning to the motor vehicle dealer;

(2) for a second violation in a six-month period, the department may charge a five hundred dollar administrative penalty;

(3) for a third violation in a six-month period, the department may charge not more than a one thousand dollar administrative penalty; and

(4) for a fourth violation in a six-month period, the department may charge not more than a ten thousand dollar administrative penalty.

Continued violations of the provisions of Section 37-2-308 may be considered grounds for revocation, suspension, and nonrenewal of a dealer license pursuant to Section 56-15-350. For the purposes of this subsection, a violation is defined as each notice received by the dealer for an offense. Each notice received by the dealer for a related offense serves as a subsequent violation. Additionally, the department must send notices of all offenses to motor vehicle dealers who have violated the provisions of Section 37-2-308 by mail.

(G) The Administrative Law Judge may make findings and issue and enforce cease and desist orders regarding unconscionable conduct or unconscionable debt collection pursuant to this section, but the administrative law judge may not award damage, treble damage, or attorney's fee remedies to affected customers in these hearings."

Time effective

SECTION 3. This act takes effect on January 1, 2011.

Ratified the 6th day of May, 2010.

Vetoed by the Governor -- 5/12/2010.
Veto overridden by House -- 5/19/2010.
Veto overridden by Senate -- 5/26/2010.

No. 173

(R206, S328)

AN ACT TO AMEND SECTION 47-5-60, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO INOCULATING PETS AGAINST RABIES, SO AS TO PROVIDE THAT THESE INOCULATIONS MUST BE ADMINISTERED BY A LICENSED VETERINARIAN OR SOMEONE UNDER THE DIRECT SUPERVISION OF A LICENSED VETERINARIAN.

Be it enacted by the General Assembly of the State of South Carolina:

Inoculation of pets; rabies inoculations by or under supervision of veterinarian

SECTION 1. Section 47-5-60 of the 1976 Code, as last amended by Act 343 of 2002, is further amended to read:

"Section 47-5-60. A pet owner must have his pet inoculated against rabies at a frequency to provide continuous protection of the pet from rabies using a vaccine approved by the department and licensed by the United States Department of Agriculture. The rabies inoculation for pets must be administered by a licensed veterinarian or someone under a licensed veterinarian's direct supervision, as defined in Section 40-69-20. Evidence of rabies inoculation is a certificate signed by a licensed veterinarian. The rabies vaccination certificate forms may be provided by the licensed veterinarian or by the department or its designee. The veterinarian may stamp or write his name and address

on the certificate. The certificate must include information recommended by the National Association of State Public Health Veterinarians. The licensed veterinarian administering or supervising the administration of the vaccine shall provide one copy of the certificate to the owner of the pet and must retain one copy in his files for not less than three years. With the issuance of the certificate, the licensed veterinarian shall furnish a serially numbered metal license tag bearing the same number and year as the certificate with the name and telephone number of the veterinarian, veterinary hospital, or practice. The metal license tag at all times must be attached to a collar or harness worn by the pet for which the certificate and tag have been issued. Annually before February first, the veterinarian shall report to the department the number of animals inoculated against rabies during the preceding year. The department, in conjunction with licensed veterinarians, shall promote annual rabies clinics. The fee for rabies inoculation at these clinics may not exceed ten dollars, including the cost of the vaccine, and this charge must be paid by the pet owner. Fees collected by veterinarians at these clinics are their compensation."

Time effective

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 13th day of May, 2010.

Became law without the signature of the Governor -- 5/20/2010.

No. 174

(R208, S495)

AN ACT TO AMEND SECTION 50-11-2100, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO FIELD TRIALS, SO AS TO PROVIDE THAT A PARTICIPANT IN A FIELD TRIAL PERMITTED BY THE DEPARTMENT OF NATURAL RESOURCES IS NOT REQUIRED TO OBTAIN A HUNTING LICENSE IF HE IS NOT CARRYING A FIREARM AND GAME IS NOT TAKEN, TO PROVIDE THAT A FIELD TRIAL MAY NOT BE HELD OUTSIDE OF THE REGULAR SEASON EXCEPT AS PERMITTED BY THE DEPARTMENT; AND TO

AMEND SECTION 50-9-1130, RELATING TO THE DEDUCTION OF ACCUMULATED POINTS FOR CERTAIN VIOLATIONS ASSOCIATED WITH HUNTING AND FISHING PRIVILEGES, SO AS TO PROVIDE THE DEPARTMENT SHALL DEDUCT FOUR ACCUMULATED POINTS FROM A PERSON'S RECORD UPON SHOWING HE SUCCESSFULLY COMPLETED A FIREARM SAFETY PROGRAM ESTABLISHED BY THE DEPARTMENT, TO PROVIDE A PERSON IS NOT ELIGIBLE FOR THIS DEDUCTION IN CERTAIN CIRCUMSTANCES, AND TO PROVIDE THE DEPARTMENT MAY PROMULGATE REGULATIONS TO EFFECTUATE THE PROVISIONS OF THIS SECTION.

Be it enacted by the General Assembly of the State of South Carolina:

Department to promulgate regulations to permit field trials; penalties for violations; field trial participant not required to have license if not carrying weapon; no field trials on wildlife management areas at certain times

SECTION 1. Section 50-11-2100 of the 1976 Code is amended to read:

"Section 50-11-2100. (A) Subject to the provisions in this section, the department shall promulgate regulations to permit and regulate field trials during the year including the closed season.

(B) A person violating the provisions of this section or regulations promulgated pursuant to this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned for not more than thirty days for each offense.

(C) A participant in any field trial permitted by the department is not required to obtain a hunting license or a wildlife management area permit if the participant is not carrying a weapon typically used for hunting and no game is taken.

(D) There shall be no field trials conducted on wildlife management areas outside of the regular season, except as permitted by the department."

Conflicting regulations repealed

SECTION 2. Any regulations in conflict with the provisions of this act are repealed.

Deduction of accumulated points; ineligibility in certain circumstances; department may promulgate certain regulations

SECTION 3. Section 50-9-1130 of the 1976 Code is amended to read:

"Section 50-9-1130. (A) Each time a person is convicted of a violation enumerated in Section 50-9-1120, the number of points assigned to the violation must be charged against the person. For each calendar year that passes after assignment in which the person received no points, the department shall deduct one-half of the accumulated points if the total number of points is greater than three. If a person has three or less points at the end of a calendar year in which no points were received, the department shall reduce his point total to zero; however, a person's record must not be less than zero points.

(B) The department shall deduct four accumulated points from a person's record upon a showing that the person successfully completed a department program of instruction established pursuant to Section 50-9-310.

(C) A person is not eligible for a reduction in points under the provisions of subsection (B) if at the time he accumulated eighteen or more points:

(1) he had any hunting, trapping, or fishing suspension within the previous five years; or

(2) he had a previous point reduction under the provisions of subsection (B) within the previous five years.

(D) The department is authorized to promulgate appropriate regulations to effectuate the provisions of this section."

Time effective

SECTION 4. This act takes effect July 1, 2010.

Ratified the 13th day of May, 2010.

Approved the 19th day of May, 2010.

No. 175

(R209, S1024)

AN ACT TO AMEND SECTION 12-37-220, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROPERTY TAX EXEMPTIONS, SO AS TO ALLOW THE SURVIVING SPOUSE OF A DECEDENT WHO WAS ELIGIBLE FOR THE EXEMPTION OF THE DWELLING OWNED BY A PERSON WITH CERTAIN SPECIFIC ILLNESSES CAUSING THE SAME AMBULATORY DIFFICULTIES AS PERSONS WITH PARAPARESIS OR HEMIPARESIS.

Be it enacted by the General Assembly of the State of South Carolina:

Property tax exemption, surviving spouse

SECTION 1. Section 12-37-220(B)(2)(a) of the 1976 Code, as last amended by Act 161 of 2005, is further amended to read:

"(a) The dwelling house in which he resides and a lot not to exceed one acre of land owned in fee or for life, or jointly with a spouse, by a paraplegic or hemiplegic person, is exempt from all property taxation provided the person furnishes satisfactory proof of his disability to the Department of Revenue. The exemption is allowed to the surviving spouse of the person so long as the spouse does not remarry, resides in the dwelling, and obtains the fee or a life estate in the dwelling. To qualify for the exemption, the dwelling house must be the domicile of the person who qualifies for the exemption. For purposes of this item, a hemiplegic person is a person who has paralysis of one lateral half of the body resulting from injury to the motor centers of the brain. For the purposes of this exemption, 'paraplegic' or 'hemiplegic' includes a person with Parkinson's Disease, Multiple Sclerosis, or Amyotrophic Lateral Sclerosis, which has caused the same ambulatory difficulties as a person with paraparesis or hemiparesis. A doctor's statement is required stating that the person's disease has caused these same ambulatory difficulties."

Time effective

SECTION 2. This act takes effect upon approval by the Governor and applies for property tax years beginning after 2009.

Ratified the 13th day of May, 2010.

Approved the 19th day of May, 2010.

No. 176

(R210, S1146)

AN ACT TO AMEND SECTIONS 9-1-1770, AS AMENDED, 9-1-1775, 9-8-110, AS AMENDED, 9-9-100, AS AMENDED, 9-11-120, AS AMENDED, 9-11-125, AND 9-11-140, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING RESPECTIVELY TO, AMONG OTHER THINGS, LIFE INSURANCE BENEFITS PAID BENEFICIARIES OF DECEASED RETIREES OF THE SOUTH CAROLINA RETIREMENT SYSTEM, THE SOUTH CAROLINA RETIREMENT SYSTEM FOR MEMBERS OF THE GENERAL ASSEMBLY, THE RETIREMENT SYSTEM FOR JUDGES AND SOLICITORS, AND THE SOUTH CAROLINA POLICE OFFICERS RETIREMENT SYSTEM, AND BENEFITS PAID PURSUANT TO THE ACCIDENTAL DEATH BENEFIT PROGRAM OF THE SOUTH CAROLINA POLICE OFFICERS RETIREMENT SYSTEM, SO AS TO MAINTAIN COMPLIANCE WITH THE INTERNAL REVENUE CODE OF 1986 BY PROVIDING FOR THESE BENEFITS TO BE PAID IN THE FORM OF DEATH BENEFITS RATHER THAN INSURANCE AND TO CORRECT A REFERENCE.

Be it enacted by the General Assembly of the State of South Carolina:

South Carolina Retirement System, Preretirement Death Benefit Program

SECTION 1. Subsections (D) and (E) of Section 9-1-1770 of the 1976 Code, as last amended by Act 153 of 2005, are further amended to read:

"(D) RESERVED

(E) Upon the death of a retired member who is not a retired contributing member after December 31, 2000, there must be paid to the designated beneficiary or beneficiaries, if living at the time of the retired member's death, otherwise to the retired member's estate, a benefit of two thousand dollars if the retired member had ten years of creditable service but less than twenty years, four thousand dollars if the retired member had twenty years of creditable service but less than twenty-eight, and six thousand dollars if the retired member had at least twenty-eight years of creditable service at the time of retirement, if the retired member's most recent employer, before the member's retirement, is covered by the Preretirement Death Benefit Program."

Death Benefit Plan Reserve Fund

SECTION 2. Section 9-1-1775 of the 1976 Code, as added by Act 311 of 2008, is amended to read:

"Section 9-1-1775. (A) The Death Benefit Plan for members of the South Carolina Retirement System, hereinafter referred to as the 'plan', is established for the purpose of providing for the payment of the benefits provided by Section 9-1-1770.

(B) A separate fund, to be known as the Death Benefit Plan Reserve Fund, is established within the South Carolina Retirement System, hereinafter referred to as the 'retirement system', to be held in trust by the board. The fund shall consist of all contributions paid by the employers and other monies received and paid into the fund for death benefit purposes, and of the investment earnings on these monies, and must be used only to pay the death benefits prescribed by subsection (C). Concurrent with the determination of the initial liability of the plan for the balance of the fiscal year on and after the effective date of the benefit, for the death benefit provided and to be paid for pursuant to this plan, there must be segregated and transferred from the Employer Annuity Accumulation Fund of the retirement system to the reserve fund created by this section the amounts determined by the actuary to

be necessary to pay anticipated death benefit claims. Subsequent segregations and transfers must be made as required to pay the death benefit prescribed by subsection (C) from the reserve fund provided by this section.

(C) At the death of a member who has met the eligibility requirements set forth in Section 9-1-1770, a benefit equal to the death benefit provided by Section 9-1-1770 must be paid to the person nominated by the member in accordance with the provisions of Section 9-1-1770 or to the member's estate.

(D) The actuary shall investigate the claim experience of the plan as provided by Section 9-1-250. On the basis of these investigations and upon the recommendation of the actuary, as provided in Section 9-1-1210, the board shall certify the contribution rates necessary to fund the death benefit authorized to be paid by the plan. As soon as practicable after the close of each fiscal year, the board shall determine the contribution which the employers participating in the plan are required to pay into the reserve fund to discharge the obligations of the plan for the past fiscal year.

(E) Each qualified member of the retirement system is to be covered as provided in this section effective commencing as of June 19, 1973."

Retirement System for Judges and Solicitors, death benefit

SECTION 3. Section 9-8-110 of the 1976 Code, as last amended by Act 112 of 2007, is further amended to read:

"Section 9-8-110. (1) Except as provided in subsections (2) and (3) of this section, upon the death of any member of the system, a lump sum amount must be paid to the persons the member nominated by written designation, filed with the board, otherwise to his estate. This amount must be equal to the amount of the member's accumulated contributions. An active contributing member making the nomination provided under this section also may name secondary beneficiaries in the same manner that beneficiaries are named. A secondary beneficiary has no rights under this chapter unless all beneficiaries nominated by the member predecease the member and the member's death occurs while in service. In this instance, a secondary beneficiary is considered the member's beneficiary for purposes of this section.

(2) Unless a married member has designated a beneficiary other than his spouse in accordance with subsection (1), upon his death in service before retirement an allowance equal to one-third of the

allowance which would have been payable to him, if he was eligible to retire on his date of death notwithstanding the vesting requirement of Section 9-8-50(E)(1) and as if he had retired on the date of his death, must be paid to his surviving spouse until her death. This allowance is payable in lieu of the lump sum amount payable in accordance with subsection (1). Upon the death of a retired member who has not designated a beneficiary other than a spouse an allowance equal to one-third of the allowance which would have been payable to him, must be paid to the surviving spouse until death. For purposes of this subsection, 'retired member' includes those former judges and solicitors who are beneficiaries pursuant to subsection (4) of Section 9-8-60.

(3) If a member dies while in the service of the State, whether as a judge, solicitor, or circuit public defender or otherwise, and either is not married or has designated a beneficiary other than his surviving spouse, an allowance in lieu of the lump sum provided in subsection (1) is payable to the person he nominated by written designation in accordance with subsection (1) equal to the amount which would have been payable to the person as if the deceased member had retired at the time of his death and had made an effective election under Section 9-8-70 nominating the person as his contingent beneficiary.

(4) Upon the death of an unmarried beneficiary who has not elected the optional form of allowance under Section 9-8-70, a lump sum amount must be paid to the person he nominated by written designation in accordance with subsection (1), otherwise to his estate. The amount must be equal to the excess, if any, of his accumulated contributions at the time his allowance commenced over the sum of the retirement allowance payments made to him.

(5) Upon receipt of proof, satisfactory to the board, of the death of a member in service as a judge, solicitor, or circuit public defender who had completed at least one full year of credited service in the system or of the death of a member in service as a result of an injury arising out of and in the course of the performance of his duties regardless of length of membership, there must be paid to his spouse unless he has nominated a beneficiary by written designation filed with the board, if the person is living at the time of the member's death, otherwise to the member's estate, a death benefit equal to the annual compensation of the member at the time his death occurs. The benefit must be payable apart and separate from the payment of the allowance, or the lump sum amount in lieu thereof, pursuant to the provisions of subsection (1), (2), or (3) of this section. A member may designate his estate to receive this death benefit in lieu of his spouse, or other beneficiary nominated

in subsection (1). For purposes of this subsection, a member is considered to be in service at the date of his death if his last day of earned service credit as a judge, solicitor, or circuit public defender occurred not more than ninety days before his death and he has not retired or withdrawn contributions.

(6) RESERVED

(7) Upon the death of a retired member on or after July 1, 1985, there must be paid to the designated beneficiary or beneficiaries, if living at the time of the retired member's death, otherwise to the retired member's estate, a death benefit of one thousand dollars if the retired member had ten years of creditable service but less than twenty years, two thousand dollars if the retired member had twenty years of creditable service but less than thirty, and three thousand dollars if the retired member had at least thirty years of creditable service at the time of retirement."

Retirement System for Members of the General Assembly, death benefit

SECTION 4. Section 9-9-100 of the 1976 Code, as last amended by Act 139 of 1995, is further amended to read:

"Section 9-9-100. (1) Upon the death of a member of the system, a lump sum amount must be paid to the person the member nominated by written designation, filed with the board, otherwise to the member's estate. This lump sum amount must be equal to the amount of the member's accumulated contributions. An active contributing member making the nomination provided under this item also may name contingent beneficiaries in the same manner that beneficiaries are named. A contingent beneficiary has no rights under this chapter unless all beneficiaries nominated by the member have predeceased the member and the member's death occurs while in service. In this instance, a contingent beneficiary is considered the member's beneficiary for purposes of this item and item (3) of this section, if applicable.

(2) Upon the death of a retired member a lump sum amount must be paid to the person he has last nominated by written designation, duly acknowledged and filed with the board, otherwise to his estate. The lump sum must be equal to the excess, if any, of his total accumulated contributions at the time his allowance commenced over the sum of the retirement allowance payments made to him, and to his designated

beneficiary under Options 1, 2, and 3 of Section 9-9-70, during their lifetimes.

(3) Notwithstanding anything in this section to the contrary, if a member dies after he has attained age sixty or has completed fifteen years of creditable service and death occurs in service, the person nominated by him to receive the lump sum amount in subsection (1) above may elect to receive, in lieu of that lump sum payment, an allowance for life in the same amount as if the deceased member of the system had retired at the time of his death and had named the person as contingent beneficiary under Option 1 of Section 9-9-70. A person otherwise eligible under this subsection to elect to receive an allowance who had attained age sixty-five or after the accumulation of thirty years of creditable service or after attainment of age sixty with twenty or more years of creditable service but who has received a refund of the member's accumulated contribution under this section may, upon repayment of the refund to the system in a single sum, make the election provided in this section. The monthly payments under Option 1 to the person must date from the time of the repayment of the accumulated contributions to the system.

(4) Upon receipt of proof, satisfactory to the board, of the death, after June 30, 1969, of a member of the system then in service as a member of the General Assembly who had completed at least one full year of membership in the system or of the death of an in-service member as a result of an injury arising out of and in the course of the performance of his duties regardless of length of membership, there must be paid to the person he nominated for the refund of his accumulated contributions, unless he has nominated a different beneficiary by written designation filed with the board, pursuant to Section 9-9-90, if the person is living at the time of the member's death, otherwise to the member's estate, a death benefit equal to the annual earnable compensation of the member at the time his death occurs. The death benefit is payable apart and separate from the payment of the lump sum amount, or the allowance in lieu of it, pursuant to subsections (1) and (3). For purposes of this subsection, a member is considered to be in service at the date of his death if his last day of earned service credit as a member of the General Assembly occurred not more than ninety days before the date of his death and he has not retired or withdrawn contributions.

(5) Upon the death of a retired member on or after July 1, 1985, there must be paid to the designated beneficiary or beneficiaries, if living at the time of the retired member's death, otherwise to the retired member's estate, a death benefit of one thousand dollars if the retired

member had ten years of creditable service but less than twenty years, two thousand dollars if the retired member had twenty years of creditable service but less than thirty, and three thousand dollars if the retired member had at least thirty years of creditable service at the time of retirement."

South Carolina Police Officers Retirement System, death benefit

SECTION 5. Subsections (E) and (F) of Section 9-11-120 of the 1976 Code, as last amended by Act 153 of 2005, are further amended to read:

"(E) RESERVED

(F) Upon the death of a retired member on or after July 1, 2000, there must be paid to the designated beneficiary or beneficiaries, if living at the time of the retired member's death, otherwise to the retired member's estate, a benefit of two thousand dollars if the retired member had ten years of creditable service but less than twenty years, four thousand dollars if the retired member had twenty years of creditable service but less than twenty-five, and six thousand dollars if the retired member had at least twenty-five years of creditable service at the time of retirement, if the retired member's most recent employer prior to retirement is covered by the preretirement death benefit program."

South Carolina Police Officers Retirement System, Death Benefit Reserve Fund

SECTION 6. Section 9-11-125 of the 1976 Code, as added by Act 311 of 2008, is amended to read:

"Section 9-11-125. (A) The Death Benefit Plan for members of the South Carolina Police Officers Retirement System, hereinafter referred to as the 'plan', is established for the purpose of providing for the payment of the benefits provided by Section 9-11-120.

(B) A separate fund, to be known as the Death Benefit Plan Reserve Fund, is established within the South Carolina Police Officers Retirement System, hereinafter referred to as the 'retirement system', to be held in trust by the board. The fund shall consist of all contributions paid by the employers and other monies received and paid into the fund for death benefit purposes, and of the investment earnings on these monies, and must be used only to pay the death

benefits prescribed by subsection (C). Concurrent with the determination of the initial liability of the plan for the balance of the fiscal year on and after the effective date of the benefit, for the death benefit provided and to be paid for pursuant to this plan, there must be segregated and transferred from the Employer Annuity Accumulation Fund of the retirement system to the reserve fund created by this section the amounts determined by the actuary to be necessary to pay anticipated death benefit claims. Subsequent segregations and transfers must be made as required to pay the benefit prescribed by subsection (C) from the reserve fund provided by this section.

(C) At the death of a member who has met the eligibility requirements set forth in Section 9-11-120 a benefit equal to the death benefit provided by Section 9-11-120 must be paid to the person nominated by the member in accordance with the provisions of Section 9-11-120 or to the member's estate.

(D) The actuary shall investigate the experience of the plan as provided by Section 9-11-30. On the basis of the investigations and upon the recommendation of the actuary, as provided in Section 9-11-120, the board shall certify the contribution rates computed to be necessary to fund the death benefits authorized to be paid by the plan. As soon as practicable after the close of each fiscal year, the board shall determine the contribution rates which the employers participating in the plan are required to pay into the reserve fund to discharge the obligations of the plan for the past fiscal year.

(E) Each qualified member of the retirement system is to be covered as provided in this section effective commencing as of June 19, 1973."

South Carolina Police Officers Retirement System, Accidental Death Benefit Program

SECTION 7. The first and last undesignated paragraphs of Section 9-11-140 of the 1976 Code, as last amended by Act 337 of 1998, are further amended respectively to read:

"Effective July 1, 1962, there is created the Accidental Death Benefit Program, effective as of that date to all employers under the system except counties, municipalities, and other political subdivisions, as well as those state departments, agencies, or institutions which pay directly to the system the total employer contributions for the participating members in their employ. The benefit paid pursuant to this Accidental

Death Benefit Program must not be treated as a life insurance benefit for the beneficiary or beneficiaries set out below.

Benefits payable under this section must be adjusted to reflect increases in the Consumer Price Index in the manner provided in Section 9-11-310."

Time effective

SECTION 8. This act takes effect upon approval by the Governor and applies for death benefits payable based on member deaths occurring after June 30, 2010.

Ratified the 13th day of May, 2010.

Approved the 19th day of May, 2010.

No. 177

(R211, H3270)

AN ACT TO AMEND SECTION 44-2-60, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REGISTRATION OF UNDERGROUND STORAGE TANKS, SO AS TO ESTABLISH NEW ANNUAL RENEWAL FEES THAT WILL BE IN EFFECT FOR THE YEARS 2012 THROUGH 2015 OR UNTIL THE SUPERB ACCOUNT IS CREDITED WITH AN ADDITIONAL THIRTY-SIX MILLION DOLLARS FROM THE INCREASE IN IT SOURCES OF INCOME, TO REQUIRE THAT THE ADDITIONAL REVENUE GENERATED FROM THE TANK FEE INCREASES BE DEPOSITED INTO THE SUPERB ACCOUNT, TO RESTRICT THE USES FOR THE ADDITIONAL REVENUE, AND TO REVISE THE MAXIMUM AMOUNT THAT MAY BE USED FOR ADMINISTRATIVE PURPOSES.

Be it enacted by the General Assembly of the State of South Carolina:

Annual renewal fees

SECTION 1. Section 44-2-60 of the 1976 Code is amended to read:

"Section 44-2-60. (A) The owner or operator of an underground storage tank which stores or is intended to store a regulated substance shall register the tank with the department. The owner or operator of the tank shall display a registration certificate listing all registered tanks at a facility and in plain view in the office or the kiosk of the facility where the tanks are registered. Upon application for a registration certificate, the owner or operator shall pay to the department an initial registration fee of one hundred dollars a tank; however, the department may prorate the initial registration fees on a daily basis for underground storage tanks installed on or after July 1, 1997. The owner or operator shall pay to the department an annual renewal fee of one hundred dollars a tank a year. Beginning January 1, 2012, the annual renewal fee for each tank will be as follows:

(1) 2012 - two hundred dollars;
(2) 2013 - three hundred dollars;
(3) 2014 - four hundred dollars; and
(4) 2015 - five hundred dollars.

The additional revenue generated from the tank fee increases listed above must be deposited into the Superb Account. No portion of the increases may be used by the department for administration of the program or for orphan sites as defined in Section 44-2-20(11).

When the Superb Account is credited with an additional thirty-six million dollars from the increase in tank fees, general appropriations, settlements, or other sources of funds including federal funds designated for cleanup, or declared insolvent, the tank registration fee shall revert to one hundred dollars annually for each tank beginning January first of the next year.

(B) No person may place a regulated substance and no owner or operator may cause a regulated substance to be placed into an underground storage tank for which the owner or operator does not hold a currently valid registration. The department may not issue a registration certificate until all past and present fees and penalties owed on a tank are paid. The department may not issue a registration certificate to any owner or operator who has not complied with all terms of a consent or final administrative order issued under Section 44-2-140.

(1) All fees are due to the department within thirty days of billing. The department shall issue a late notice, with no penalty due,

to an underground storage tank owner or operator who has unpaid fees thirty days after billing. An owner or operator who fails to pay the fees within sixty days of the initial billing must pay a ten percent penalty in addition to the ten percent penalty for any fees remaining unpaid ninety days after the initial billing. An owner or operator with unpaid fees ninety days after the initial billing is subject to additional enforcement action as provided for in Section 44-2-140.

(2) The department may not disburse Superb Account or Superb Financial Fund monies to any person or persons for the rehabilitation of a petroleum or petroleum product release from any underground storage tank or underground storage tank system where all past and present fees and penalties owed on the applicable tank have not been paid.

(3) The funds generated by the registration and late penalty fees may be used by the department for administration of the provisions of this chapter and for administration of the underground storage tank regulatory program established by this chapter. The amount used for administration may not exceed the amount collected from funds received from federal grants specifically designated for administrative use, interest, the first one hundred dollars for tank registration and late penalty fees.

(C) In addition to the inspection fee of one-fourth cent a gallon imposed pursuant to Section 39-41-120, an environmental impact fee of one-half cent a gallon is imposed which must be used by the department for the purposes of carrying out the provisions of this chapter. This one-half cent a gallon environmental impact fee must be paid and collected in the same manner that the one-fourth cent a gallon inspection fee is paid and collected except that the monies generated from these environmental impact fees must be transmitted by the Department of Agriculture to the Department of Health and Environmental Control which shall deposit the fees as provided for in Section 44-2-40."

Time effective

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 13th day of May, 2010.

Approved the 19th day of May, 2010.

No. 178

(R212, H4093)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 60 TO TITLE 48 SO AS TO ENACT THE "SOUTH CAROLINA MANUFACTURER RESPONSIBILITY AND CONSUMER CONVENIENCE INFORMATION TECHNOLOGY EQUIPMENT COLLECTION AND RECOVERY ACT"; TO PROVIDE FINDINGS BY THE GENERAL ASSEMBLY; TO PROVIDE DEFINITIONS; TO REQUIRE A CERTAIN LABEL ON A COMPUTER OR TELEVISION DEVICE SOLD BY A MANUFACTURER; TO PROVIDE A COMPUTER MANUFACTURER MAY NOT SELL OR OFFER TO SELL A COVERED COMPUTER DEVICE UNLESS THE MANUFACTURER OFFERS A CERTAIN RECOVERY PROGRAM, AND TO DESCRIBE REQUIREMENTS FOR THIS PROGRAM; TO PROVIDE A TELEVISION MANUFACTURER MAY NOT SELL OR OFFER TO SELL A COVERED TELEVISION DEVICE UNLESS THE MANUFACTURER OFFERS A CERTAIN RECOVERY PROGRAM, AND TO DESCRIBE REQUIREMENTS FOR THIS PROGRAM; TO PROVIDE A COMPUTER OR TELEVISION MANUFACTURER MAY NOT BE LIABLE FOR DAMAGES ARISING FROM INFORMATION STORED ON A COVERED DEVICE COLLECTED FROM A CONSUMER UNDER THE MANUFACTURER'S RECOVERY PROGRAM; TO PROVIDE A RETAILER ONLY MAY SELL A COVERED DEVICE THAT MEETS CERTAIN REQUIREMENTS; TO PROVIDE AFTER JULY 1, 2011, A CONSUMER MAY NOT DISPOSE OF A COVERED DEVICE IN A CERTAIN MANNER; TO PROVIDE AN OWNER OR OPERATOR OF A SOLID WASTE LANDFILL MAY NOT KNOWINGLY ACCEPT COVERED DEVICES, AMONG OTHER THINGS; TO REQUIRE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL PROVIDE CERTAIN INFORMATION ABOUT THE DISPOSAL OF COVERED DEVICES; TO PROVIDE THE DEPARTMENT MAY CONDUCT AUDITS AND INSPECTIONS OF A COMPUTER OR TELEVISION MANUFACTURER, RETAILER, OR RECOVERER TO DETERMINE COMPLIANCE WITH THIS CHAPTER; TO EXEMPT

FINANCIAL AND PROPRIETARY INFORMATION SUBMITTED TO THE DEPARTMENT PURSUANT TO THIS CHAPTER FROM THE FREEDOM OF INFORMATION ACT; TO REQUIRE THE DEPARTMENT INCLUDE IN ITS ANNUAL SOLID WASTE REPORT INFORMATION PROVIDED BY MANUFACTURERS ON RECOVERY PROGRAMS; TO PROVIDE COVERED DEVICES MUST BE RECOVERED IN A MANNER THAT COMPLIES WITH ALL APPLICABLE FEDERAL, STATE, AND LOCAL REQUIREMENTS, AND CERTAIN RESPONSIBLE RECYCLING PRACTICES; AND TO PROVIDE THE DEPARTMENT SHALL PROMULGATE CERTAIN REGULATIONS.

Be it enacted by the General Assembly of the State of South Carolina:

South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act

SECTION 1. Title 48 of the 1976 Code is amended by adding:

"CHAPTER 60

South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act

Section 48-60-05. This chapter may be cited as the 'South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act'.

Section 48-60-10. The General Assembly finds:

(1) Televisions, computing, and printing devices are critical to the development of this state's economy and the promotion of the quality of life of the citizens of this State.

(2) Many of these televisions, computing, and printing devices can be refurbished and reused, or recycled.

(3) Developing and implementing a system for recovering televisions, computing, and printing devices promotes resource conservation, public health, public safety, and economic prosperity.

(4) In order to carry out these purposes, the State must establish a comprehensive and convenient recovery program for televisions,

computing, and printing devices based on individual manufacturer responsibility and shared responsibility among consumers, retailers, and government, and that the program must ensure that end-of-life televisions, computing, and printing devices are disposed of in a manner that promote resource conservation through the development of an effective and efficient system for collection and recycling, and to encourage manufacturers to offer convenient collection and recycling service to consumers at no charge.

Section 48-60-20. As used in this chapter:

(1) 'Collect' or 'collection' means to facilitate the delivery of a covered device to a collection site included in the manufacturer's program, and to transport the covered device for recovery.

(2) 'Computer manufacturer' means a person who:

(a) manufactures a covered computer device under its own brand for sale or without affixing a brand;

(b) sells in this State a covered computer device produced by another supplier under its own brand or label;

(c) imports covered computer devices; if a company from which an importer purchases a covered device has a presence or assets in the United States, that company must be considered the manufacturer; or

(d) manufactures a covered computer device, supplies a covered device to a person within a distribution network that includes wholesalers or retailers in this State, and benefits from the sale of a covered device through that distribution network.

(3) 'Consumer' means an occupant of a single detached dwelling unit or a single unit of a multiple dwelling unit who has used a covered device primarily for personal or home business use.

(4) 'Covered computer device' means a desktop or notebook computer, computer monitor, or printing device marketed and intended for use by a consumer, but does not include a covered television device.

(5) 'Covered devices' means a covered computer device and a covered television device marketed and intended for use by a consumer. 'Covered device', 'covered computer device', and 'covered television device' do not include any of the following:

(a) a covered device that is a part of a motor vehicle or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle;

(b) a covered device that is functionally or physically a part of, or connected to, or integrated within equipment or a system designed

and intended for use in an industrial, governmental, commercial, research and development, or medical setting, including, but not limited to, diagnostic, monitoring, control or medical products as defined under the federal Food, Drug, and Cosmetic Act, or equipment used for security, sensing, monitoring, antiterrorism, emergency services purposes or equipment designed and intended primarily for use by professional users;

(c) a covered device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, air purifier, water heater, or exercise equipment; or

(d) telephones of any type, including mobile telephones, a personal digital assistant (PDA), a global positioning system (GPS), or a hand-held gaming device.

(6) 'Covered television device' means any electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying television or video programming via broadcast, cable, or satellite, including, without limitation, any direct view or projection television with a viewable screen of nine inches or larger whose display technology is based on cathode ray tube, plasma, liquid crystal display, digital light processing, liquid crystal on silicon, silicon crystal reflective display, light emitting diode, or similar technology marketed and intended for use by a consumer primarily for personal purposes. The term does not include a covered computer device.

(7) 'Department' means the South Carolina Department of Health and Environmental Control.

(8) 'Manufacturer's brands' means a manufacturer's name, brand name either owned or licensed by the manufacturer, or brand logo for which the manufacturer has legal responsibility.

(9) 'Person' means an individual, business entity, partnership, limited liability company, corporation, not-for-profit corporation, association, government entity, public benefit corporation, or public authority.

(10) 'Recover' means to reuse or recycle.

(11) 'Recoverer' means a person or entity that reuses or recycles a covered device.

(12) 'Retail sale' means the sale of a new product through a sales outlet, the Internet, mail order, or otherwise, whether or not the seller has a physical presence in this State. A retail sale includes the sale of new products.

(13) 'Retailer' means a person engaged in retail sales.

(14) 'Sale' or 'sell' means any transfer for consideration of title including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet or any other similar electronic means, but does not mean leases.

(15) 'Television' means any electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying of television or video programming via broadcast, cable, or satellite, including, without limitation, any direct view or projection television with a viewable screen of nine inches or larger whose display technology is based on cathode ray tube, plasma, liquid crystal display, digital light processing, liquid crystal on silicon, silicon crystal reflective display, light emitting diode, or similar technology marketed and intended for use by a consumer primarily for personal purposes. The term does not include a covered computer device.

(16) 'Television manufacturer' means a person who:

(a) manufactures covered television devices under a brand that it licenses or owns, for sale in this State;

(b) manufactures covered television devices without affixing a brand for sale in this State;

(c) resells into this State a covered television device under a brand it owns or licenses produced by other suppliers, including retail establishments that sell covered television devices under a brand the retailer owns or licenses;

(d) imports covered television devices; if a company from which an importer purchases a covered device has a presence or assets in the United States, that company must be considered the manufacturer*;*

(e) manufactures covered television devices, supplies them to any person or persons within a distribution network that includes wholesalers or retailers in this State, and benefits from the sale in this State of those covered television devices through the distribution network; or

(f) assumes the responsibilities and obligations of a television manufacturer under this chapter. In the event the television manufacturer is one who manufactures, sells, or resells under a brand it licenses, the licensor or brand owner of the brand shall not be included in the definition of television manufacturer under items (a) or (c) above.

Section 48-60-30. A computer or television manufacturer may not sell or offer to sell a covered device unless a label indicating the computer or television manufacturer's brand is permanently affixed to the covered device in a readily visible location.

Section 48-60-40. (A) A computer manufacturer may not sell or offer to sell in this State a covered computer device unless the computer manufacturer provides a recovery program at no charge or provides a financial incentive of equal or greater value, such as a coupon. A recovery program must:

(1) require a computer manufacturer to offer to collect from a consumer a covered computer device bearing a label as provided in Section 48-60-30; and

(2) make the collection service as convenient to a consumer as the purchase of a covered computer device from a computer manufacturer as follows:

(a) A computer manufacturer may utilize a mail-back system in which a consumer can return an end-of-life covered device by mail, including a system in which a consumer can go online, print a prepaid shipping label, package the product, and affix the prepaid label to the package for deposit with the United States Postal Service or other carrier selected by the computer manufacturer.

(b) If the computer manufacturer does not provide a mail-back system, the computer manufacturer must provide collection sites or collection events, or both, that are centrally located in a county, region, or other locations based on population. Computer manufacturers shall work in coordination with the department to determine an appropriate number of collection sites or collection events, or both.

(B) A recovery program may use existing collection and consolidation infrastructure for collecting covered devices, including retailers, recyclers, and reuse organizations.

(C) Computer manufacturers may work collectively and cooperatively to offer collection services to consumers.

(D) A recovery program must be described on a computer manufacturer's Internet website if a manufacturer maintains an Internet website.

(E) Collection events under this section must accept any covered computer device.

Section 48-60-50. (A) No television manufacturer shall sell or offer for sale a covered television device in this State unless the television manufacturer provides a recovery program at no charge or provides a financial incentive of equal or greater value, such as a coupon.

(B) Beginning on the effective date of this chapter through June 30, 2012, a television manufacturer annually must recycle or arrange for the recycling of covered televisions.

(1) Beginning program year 2012, a television manufacturer annually must recycle or arrange for the recycling of its market share of covered television devices pursuant to this section. Market share, as used in this chapter, is the total weight of the manufacturer's televisions that were sold at retail in the United States to individuals during the previous program year, multiplied by the population fraction of South Carolina to the United States population, divided by the total weight of all of the televisions that were sold at retail to individuals in South Carolina during the previous program year. The individual recycling obligation for each television manufacturer is the total pounds of television recycled by all television manufacturers during the previous program year multiplied by the manufacturer's market share as calculated above. The population fraction is determined by using the most recent United States Census data for the total population of South Carolina divided by the total population of the United States.

(2) The department shall notify each television manufacturer of its market share recycling obligation. A television manufacturer shall provide the department information necessary for the department to calculate market share and to determine each television manufacturer's recycling obligation.

(3) A television manufacturer shall report to the department the total weight of manufacturer's televisions sold at retail in the United States, the state specific television sales data annually calculated using the population fraction of South Carolina to the United States population, and the total weight of televisions collected and recycled in the State during the previous program year.

(4) The program year for a recovery program under this section is the state's fiscal year.

(C) A television manufacturer may fulfill the requirements of this section either individually or in participation with other television manufacturers. A recovery program may use existing collection and consolidation infrastructure for collecting covered television devices, including retailers, recyclers, and reuse organizations.

(D) A television manufacturer shall provide the department with contact information for the manufacturer's designated agent or employee whom the department may contact for information related to the manufacturer's compliance with the requirements of this section.

Section 48-60-60. A computer or television manufacturer may not be liable for damages arising from information stored on a covered device collected from a consumer under the manufacturer's recovery programs of this chapter.

Section 48-60-70. (A) A retailer only may sell or offer to sell a covered device that:

(1) bears a manufacturer label as provided in Section 48-60-30; and

(2) is manufactured by a manufacturer that offers a recovery program as provided in Sections 48-60-40 and 48-60-50.

(B) The requirements of this section do not apply to a television sold by a retailer for less than one hundred dollars.

Section 48-60-80. A retailer may not be liable for damages arising from information stored on any covered device collected from a consumer under the manufacturer's recovery program.

Section 48-60-90. (A) After July 1, 2011, a consumer must not knowingly place or discard a covered device or any of the components or subassemblies of a covered device in any waste stream that is to be disposed of in a solid waste landfill.

(B) An owner or operator of a solid waste landfill must not, at the gate, knowingly accept, for disposal, loads containing more than an incidental amount of covered devices.

(C) The owner or operator of a solid waste landfill must post, in a conspicuous location at the landfill, a sign stating that covered devices or any components of covered devices are not accepted for disposal at the landfill.

(D) The owner or operator of a solid waste landfill must notify, in writing, all haulers delivering solid waste to the landfill that covered devices or any components of covered devices are not accepted for disposal at the landfill.

Section 48-60-100. (A) The department shall provide information to the public on its Internet website regarding the provisions of the chapter and the prohibition on disposing of covered devices in a solid waste landfill. The department also shall provide information about recovery programs available in the State on the department's Internet website. The website must include information about collection options available, the definition of covered devices, the proper methods for disposing of covered devices, the proper methods for disposing

noncovered devices, and links to relevant portions of computer or television manufacturer's Internet websites.

(B) Any local government eligible to participate in the statewide Electronic Equipment Recycling Services (EERS) contract with the South Carolina Budget and Control Board may not charge a consumer a fee at any point of the recovery process.

Section 48-60-110. The department may conduct audits and inspection of a computer or television manufacturer, retailer, or recoverer to determine compliance with this chapter's provisions, and may establish by regulation administrative fines for violations of this chapter.

Section 48-60-120. Financial and proprietary information submitted to the department pursuant to this act is exempt from public disclosure.

Section 48-60-130. The department shall include in its annual solid waste report information provided by manufacturers on recovery programs offered pursuant to this chapter.

Section 48-60-140. (A) Covered devices must be recovered in a manner that complies with all applicable federal, state, and local requirements.

(B) Recoverers must at a minimum comply with the responsible recycling practices (R2/RIOS) developed by the Institute of Scrap Recycling Industries or other comparable industry or governmental standards.

Section 48-60-150. The department shall promulgate regulations needed to implement this chapter's provisions including, but not limited to, reporting requirements, manufacturers' plans, manufacturers' annual reports, and standards for operations of recovery facilities. The department may propose by regulation, which must be submitted to the General Assembly pursuant to the Administrative Procedures Act, an initial registration fee or annual fee, or both, on computer or television manufacturers of covered devices, the proceeds of which must be used solely for the purposes of implementing the provisions of this chapter. Any fee proposed by the department must be graduated based on the computer manufacturer's volume of sales in this State. Any registration fee or annual fee for television manufacturers must be based on market share as defined in this

chapter. A manufacturer of a covered device that sells one thousand or less per year is exempt from any fee."

Severability clause

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, the holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 3. This act takes effect July 1, 2011; provided, however, a retailer must be allowed an additional period of six months from the effective date to sell any inventory purchased prior to the effective date before having to comply with the applicable provisions of this act.

Ratified the 13th day of May, 2010.

Approved the 19th day of May, 2010.

No. 179

(R213, H4302)

AN ACT TO AMEND SECTION 22-2-190, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE COUNTY JURY AREA DESIGNATIONS FOR USE IN MAGISTRATES COURTS, SO AS TO REVISE THE JURY AREAS FOR KERSHAW COUNTY TO PROVIDE FOR ONE JURY AREA COUNTYWIDE.

Be it enacted by the General Assembly of the State of South Carolina:

Magistrates court, Kershaw County jury area

SECTION 1. Section 22-2-190(28) of the 1976 Code is amended to read:

"(28) Kershaw County
One jury area countywide"

Time effective

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 13th day of May, 2010.

Approved the 19th day of May, 2010.

No. 180

(R219, S134)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-1-435 SO AS TO ENACT THE "RELIGIOUS VIEWPOINTS ANTIDISCRIMINATION ACT", WHICH PROHIBITS A SCHOOL DISTRICT FROM DISCRIMINATING AGAINST A STUDENT BASED ON RELIGIOUS VIEWPOINT, ALLOWS A STUDENT TO EXPRESS HIS RELIGIOUS VIEWPOINT, ALLOWS A STUDENT TO EXPRESS HIS RELIGIOUS BELIEFS IN HOMEWORK AND CLASSROOM ASSIGNMENTS WITHOUT PENALTY OR REWARD, AND ALLOWS STUDENTS TO ORGANIZE AND PARTICIPATE IN RELIGIOUS STUDENT GATHERINGS TO THE SAME EXTENT AS SECULAR NONCURRICULAR GROUPS.

Be it enacted by the General Assembly of the State of South Carolina:

Religious Viewpoints Antidiscrimination Act; school districts may not discriminate against student for expression of religious views; student religious expression permitted; student organization of religious groups permitted

SECTION 1. Article 5, Chapter 1, Title 59 of the 1976 Code is amended by adding:

"Section 59-1-435. (A) This section may be cited as the 'Religious Viewpoints Antidiscrimination Act'.

(B) As used in this section, 'discriminate' means to make a distinction in favor of or against a person on the basis of the group, class, or category to which the person belongs, rather than according to actual merit.

(C) A school district shall treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the district treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and must not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

(D) A student may express his beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination based on the religious content of his submission. Homework and classroom assignments must be judged by ordinary academic standards of substance and relevance and against other legitimate pedagogical concerns identified by the school district. A student may not be penalized or rewarded based on the religious content of his work.

(E) Students may organize prayer groups, religious clubs, 'see you at the pole' gatherings, or other religious gatherings before, during, and after school to the same extent that students are permitted to organize other noncurricular student activities and groups. Religious groups must be given the same access to school facilities for assembling as is given to other noncurricular groups without discrimination based on the religious content of the students' expression. If student groups that meet for nonreligious activities are permitted to advertise or announce meetings of the groups, the school district must not discriminate against groups that meet for prayer or other religious speech. A school district may disclaim school sponsorship of noncurricular groups and events in a manner that neither favors nor disfavors groups that meet to engage in prayer or religious speech."

Time effective

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 25th day of May, 2010.

Approved the 28th day of May, 2010.

No. 181

(R220, S372)

AN ACT TO AMEND SECTION 62-2-207, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DETERMINATION OF AN ELECTIVE SHARE OF A SPOUSE, SO AS TO CLARIFY THAT AN INTEREST AS A BENEFICIARY IN A TESTAMENTARY TRUST OR IN PROPERTY PASSING TO AN INTER VIVOS TRUST THROUGH THE DECEDENT'S WILL IS A BENEFICIAL INTEREST CHARGEABLE TO THE ELECTIVE SHARE; AND TO AMEND SECTION 62-7-401, RELATING TO CREATION OF A TRUST, SO AS TO PROVIDE FOR THE INCLUSION OF A SURVIVING SPOUSE'S BENEFICIAL INTERESTS IN TRUST PROPERTY IN CALCULATING THE ELECTIVE SHARE.

Be it enacted by the General Assembly of the State of South Carolina:

Elective share, beneficial interest

SECTION 1. Section 62-2-207 of the 1976 Code is amended to read:

"Section 62-2-207. (a) In the proceeding for an elective share, all property, including beneficial interest, which passes or has passed to the surviving spouse under the decedent's will or by intestacy, by a homestead allowance, and by Section 62-2-401, or which would have passed to the spouse but was renounced, or which is contained in a trust created by the decedent's will or a trust as described in Section 62-7-401(c) in which the spouse has a beneficial interest, is applied

first to satisfy the elective share and to reduce contributions due from other recipients of transfers included in the probate estate. A beneficial interest that passes or has passed to a surviving spouse under the decedent's will includes an interest as a beneficiary in a trust created by the decedent's will or an interest as a beneficiary in property passing under the decedent's will to an inter vivos trust created by the decedent. For purposes of this subsection, the value of the electing spouse's beneficial interest in property which qualifies or would have qualified for the federal estate tax marital deduction pursuant to Section 2056 of the Internal Revenue Code, as amended and in effect on December 31, 2009, must be computed at the full value of the qualifying property. Qualifying for these purposes must be determined without regard to whether an election has been made to treat the property as qualified terminable interest property.

(b) Remaining property of the probate estate is applied so that liability for the balance of the elective share of the surviving spouse is satisfied from the probate estate with devises abating in accordance with Section 62-3-902."

Revocable trust, elective share

SECTION 2. Section 62-7-401(c) of the 1976 Code is amended to read:

"(c) A revocable inter vivos trust may be created either by declaration of trust or by a transfer of property and is not rendered invalid because the settler retains substantial control over the trust including, but not limited to, (i) a right of revocation, (ii) substantial beneficial interests in the trust, or (iii) the power to control investments or reinvestments. This subsection does not prevent a finding that a revocable inter vivos trust, enforceable for other purposes, is illusory for purposes of determining a spouse's elective share rights pursuant to Article 2, Title 62. A finding that a revocable inter vivos trust is illusory and thus invalid for purposes of determining a spouse's elective share rights pursuant to Article 2, Title 62 does not render that revocable inter vivos trust invalid, but allows inclusion of the trust assets as part of the probate estate of the settlor only for the purpose of calculating the elective share. In that event, the trust property that passes or has passed to the surviving spouse, including a beneficial interest of the surviving spouse in that trust property, must be applied first to satisfy the elective share and to reduce contributions due from other recipient of transfers including the probate estate, and the trust

assets are available for satisfaction of the elective share only to any remaining extent necessary pursuant to Section 62-2-207."

Severability

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 25th day of May, 2010.

Approved the 28th day of May, 2010.

No. 182

(R221, S728)

AN ACT TO AMEND SECTION 12-65-30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ENTITLEMENT TO TAX CREDITS UNDER THE TEXTILES COMMUNITIES REVITALIZATION ACT, SO AS TO FURTHER PROVIDE FOR THE APPLICABILITY OF SPECIFIC REQUIREMENTS FOR TEXTILE MILL SITES ACQUIRED BEFORE AND AFTER 2007, TO REVISE THE ALLOWABLE AMOUNT OF THE CREDITS IN CERTAIN INSTANCES, TO PROVIDE THAT THE TAX CREDITS ALLOWED INCLUDE CREDITS AGAINST INSURANCE PREMIUM TAXES, TO MAKE A TECHNICAL CORRECTION, TO FURTHER PROVIDE FOR THE MANNER IN WHICH

THESE CREDITS ARE VESTED IN A TAXPAYER AND MAY BE ALLOCATED TO PARTNERS OR MEMBERS, AND PROVIDE WHEN A TAXPAYER IS NOT ELIGIBLE FOR THE CREDITS; BY ADDING SECTION 12-65-50 SO AS TO PROVIDE TRANSITION RULES APPLICABLE TO SPECIFIC MILL SITES; BY ADDING SECTION 12-65-60 SO AS TO FURTHER PROVIDE FOR THE ELIGIBILITY CERTIFICATION PROCESS; TO AMEND SECTION 12-65-20, RELATING TO DEFINITIONS UNDER THE TEXTILE COMMUNITIES REVITALIZATION ACT, SO AS TO REVISE THE DEFINITION OF A "TEXTILE MILL"; AND TO AMEND SECTION 4-9-195, AS AMENDED, RELATING TO THE GRANT OF SPECIAL PROPERTY TAX ASSESSMENTS TO "REHABILITATED HISTORIC PROPERTY" OR "LOW AND MODERATE INCOME RENTAL PROPERTY", SO AS TO FURTHER PROVIDE FOR THE CIRCUMSTANCES WHEN THE PROPERTY BECOMES DISQUALIFIED FOR THE SPECIAL ASSESSMENT.

Be it enacted by the General Assembly of the State of South Carolina:

Requirements and applicability of credits

SECTION 1. Section 12-65-30 of the 1976 Code, as added by Act 313 of 2008, is amended to read:

"Section 12-65-30. (A) Subject to the terms and conditions of this chapter, a taxpayer who rehabilitates a textile mill site is eligible for either:

(1) a credit against real property taxes levied by local taxing entities; or

(2) a credit against income taxes imposed pursuant to Chapter 6 and Chapter 11 of this title or corporate license fees pursuant to Chapter 20 of this title, or insurance premium taxes imposed by Chapter 7, Title 38, or any of them.

(B) If the taxpayer elects to receive the credit pursuant to subsection (A)(1), the following provisions apply:

(1) The taxpayer shall file a Notice of Intent to Rehabilitate with the municipality, or the county if the textile mill site is located in an unincorporated area, in which the textile mill site is located before incurring its first rehabilitation expenses at the textile mill site. Failure

to provide the Notice of Intent to Rehabilitate results in qualification of only those rehabilitation expenses incurred after notice is provided.

(2) Once the Notice of Intent to Rehabilitate has been provided to the county or municipality, the municipality or the county shall first by resolution determine the eligibility of the textile mill site and the proposed rehabilitation expenses for the credit. A proposed rehabilitation of a textile mill site must be approved by a positive majority vote of the local governing body. For purposes of this subsection, 'positive majority vote' is as defined in Section 6-1-300(5). If the county or municipality determines that the textile mill site and the proposed rehabilitation expenses are eligible for the credit, there must be a public hearing and the municipality or county shall approve the textile mill site for the credit by ordinance. Before approving a textile mill site for the credit, the municipality or county shall make a finding that the credit does not violate a covenant, representation, or warranty in any of its tax increment financing transactions or an outstanding general obligation bond issued by the county or municipality.

(3)(a) The amount of the credit is equal to twenty-five percent of the actual rehabilitation expenses made at the textile mill site times the local taxing entity ratio of each local taxing entity that has consented to the credit pursuant to item (4), if the actual rehabilitation expenses incurred in rehabilitating the textile mill site are between eighty percent and one hundred twenty-five percent of the estimated rehabilitation expenses set forth in the Notice of Intent to Rehabilitate. If the actual rehabilitation expenses exceed one hundred twenty-five percent of the estimated expenses set forth in the Notice of Intent to Rehabilitate, the taxpayer qualifies for the credit based on one hundred twenty-five percent of the estimated expenses as opposed to the actual expenses it incurred in rehabilitating the textile mill site. If the actual rehabilitation expenses are below eighty percent of the estimated rehabilitation expenses, the credit is not allowed. The ordinance must provide for the credit to be taken as a credit against up to seventy-five percent of the real property taxes due on the textile mill site each year for up to eight years.

(b) The local taxing entity ratio is set as of the time the Notice of Intent to Rehabilitate is filed and remains set for the entire period that the credit may be claimed by the taxpayer.

(4) Not fewer than forty-five days before holding the public hearing required by subsection (B)(2), the governing body of the municipality or county shall give notice to all affected local taxing entities in which the textile mill site is located of its intention to grant a

credit against real property taxes for the textile mill site and the amount of estimated credit proposed to be granted based on the estimated rehabilitation expenses. If a local taxing entity does not file an objection to the tax credit with the municipality or county on or before the date of the public hearing, the local taxing entity is considered to have consented to the tax credit.

(5) The credit against real property taxes for each applicable phase or portion of the textile mill site may be claimed beginning for the property tax year in which the applicable phase or portion of the textile mill site is first placed in service.

(C) If the taxpayer elects to receive the credit pursuant to subsection (A)(2), the following provisions apply:

(1) The amount of the credit is equal to twenty-five percent of the actual rehabilitation expenses made at the textile mill site.

(2) If the taxpayer has acquired the textile mill site after December 31, 2007, the provisions of this item (2) apply to the textile mill site; provided, however, that transfers between affiliated taxpayers of phases of any textile mill site may not be deemed an acquisition for this purpose. The taxpayer shall file with the department a Notice of Intent to Rehabilitate prior to receiving the building permits for the applicable rehabilitation at the textile mill site or phase thereof. Failure to provide the Notice of Intent to Rehabilitate prior to receiving the building permits for the applicable rehabilitation at the textile mill site or phase thereof results in qualification of only those rehabilitation expenses incurred after the notice is provided. If the actual rehabilitation expenses exceed one hundred twenty-five percent of the estimated expenses set forth in the Notice of Intent to Rehabilitate, the taxpayer qualifies for the credit based on one hundred twenty-five percent of the estimated expenses as opposed to the actual expenses incurred in rehabilitating the textile mill site.

(3) The entire credit is earned in the taxable year in which the applicable phase or portion of the textile mill site is placed in service but must be taken in equal installments over a five-year period beginning with the tax year in which the applicable phase or portion of the textile mill site is placed in service. Unused credit may be carried forward for the succeeding five years.

(4) If the taxpayer qualifies for both the credit allowed by this subsection and the credit allowed pursuant to Section 12-6-3535, the taxpayer may claim both credits.

(5) The credit allowed by this subsection is limited in use to fifty percent of each of the following:

(a) the taxpayer's income tax liability for the taxable year if taxpayer claims the credit allowed by this section as a credit against income tax imposed pursuant to Chapter 6 or Chapter 11 of this title;

(b) the taxpayer's corporate license fees for the taxable year if the taxpayer claims the credit allowed by this section as a credit against license fees imposed pursuant to Chapter 20; or

(c) the taxpayer's insurance premium taxes imposed by Chapter 7, Title 38.

(6)(a) If the taxpayer leases the textile mill site, or part of the textile mill site, the taxpayer may transfer any applicable remaining credit associated with the rehabilitation expenses incurred with respect to that part of the site to the lessee of the site. The provisions of item (7) of this subsection apply to a lessee that is an entity taxed as a partnership. If a taxpayer sells the textile mill site, or any phase or portion of the textile mill site, the taxpayer may transfer all, or part of the remaining credit, associated with the rehabilitation expenses incurred with respect to that phase or portion of the site to the purchaser of the applicable portion of the textile mill site.

(b) To the extent that the taxpayer transfers the credit, the taxpayer must notify the department of the transfer in the manner the department prescribes.

(7) To the extent that the taxpayer is a partnership or a limited liability company taxed as a partnership, the credit may be passed through to the partners or members and may be allocated by the taxpayer among any of its partners or members on an annual basis including, without limitation, an allocation of the entire credit to any partner or member who was a member or partner at any time during the year in which the credit is allocated.

(D) A taxpayer is not eligible for the credit if the facility has previously received textile mill credits, or if the taxpayer owned the otherwise eligible textile mill site when the site was operational and immediately prior to its abandonment."

Transition rules

SECTION 2. Chapter 65, Title 12 of the 1976 Code is amended by adding:

"Section 12-65-50. (A) Entire textile mill sites placed in service on or before December 31, 2007, must be governed by the former provisions of Chapter 32, Title 6, in effect as of December 31, 2007.

(B) The provisions of this chapter shall apply to all textile mill sites or portions thereof placed in service on or after January 1, 2008.

(C) For any textile mill sites in which a portion but not all of the textile mill site was placed in service on or before December 31, 2007, the taxpayer may elect to either:

(1) have the portion of the textile mill site that was placed in service on or before December 31, 2007, governed by the former provisions of Chapter 32, Title 6, in effect as of December 31, 2007, as if the portion were an entire textile mill site; or

(2) have the portion be governed by this chapter such that the portion must be deemed to be a phase of the textile mill site placed in service on a date subsequent to December 31, 2007, identified by the taxpayer."

Certification of site

SECTION 3. Chapter 65, Title 12 of the 1976 Code is amended by adding:

"Section 12-65-60. The taxpayer may apply to the municipality or county in which the textile mill site is located for a certification of the textile mill site made by ordinance or binding resolution of the governing body of the municipality or county. The certification shall include findings that the:

(1) textile mill site was a textile mill as defined in Section 12-65-20(3);

(2) textile mill site has been abandoned as defined in Section 12-65-20(1); and

(3) geographic area of the textile mill site consistent with Section 12-65-20(4).

The taxpayer may conclusively rely upon the certification in determining the credit allowed; provided, however, that if the taxpayer is relying upon the certification, the taxpayer shall include a copy of the certification on the first return for which the credit is claimed."

Definition revised

SECTION 4. Section 12-65-20(3) of the 1976 Code is amended to read:

"(3) 'Textile mill' means a facility or facilities that were initially used for textile manufacturing, dying, or finishing operations and for ancillary uses to those operations."

Disqualification provisions revised

SECTION 5. Section 4-9-195(E) of the 1976 Code, as last amended by Act 292 of 2004, is further amended to read:

"(E) When property has received final certification and is assessed as rehabilitated historic property, or low or moderate income rental property, it remains so certified and must be granted the special assessment until the property becomes disqualified by any one of the following:

(1) written notice by the owner to the county to remove the preferential assessment;

(2) removal of the historic designation by the county governing body;

(3) decertification of the property by the local governing body as low or moderate income rental property for persons and families of moderate to low income as defined by Section 31-13-170(p);

(4) rescission of the approval of rehabilitation work by the reviewing authority because of alterations or renovations by the owner or his estate which cause the property to no longer possess the qualities and features which made it eligible for final certification.

Under no circumstances shall the sale or transfer of ownership of real property certified and assessed in accordance with this section and any ordinance in effect at the time disqualify the property from receiving the special property tax assessment under this section. This provision shall be applicable and given full force and effect to any special property tax assessment granted prior to the effective date of this paragraph notwithstanding any ordinance in effect from time to time to the contrary.

Notification of any change affecting eligibility must be given immediately to the appropriate county taxing and assessing authorities."

Time effective

SECTION 6. This act takes effect upon approval by the Governor.

Ratified the 25th day of May, 2010.

Approved the 28th day of May, 2010.

No. 183

(R225, S1130)

AN ACT TO AMEND SECTION 50-15-65, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ALLIGATOR MANAGEMENT PROGRAM AND CONDITIONS UNDER WHICH ALLIGATORS MAY BE HUNTED OR TAKEN, SO AS TO PROHIBIT A DEPREDATION PERMIT HOLDER TO SELL, BARTER, OR TRADE THE PRIVILEGE TO TAKE AN ALLIGATOR; TO AMEND SECTION 50-9-30, RELATING TO THE REQUIREMENTS FOR OBTAINING A RESIDENT HUNTING OR FISHING LICENSE, SO AS TO FURTHER SPECIFY RESIDENCY REQUIREMENTS; TO AMEND SECTION 50-9-920, RELATING TO THE DEPOSITING OF REVENUE GENERATED BY THE SALE OF LICENSES INTO CERTAIN FUNDS, SO AS TO CHANGE THE NAME OF THE GAME PROTECTION FUND TO THE FISH AND WILDLIFE PROTECTION FUND AND TO PROVIDE THAT REVENUE GENERATED FROM APPLICATION FEES, PERMITS, AND TAGS FOR THE PRIVILEGE OF TAKING ALLIGATORS MUST BE USED TO SUPPORT THE ALLIGATOR MANAGEMENT PROGRAM; AND BY ADDING ARTICLE 6 TO CHAPTER 9, TITLE 50 SO AS TO PROVIDE APPLICATION REQUIREMENTS AND FEES FOR THE PRIVILEGE OF TAKING ALLIGATORS.

Be it enacted by the General Assembly of the State of South Carolina:

Alligator management program

SECTION 1. Section 50-15-65 of the 1976 Code, as added by Act 179 of 2008, is amended to read:

"Section 50-15-65. (A) The General Assembly finds that the American alligator (Alligator mississippiensis) was reclassified by the United States Fish and Wildlife Service from endangered or threatened to 'threatened due to similarity of appearance throughout the remainder of its range' pursuant to the federal Endangered Species Act (16 U.S.C. 1531) and the regulations issued to implement that act. American alligators may now be taken under federal law in compliance with 50 C.F.R. 17.42(a)(2)(ii). Therefore, in order to create more opportunity for hunting and for the controlled harvest of the alligator the General Assembly finds it in the best interest of the State to allow the taking of the alligator under strictly controlled conditions and circumstances and in compliance with federal law.

(B)(1) The department must establish an alligator management program that allows for hunting and for selective removal of alligators in order to provide for the sound management of the animals and to ensure the continued viability of the species. The department must set the conditions for taking, including the size, methods of take, areas, times and seasons, disposition of the parts, and other conditions to properly control the harvest of alligators and the disposition of parts. The department may allow alligators to be taken at any time of the year, on any area, including sanctuaries, as part of its alligator management program. All alligators taken under the alligator management program must be taken pursuant to permits and tags and under conditions established by the department in accordance with state and federal law. All alligators taken must be tagged. Except for those persons operating under authority of depredation permits, a person who hunts, takes, or attempts to take an alligator must have a hunting license. It is unlawful for a depredation permit holder or his or her designee to sell, barter, or trade or offer to sell, barter, or trade the privilege to take an alligator under the authority of a depredation permit.

(2) The department may establish an alligator hunting season. The department may issue alligator permits and tags to allow hunting and taking of alligators in any game zone where alligators occur. A person desiring to hunt and take alligators must apply to the department.

(3) A landowner or lessee of property on which alligators occur may apply to the department for a permit to participate in the Private Lands Alligator Program. On those private lands the season for hunting and taking alligators is from September first through October fifteenth. On those lands in the private lands program only, unsecured alligators may be taken by firearms, provided no alligator may be taken by use of rim fire weapons or shotguns. Unsecured alligators may be taken only by firearms from thirty minutes before sunrise until thirty minutes after sunset. A person who takes an alligator by use of firearms must make a reasonable effort to recover the carcass at the time of taking or for the next ensuing forty-eight hours. A person using a firearm to take an alligator must have a gaff or grappling hook or other similar device to immediately locate and recover the carcass.

(4) The department may designate alligator control agents who demonstrate by training and experience that they possess the skills to remove alligators. Those persons designated serve at the discretion of the department. The department may require periodic demonstrations of skill or require periodic training. Alligator control agents function under the general guidance and supervision of the department for the capture and removal of nuisance alligators including the disposition of the alligator or its parts.

(C) It is unlawful to feed, entice, or molest an alligator except as permitted under state and federal law. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars or more than one hundred fifty dollars or imprisoned for up to thirty days, or both. The magistrates court retains jurisdiction of this offense.

(D) A person who hunts or takes an alligator or allows an alligator to be hunted or taken or possesses or disposes of alligator parts, except as allowed by this section and the implementing regulations, is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars or more than two thousand five hundred dollars or imprisoned for up to thirty days, or both. The magistrates court retains jurisdiction of this offense. In addition, the court may order restitution for any animal or part of an animal taken, possessed, or transferred in violation of this section.

(E) All revenue including fines, forfeitures, and sales derived from this section must be deposited in the Fish and Wildlife Protection Fund and used by the department to support the alligator management program."

Residency requirements for hunting and fishing licenses

SECTION 2. Section 50-9-30 of the 1976 Code is amended to read:

"Section 50-9-30. (A) For the purposes of obtaining:

(1) a recreational license, permit, or tag with a duration of three hundred sixty-five days or less, 'resident' means a United States citizen who has been domiciled in this State for thirty consecutive days or more immediately preceding the date of application.

(2) a multiyear recreational license, 'resident' means a United States citizen who has been domiciled in this State for one hundred eighty consecutive days or more immediately preceding the date of application.

(3) a recreational license, permit, or tag in item (1) or (2), the following are considered residents:

(a) a regularly enrolled full-time student in a high school, technical school, college, or university within this State;

(b) an active member of the United States Armed Forces, and the member's dependents, stationed in this State for sixty days or longer or who is domiciled in this State.

(4) a lifetime recreational license, 'resident' means a United States citizen who has been domiciled in this State for one hundred eighty consecutive days or more immediately preceding the date of application.

(5) a disability recreational license, 'resident' means a United States citizen who has been domiciled in this State for three hundred sixty-five consecutive days or more immediately preceding the date of application.

(6)(a) a commercial license, permit, or tag, 'resident' means a United States citizen who has been domiciled in this State for three hundred sixty-five consecutive days or more immediately preceding the date of application.

(b) a commercial license or permit, issued for a business, 'resident' means a business that has been incorporated and operating in this State for three hundred sixty-five days or more immediately preceding the date of application.

(B) An applicant for a resident license must furnish proof of residency as may be required by the department.

(C)(1) 'Nonresident' means a citizen of a foreign country or a United States citizen who is not domiciled in this State or who maintains a permanent residence in another state or who does not otherwise meet the definition of a resident.

(2) For a business, a 'nonresident' means a business that is not incorporated in this State or that does not otherwise meet the definition of resident in item (A)(6)(b)."

Disposition of revenue

SECTION 3. Section 50-9-920 of the 1976 Code is amended to read:

"Section 50-9-920. (A) Revenue generated from the sale of lifetime licenses must be deposited in the Wildlife Endowment Fund.

(B) All wildlife management area revenue must be retained by the department and used exclusively for the management and the procurement of wildlife management area lands.

(C) Revenue generated from the sale of other licenses, permits, stamps, and tags, except wildlife management area revenue, and revenue from the fines and forfeitures for violations of other sections of this title and for all other offenses investigated or prosecuted by the department, must be deposited with the State Treasury to the credit of the Fish and Wildlife Protection Fund. This revenue must be expended by the department for the protection, promotion, propagation, and management of wildlife and fish, the enforcement of related laws, and the dissemination of information, facts, and findings the department considers necessary.

(D) Revenue generated from application and other fees, permits, and tags for the privilege of taking alligators must be used by the department to support the alligator management program."

Alligator permits and tags

SECTION 4. Chapter 9, Title 50 of the 1976 Code is amended by adding:

"Article 6

Permits and Tags

Section 50-9-660. Except pursuant to a person operating under a depredation permit:

(1) For the privilege of taking an alligator, in addition to the required hunting license, a person first must apply to the department's Alligator Draw Hunt Program. The application fee is ten dollars.

Successful selection provides the applicant an opportunity to obtain one alligator tag at a cost of one hundred dollars.

(2) The property permit fee for participation in the Private Lands Alligator Program is ten dollars. The cost for each tag issued under the permit is ten dollars.

(3) A nonresident sixteen years of age or older who hunts alligators under any alligator management program must pay a nonresident alligator hunting fee of two hundred dollars, four dollars of which may be retained by the issuing sales vendor.

(4) Application, permit, and tag fees are nonrefundable."

Time effective

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 25th day of May, 2010.

Approved the 28th day of May, 2010.

No. 184

(R226, S1187)

AN ACT TO AMEND SECTION 28-11-30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO REIMBURSEMENT OF PROPERTY OWNERS FOR CERTAIN EXPENSES RELATED TO THE TAKING OF LAND FOR PUBLIC USE, SO AS TO PROVIDE THAT REESTABLISHMENT EXPENSES PERTAINING TO MOVING A SMALL BUSINESS, FARM, OR NONPROFIT ORGANIZATION PAYABLE FOR TRANSPORTATION PROJECTS PURSUANT TO FEDERAL GUIDELINES AND REGULATIONS MAY BE PAID IN AN AMOUNT UP TO FIFTY THOUSAND DOLLARS, NOTWITHSTANDING A LOWER LIMITATION IMPOSED BY FEDERAL REGULATIONS.

Be it enacted by the General Assembly of the State of South Carolina:

Reestablishment expenses may be paid

SECTION 1. Section 28-11-30 of the 1976 Code is amended to read:

"Section 28-11-30. To the extent that Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646) makes certain requirements pertaining to the acquisition of real property by states prerequisites to federal aid to such states in programs or projects involving the acquisition of real property for public uses, state agencies and instrumentalities and political subdivisions and local government agencies and instrumentalities involved in these programs or projects may expend available public funds as provided in this section, whether or not the program or project is federally aided.

(1) A person, agency, or other entity acquiring real property for public use in a project or program shall, as soon as practicable after the date of payment of the purchase price or the date of deposit into court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, reimburse the owner, to the extent the State deems fair and reasonable, for expenses he necessarily incurred for:

(a) recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the State;

(b) penalty costs for prepayment for preexisting recorded mortgage entered into in good faith encumbering such real property; and

(c) the pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the agency concerned, or the effective date of possession of such real property by such agency, whichever is the earlier.

(2) Where a condemnation proceeding is instituted by the agency to acquire real property for such use and:

(a) the final judgment is that the real property cannot be acquired by condemnation; or

(b) the proceeding is abandoned, the owner of any right, title, or interest in such real property shall be paid such sum as will, in the opinion of the agency, reimburse such owner for his reasonable attorney, appraisal, and engineering fees actually incurred because of the condemnation proceedings. The award of these sums will be paid by the person, agency, or other entity which sought to condemn the property.

(3) Where an inverse condemnation proceeding is instituted by the owner of a right, title, or interest in real property because of use of his property in a program or project, the court, rendering a judgment for the plaintiff in the proceeding and awarding compensation for the taking of property, or the attorney effecting a settlement of a proceeding, shall determine and award or allow to the plaintiff, as a part of the judgment or settlement, a sum that will, in the opinion of the court or the agency's attorney, reimburse the plaintiff for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees actually incurred because of the proceeding.

(4) Reestablishment expenses related to the moving of a small business, farm, or nonprofit organization payable for transportation projects pursuant to federal guidelines and regulations may be paid in an amount up to fifty thousand dollars, notwithstanding a lower limitation imposed by federal regulations."

Time effective

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 25th day of May, 2010.

Approved the 28th day of May, 2010.

No. 185

(R228, S1204)

AN ACT TO AMEND SECTION 48-5-50, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO USES OF THE CLEAN WATER FUND, SO AS TO ALLOW ANY USE PRESCRIBED BY ANY FEDERAL LAW GOVERNING OR APPROPRIATING FUNDS FOR THE CLEAN WATER FUND; AND TO AMEND SECTION 48-5-55, RELATING TO USES OF THE DRINKING WATER REVOLVING LOAN FUND, SO AS TO ALLOW ANY USE PRESCRIBED BY ANY FEDERAL LAW GOVERNING OR APPROPRIATING FUNDS FOR THE DRINKING WATER FUND.

Be it enacted by the General Assembly of the State of South Carolina:

Clean Water Fund, use of fund

SECTION 1. Section 48-5-50(C)(7) of the 1976 Code is amended to read:

"(7) for any other purpose authorized by the Clean Water Act or any other federal law governing or appropriating funds for the clean water fund."

Drinking Water Revolving Loan Fund, use of fund

SECTION 2. Section 48-5-55(C)(6) of the 1976 Code is amended to read:

"(6) for any other purposes authorized by the Safe Drinking Water Act or any other federal law governing or appropriating funds for the drinking water fund."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 25th day of May, 2010.

Approved the 28th day of May, 2010.

No. 186

(R229, S1261)

AN ACT TO AMEND ARTICLE 5, CHAPTER 3, TITLE 50, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CUTTING OF TIMBER ON LANDS HELD BY THE DEPARTMENT OF NATURAL RESOURCES, SO AS TO MAKE TECHNICAL CORRECTIONS; TO DELETE OBSOLETE REFERENCES; TO REQUIRE THE DEPARTMENT TO COORDINATE THE CUTTING AND SALE OF SUCH TIMBER WITH THE STATE FORESTER, RATHER THAN SUBMIT

THE MATTER TO THE STATE FORESTER; TO PROVIDE THAT LAND USED BY THE DEPARTMENT FOR AGRICULTURE OR MANAGED FOREST LAND BEFORE ACQUISITION BY THE DEPARTMENT MUST BE MANAGED AND TIMBER HARVESTED TO PROVIDE OPTIMUM FISH AND WILDLIFE HABITAT; TO REVISE PROCEDURES FOR ADVERTISING FOR BIDS ON THE TIMBER; TO PROVIDE THAT THE STATE FORESTER MUST APPROVE THE IMMEDIATE HARVEST OF TIMBER IF AN ECOLOGICAL OR SILVICULTURE EMERGENCY OR NATURAL DISASTER OCCURS NECESSITATING SUCH HARVEST OF TIMBER; TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT, RATHER THAN THE BOARD, TO EXECUTE DEEDS AND CONTRACTS REQUIRED IN CARRYING OUT THIS ARTICLE; TO DELETE THE PROVISION REQUIRING THE STATE FORESTER TO HAVE TREES MARKED BEFORE CUTTING BEGINS; AND TO PROVIDE THAT, UNLESS OTHERWISE PROVIDED FOR, THE PROCEEDS OF THESE TIMBER SALES MUST CONTINUE TO BE CREDITED TO THE FISH AND WILDLIFE PROTECTION FUND.

Be it enacted by the General Assembly of the State of South Carolina:

Revisions to article

SECTION 1. Article 5, Chapter 3, Title 50 of the 1976 Code is amended to read:

"Article 5

Cutting of timber on lands held by department

Section 50-3-510. The department may, subject to the provisions of this article, contract for the harvest of timber on any lands held by the department. No contract for such cutting and sale may be entered into and no timber may be cut or sold unless the board votes that the cutting and sale of the timber is for the best interests of the department and the improvement of its lands, by reason of thinning the timber, harvesting the over-age trees and improving general forestry conditions. Before selling or cutting the timber the department shall coordinate with the State Forester to have the timber cruised and an estimate of the value made. If the State Forester finds that the sale is not in keeping with

good forestry practices or will adversely affect the remainder of the timber, the sale must not be made.

Section 50-3-515. Notwithstanding any other provision of law, lands which were used for agriculture or managed forestland before acquisition by the department must be managed and the timber harvested to provide optimum fish and wildlife habitat. The department must use Best Management Practices as prescribed by the South Carolina Forestry Commission, or its successor, in managing and harvesting timber. If the department uses Best Management Practices when managing or harvesting timber, there is no adverse effect on historical properties or archeological sites.

Section 50-3-520. If the sale is recommended by the State Forester, the department shall publicly advertise for bids for the timber at least three weeks before the closing of the bidding. The department has the right to reject any and all bids, either on account of the amounts of the bids or the lack of experience and responsibility of the bidder. A sale agreed upon must be for cash.

Section 50-3-525. If an ecological or silviculture emergency or a natural disaster occurs that necessitates the immediate harvest of timber, upon the approval of the State Forester, the department immediately may negotiate contracts for the harvest and sale of the timber. Ecological or silviculture emergencies include, but are not limited to, insect, fungal, disease infestations, or fires.

Section 50-3-530. Any deeds or contracts required in carrying out the provisions of this article may be executed and delivered on behalf of the department by the director.

Section 50-3-550. Unless otherwise provided, the proceeds of the sale must be deposited with the State Treasurer to the credit of the Fish and Wildlife Protection Fund."

Time effective

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 25th day of May, 2010.

Approved the 28th day of May, 2010.

No. 187

(R230, S1300)

AN ACT TO AMEND SECTION 14-7-845, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO POSTPONEMENT OF JURY SERVICE FOR STUDENTS AND SCHOOL EMPLOYEES, SO AS TO PROVIDE THAT PUBLIC OR PRIVATE SCHOOL EMPLOYEES AND OTHER DELINEATED PERSONS RESPONSIBLE FOR THE EDUCATION OR INSTRUCTION OF A CHILD MAY REQUEST A POSTPONEMENT OF JURY SERVICE; AND TO AMEND SECTION 14-7-860, AS AMENDED, RELATING TO EXCUSAL OF JURORS FOR GOOD CAUSE, SO AS TO CLARIFY THAT THE APPLICATION FOR EXCUSAL FROM JURY SERVICE BE IN THE FORM OF AN AFFIDAVIT.

Be it enacted by the General Assembly of the State of South Carolina:

Jury service, postponement for students and school employees, public and private

SECTION 1. Section 14-7-845 of the 1976 Code, as last amended by Act 28 of 1997, is further amended to read:

"Section 14-7-845. (A) If a student selected for jury service during the school term requests, his service must be postponed to a date that does not conflict with the school term. For purposes of this subsection, a student is a person enrolled in high school or an institution of higher learning, including technical college.

(B) If a public or private school employee, a person primarily responsible for the elementary or secondary education of a child in a

home or charter school, or a person who is an instructor at an institution of higher learning including a technical college, selected for jury service during the school term requests, his service must be postponed to a date that does not conflict with the school term. For purposes of this subsection, a 'school employee' is a person employed as a teacher, certified personnel at the building level, or bus driver by a school, a school system, or a school district offering educational programs to grades K-12 and to institutions of higher learning, including technical colleges. For purposes of this subsection, 'school term' means the instructional school year, generally from September first until May thirtieth or not more than one hundred ninety days.

(C) A person selected for jury service who requests a postponement pursuant to subsection (A) or (B) must provide evidence of school enrollment or employment, or evidence of educational responsibilities during a home or charter school term coinciding with the dates of jury duty."

Jury service, excusal for good cause, affidavit

SECTION 2. Section 14-7-860 of the 1976 Code, as last amended by Act 228 of 2004, is further amended to read:

"Section 14-7-860. (A) The presiding judge for cause shown may excuse any person from jury duty at any term of court if the judge considers it advisable. But no juror who has been drawn to serve at any term of the court may be excused except for good and sufficient cause, which, together with his application, must be filed in the office of the clerk of court and remain on record.

(B) A person who:

(1) has legal custody and the duty of care for a child less than seven years of age;

(2) is the primary caretaker of a person aged sixty-five or older; or

(3) is the primary caretaker of a severely disabled person who is unable to care for himself or cannot be left unattended; and desires to be excused from jury duty must submit an affidavit to the clerk of court.

The affidavit must state that he is unable to provide adequate care for the child, person aged sixty-five or older, or disabled person while performing jury duty, and must be excused by the presiding judge from jury service.

(C) The provisions of Section 14-7-870 do not apply to any juror described in this subsection who: (a) has a child less than seven years of age, (b) is the primary caretaker of a person aged sixty-five or older, or (c) is the primary caretaker of a severely disabled person who is unable to care for himself or cannot be left unattended.

(D) Upon submitting an affidavit to the clerk of court requesting to be excused from jury duty, a person either may be excused or transferred to another term of court by the presiding judge if the person performs services for a business, commercial, or agricultural enterprise, and the person's services are so essential to the operations of the business, commercial, or agricultural enterprise that the enterprise must close or cease to function if the person is required to perform jury duty.

(E) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be punished by a fine not to exceed one thousand dollars or imprisoned not more than thirty days, or both."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 25th day of May, 2010.

Approved the 28th day of May, 2010.

No. 188

(R231, S1328)

AN ACT TO AMEND SECTION 56-3-2330, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MANUFACTURER LICENSE PLATES FOR MOTOR VEHICLES, SO AS TO INCREASE FROM FOUR TO FIVE HUNDRED THE NUMBER OF THESE PLATES THAT MAY BE ISSUED TO A MANUFACTURER AND TO INCREASE FROM TEN TO TWENTY DAYS THE MAXIMUM NUMBER OF CONSECUTIVE DAYS THAT VEHICLES WITH THESE PLATES MAY BE USED IN CONNECTION WITH CIVIC AND SPORTING EVENTS.

Be it enacted by the General Assembly of the State of South Carolina:

Manufacturer license plates

SECTION 1. Section 56-3-2330 of the 1976 Code, as last amended by Act 261 of 2006, is further amended to read:

"Section 56-3-2330. (A) Upon application and payment of the required fee, the Department of Motor Vehicles may issue not more than five hundred manufacturer license plates to a motor vehicle manufacturer. The license plates must be used exclusively on motor vehicles, including motorcycles, owned or in the possession of a manufacturer. Manufacturer license plates must not be used to operate wreckers in use by the manufacturer nor to operate vehicles leased or rented to the public by the manufacturer.

(B) A motor vehicle manufacturer shall apply for manufacturer license plates on a form prescribed by the department and shall provide proof the applicant is a bona fide motor vehicle manufacturer. The cost of each manufacturer plate issued is two hundred dollars, of which one hundred sixty dollars must be remitted by the department to the county in which the principal facility of the manufacturer is located. Each plate is valid for two years.

(C) Vehicles with manufacturer plates, not to exceed one licensed vehicle for each household, may be operated by persons authorized by the manufacturer on vehicles of that manufacturer's brand on state streets and highways for testing, distribution, evaluation, and promotion of vehicles. Vehicles with manufacturer plates may be used no more than twenty consecutive days in connection with civic events and sporting events.

(D) A manufacturer who violates the provisions regarding use of motor vehicles is subject to the imposition of any administrative penalty permitted by law.

(E) For the purpose of this section only, 'motor vehicle manufacturer' is defined as a person in the business of manufacturing or assembling new and unused vehicles in this State."

Time effective

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 25th day of May, 2010.

Approved the 28th day of May, 2010.

No. 189

(R236, S1417)

AN ACT TO AMEND SECTION 7-27-365, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REGISTRATION AND ELECTIONS COMMISSION FOR LEXINGTON COUNTY, SO AS TO CHANGE THE NUMBER OF ITS MEMBERS FROM SEVEN TO NINE.

Be it enacted by the General Assembly of the State of South Carolina:

Registration and Elections Commission for Lexington County

SECTION 1. Section 7-27-365(A) of the 1976 Code, as added by Act 312 of 2008, is amended to read:

"(A) There is created the Registration and Elections Commission for Lexington County. There must be nine members of the commission who must be appointed by a majority of the Lexington County Legislative Delegation, including the resident Senators, who must be appointed for terms of four years and until their successors are appointed and qualify. A vacancy on the commission may be filled by appointment in the manner of original appointment for the unexpired term only. The members of the commission receive compensation as may be appropriated by the county council."

Time effective

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 25th day of May, 2010.

Approved the 28th day of May, 2010.

No. 190

(R237, H3066)

AN ACT TO AMEND SECTION 8-13-365, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ELECTRONIC FILING OF CAMPAIGN DISCLOSURES AND REPORTS, SO AS TO MAKE IT APPLICABLE TO ALL DISCLOSURES AND REPORTS REQUIRED BY THE PROVISIONS OF CHAPTER 13, TITLE 8 (ETHICS) AND CHAPTER 17, TITLE 2 (LOBBYING).

Be it enacted by the General Assembly of the State of South Carolina:

Electronic filing expanded

SECTION 1. Section 8-13-365(A) of the 1976 Code, as added by Act 76 of 2003, is amended to read:

"(A) The commission shall establish a system of electronic filing for all disclosures and reports required pursuant to Chapter 13, Title 8 and Chapter 17, Title 2 from all persons and entities subject to its jurisdiction. These disclosures and reports must be filed using an Internet-based filing system as prescribed by the commission. Reports and disclosures filed with the Ethics Committees of the Senate and House of Representatives for legislative offices must be in a format such that these filings can be forwarded to the State Ethics Commission using an Internet-based system. The information contained in the reports and disclosure forms, with the exception of social security numbers, campaign bank account numbers, and tax ID numbers, must be publicly accessible, searchable, and transferable."

Time effective

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 25th day of May, 2010.

Approved the 28th day of May, 2010.

No. 191

(R239, H3630)

AN ACT TO AMEND SECTION 5-15-90, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO APPOINTMENT OF A MUNICIPAL ELECTION COMMISSION IN EACH MUNICIPALITY TO CONDUCT MUNICIPAL ELECTIONS, SO AS TO REQUIRE ALL ELECTION COMMISSIONERS AND STAFF TO COMPLETE A TRAINING AND CERTIFICATION PROGRAM CONDUCTED BY THE STATE ELECTION COMMISSION.

Be it enacted by the General Assembly of the State of South Carolina:

Election commissioners and staff to complete training program

SECTION 1. Section 5-15-90 of the 1976 Code is amended to read:

"Section 5-15-90. (A) All municipal elections held under the provisions of this chapter must be conducted by a municipal election commission composed of three electors who must be residents of the municipality and who must be appointed by the municipal governing body. The terms of the members are six years except of those first appointed one shall serve a term of four years and one a term of two years.

(B)(1) Each municipal election commissioner and each staff person designated by the commission, shall complete, within eighteen months after a commissioner's initial appointment or his reappointment after a break in service, or within eighteen months after a staff person's initial employment or reemployment following a break in service, a training and certification program conducted by the State Election Commission. When a commissioner or staff person has successfully completed the training and certification program, the State Election Commission shall issue the commissioner or staff person a certification, whether or not the commissioner or staff person applies for the certification.

(2)(a) The provisions of this section do not exempt a member or staff person from completing the training and certification program required in item (1).

(b) A member appointed or reappointed after a break in service before the effective date of this section or a staff person

employed or reemployed after a break in service before the effective date of this section shall successfully complete a training and certification program by the latter of:

(i) eighteen months after the member's appointment or reappointment after a break in service or the staff person's employment or reemployment after a break in service; or

(ii) ninety days after the effective date of this section.

(c) On and after the effective date of this section, a member appointed or reappointed after a break in service or a staff person employed or reemployed after a break in service shall complete the training and certification program required in item (1) within eighteen months after the member's appointment or reappointment after a break in service or staff person's employment or reemployment after a break in service.

(3) If a member does not fulfill the training and certification program as provided in this section, the municipal governing body, upon notification, shall remove that member from the board unless the municipal governing body grants the member an extension to complete the training and certification program based upon exceptional circumstances.

(4) Following completion of the training and certification program required in item (1), each commission member, and staff person designated by the commission, shall take at least one training course each year."

Time effective

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 25th day of May, 2010.

Approved the 28th day of May, 2010.

No. 192

(R240, H3719)

AN ACT TO AMEND SECTION 23-3-240, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SUBMISSION OF A MISSING PERSON REPORT TO THE MISSING PERSON

INFORMATION CENTER, SO AS TO PROVIDE THAT ANY PERSON RESPONSIBLE FOR A MISSING PERSON MAY SUBMIT A MISSING PERSON REPORT; TO AMEND SECTION 23-3-250, RELATING TO THE DISSEMINATION OF MISSING PERSON REPORT DATA, SO AS TO PROVIDE THAT ANY PERSON RESPONSIBLE FOR A MISSING PERSON SHALL MAKE ARRANGEMENTS FOR ENTRY OF DATA ABOUT THE PERSON INTO THE NATIONAL MISSING PERSON FILE AND PROVIDE THAT LAW ENFORCEMENT AGENCIES SHALL SHARE THIS INFORMATION WITH LOCAL MEDIA OUTLETS; TO AMEND SECTION 23-3-270, RELATING TO THE DUTY OF A PERSON WHO SUBMITS A MISSING PERSON REPORT TO A LAW ENFORCEMENT AGENCY OR THE MISSING PERSON INFORMATION CENTER TO NOTIFY BOTH ENTITIES OF THE LOCATION OF AN INDIVIDUAL CONTAINED IN THE REPORT WHOSE LOCATION HAS BEEN DETERMINED, SO AS TO PROVIDE THAT ANY PERSON RESPONSIBLE FOR A MISSING PERSON MAY SUBMIT A MISSING PERSON REPORT TO A LAW ENFORCEMENT AGENCY OR TO THE MISSING PERSON INFORMATION CENTER; AND BY ADDING SECTION 23-3-330 SO AS TO ESTABLISH THE ENDANGERED PERSON NOTIFICATION SYSTEM WITHIN THE MISSING PERSON INFORMATION CENTER, AND TO PROVIDE FOR ITS PURPOSE AND PROCEDURES.

Be it enacted by the General Assembly of the State of South Carolina:

Missing person report

SECTION 1. Section 23-3-240 of the 1976 Code is amended to read:

"Section 23-3-240. Any parent, spouse, guardian, legal custodian, public or private agency or entity, or any person responsible for a missing person, may submit a missing person report to the MPIC on any missing child or missing person, regardless of the circumstances, after having first submitted a missing person report on the individual to the law enforcement agency having jurisdiction of the area in which the individual became or is believed to have become missing, regardless of the circumstances."

Missing person report

SECTION 2. Section 23-3-250 of the 1976 Code is amended to read:

"Section 23-3-250. A law enforcement agency, upon receipt of a missing person report by a parent, spouse, guardian, legal custodian, public or private agency or entity, or any person responsible for a missing person, immediately shall make arrangements for the entry of data about the missing person or missing child into the national missing persons file in accordance with criteria set forth by the FBI/NCIC, inform all of the agency's on-duty law enforcement officers of the missing person report, initiate a statewide broadcast to all other law enforcement agencies to be on the lookout for the individual, contact the agency's local media outlets when appropriate, and transmit a copy of the report to the MPIC."

Missing person report

SECTION 3. Section 23-3-270 of the 1976 Code is amended to read:

"Section 23-3-270. Any parent, spouse, guardian, legal custodian, public or private agency or entity, or any person responsible for a missing person, who submits a missing person report to a law enforcement agency or to the MPIC, after having first submitted the missing person report to the appropriate law enforcement agency, immediately shall notify the law enforcement agency and the MPIC of any individual whose location has been determined. The MPIC shall instigate and confirm the deletion of the individual's records from the FBI/NCIC's missing person file, as long as there are no grounds for criminal prosecution, and follow up with the local law enforcement agency having jurisdiction of the records."

The Endangered Person Notification System

SECTION 4. Article 5, Chapter 3, Title 23 of the 1976 Code is amended by adding:

"Section 23-3-330. (A) The Endangered Person Notification System is established within the Missing Person Information Center. The purpose of the Endangered Person Notification System is to provide a statewide system for the rapid dissemination of information regarding a

missing person who is believed to be suffering from dementia or some other cognitive impairment.

(B) If the center receives a report that involves a missing person who is believed to be suffering from dementia or some other cognitive impairment, for the protection of the person from potential abuse or other physical harm, neglect, or exploitation, the center shall issue a notification providing for the appropriate dissemination of information regarding the person.

(C) The center shall adopt guidelines and develop procedures for issuing notifications for missing persons believed to be suffering from dementia or some other cognitive impairment, provide education and training to local law enforcement agencies, and encourage radio and television broadcasters to participate in the notifications.

(D) The center shall consult with the Department of Transportation and develop a procedure for the use of overhead permanent changeable message signs to provide information on a missing person who is believed to be suffering from dementia or some other cognitive impairment when the person's vehicle and license tag information is available. The Department of Transportation shall utilize current protocol for the content, length, and frequency of any message to be placed on an overhead permanent changeable message sign."

Time effective

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 25th day of May, 2010.

Approved the 28th day of May, 2010.

No. 193

(R241, H3913)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50-5-1556 SO AS TO ESTABLISH SEASONAL CREEL AND SIZE LIMITS FOR STRIPED BASS IN THE INSHORE WATERS AND THE TERRITORIAL SEA, EXCLUDING CERTAIN PORTIONS OF THE SAVANNAH RIVER; TO AMEND SECTION 50-13-221,

RELATING TO STRIPED BASS IN THE LOWER SANTEE AND COOPER RIVERS, SO AS TO ESTABLISH SEASONAL CREEL AND SIZE LIMITS FOR STRIPED BASS IN CERTAIN FRESHWATER BODIES; AND BY ADDING SECTION 50-13-222 SO AS TO ESTABLISH CREEL AND SIZE LIMITS FOR STRIPED BASS IN LAKE RUSSELL, INCLUDING ITS TRIBUTARIES.

Be it enacted by the General Assembly of the State of South Carolina:

Seasonal striped bass creel and size limits in inshore waters and territorial sea; waters excluded

SECTION 1. Article 15, Chapter 5, Title 50 of the 1976 Code is amended by adding:

"Section 50-5-1556. (A) In the inshore waters, except for that portion of the Savannah River from the saltwater-freshwater dividing line downstream to the mouth of the Savannah River defined by a line from Jones Island, S.C. (also known as Oysterbed Island) point at N. 32º 02'18" (N 32.03833º), W. 80º 53' 21" (W 80.88917º); across Cockspur Island, Georgia, point at N. 32º 01'58" (N 32.03278º), W. 80º 52' 56" (W 80.88222º) to Lazaretto Creek, Georgia, point at N 32º 01' 2" (N 32.01722º), W. 80º 52'51" (W 80.88083º), and the territorial sea from June first through September thirtieth, it is unlawful to possess any striped bass (rockfish). Any striped bass taken must be returned immediately to the waters from where it came.

(B) In the inshore waters, except for that portion of the Savannah River from the saltwater-freshwater dividing line downstream to the mouth of the Savannah River defined by a line from Jones Island, S.C. (also known as Oysterbed Island) point at N. 32º 02'18" (N 32.03833º), W. 80º 53' 21" (W 80.88917º); across Cockspur Island, Georgia, point at N. 32º 01'58" (N 32.03278º), W. 80º 52' 56" (W 80.88222º) to Lazaretto Creek, Georgia, point at N 32º 01' 2" (N 32.01722º), W. 80º 52'51" (W 80.88083º), and the territorial sea from October first through May thirty-first it is unlawful to:

(1) take or possess more than three striped bass per day;
(2) take any striped bass less than twenty-six inches in length; or
(3) land any striped bass without the head and tail fin intact."

Seasonal striped bass creel and size limits in certain freshwater bodies

SECTION 2. Section 50-13-221 of the 1976 Code, as added by Act 237 of 2008, is amended to read:

"Section 50-13-221. (A) In the following freshwater bodies: the Ashepoo River; Ashley River; Back River in Jasper County and the Back River in Berkeley County; Black River; Black Mingo Creek; Bull Creek and Little Bull Creek; Combahee River; Cooper River system; Coosawhatchie River; Cuckholds Creek; Edisto River; Horseshoe Creek; Lumber River; Lynches River; Great Pee Dee and Little Pee Dee Rivers; Pocotaligo in Beaufort, Jasper, and Hampton Counties; Salkehatchie and Little Salkehatchie Rivers; Sampit River; Lower Santee River system; Tulifinny; Thoroughfare Creek; and Waccamaw River from June first to September thirtieth, it is unlawful to take, attempt to take, or to possess any striped bass. Any striped bass taken must be returned immediately to the waters from where it came.

(B) In the following freshwater bodies: the Ashepoo River; Ashley River; Back River in Jasper County and the Back River in Berkeley County; Black River; Black Mingo Creek; Bull Creek and Little Bull Creek; Combahee River; Cooper River system; Coosawhatchie River; Cuckholds Creek; Edisto River; Horseshoe Creek; Lumber River; Lynches River; Great Pee Dee and Little Pee Dee Rivers; Pocotaligo in Beaufort, Jasper, and Hampton Counties; Salkehatchie and Little Salkehatchie Rivers; Sampit River; Lower Santee River system; Tulifinny; Thoroughfare Creek; and Waccamaw River from October first through May thirty-first, it is unlawful to take or possess more than three striped bass per day.

(C) In the following freshwater bodies: the Ashepoo River; Ashley River; Back River in Jasper County and the Back River in Berkeley County; Black River; Black Mingo Creek; Bull Creek and Little Bull Creek; Combahee River; Cooper River system; Coosawhatchie River; Cuckholds Creek; Edisto River; Horseshoe Creek; Lumber River; Lynches River; Great Pee Dee and Little Pee Dee Rivers; Pocotaligo in Beaufort, Jasper, and Hampton Counties; Salkehatchie and Little Salkehatchie Rivers; Sampit River; Lower Santee River system; Tulifinny; Thoroughfare Creek; and Waccamaw River from October first through May thirty-first, it is unlawful to take or possess a striped bass less than twenty-six inches in total length.

(D) Striped bass must be landed with head and tail fin intact.

(E) The Department of Natural Resources for the Lower Santee and Cooper River systems shall make recommendations, after study, on any needed modification to the restrictions in this section before January 1, 2015."

Striped bass creel and size limits in Lake Russell

SECTION 3. Article 1, Chapter 13, Title 50 of the 1976 Code is amended by adding:

"Section 50-13-222. (A) It is unlawful to take or possess more than two striped bass on all waters of Lake Russell from Lake Hartwell Dam and Lake Secession Dam, including all tributaries of Lake Russell.

(B) It is unlawful to take and retain from all waters of Lake Russell from Lake Hartwell Dam and Lake Secession Dam, including its tributaries, more than one striped bass greater than thirty-four inches in length."

Time effective

SECTION 4. This act takes effect July 1, 2010.

Ratified the 25th day of May, 2010.

Approved the 28th day of May, 2010.

No. 194

(R243, H4405)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40-43-70 SO AS TO DEFINE CERTAIN TERMS, AND TO PROVIDE FOR THE DISPENSING OF CERTAIN DRUGS OR DEVICES AT A FEDERALLY QUALIFIED HEALTH CENTER.

Be it enacted by the General Assembly of the State of South Carolina:

Federally qualified health centers; definitions; may fill prescriptions

SECTION 1. Chapter 43, Title 40 of the 1976 Code is amended by adding:

"Section 40-43-70. (A) For purposes of this section:

(1) 'Board' means the South Carolina Board of Pharmacy.

(2) 'Federally qualified health center' or 'FQHC' means an entity funded by the Bureau of Primary Health Care (BPHC) under Section 330 of the Public Health Service Act as amended by the Health Centers Consolidation Act of 1996.

(3) 'Health center delivery site' means a physical location where a licensed practitioner duly employed by or under contract with an FQHC provides primary and preventative health care services to patients of that FQHC. An FQHC may have multiple health center delivery sites.

(B) This section does not prevent a licensed practitioner, as defined in Section 40-43-30(45), from dispensing a drug or device for a patient of an FQHC if:

(1) a drug dispensed by the FQHC is properly labeled in accordance with state and federal law;

(2) the patient is given a choice of receiving the drug or device from the FQHC or from another provider;

(3) as it pertains to an FQHC without a retail pharmacy, the FQHC must obtain and maintain an FQHC permit as designated by this section; and

(a) monthly shall conduct and submit to the Board of Pharmacy self inspections and maintain written checklists that are readily available to the Board of Pharmacy for on-site visits; and

(b) designate a pharmacist duly licensed by and in good standing with the Board of Pharmacy as a consultant pharmacist to be responsible for the duties stated in this section at the FQHC permit holder's location. A consultant pharmacist shall sign a new or renewal application along with the FQHC permit holder and agree in writing to assume the responsibilities of a consultant pharmacist. The consultant pharmacist shall perform and maintain written quarterly inspections that are readily available. The FQHC permit holder and consultant pharmacist shall notify the board in writing within ten days of a change of consultant pharmacist. A designation of an individual as a consultant pharmacist or delegation of duties to a consultant pharmacist by a

holder of an FQHC permit may not relieve the permit holder of the FQHC permit holder's duties under state or federal laws or regulations;

(4) as it pertains to a health center delivery site established after January 1, 2011, by an FQHC without a retail pharmacy, as a condition of permitting by the board pursuant to item (3) of subsection (B), this FQHC must certify to the board that it made a good faith effort but was unable to reach an agreement with an existing retail pharmacy located within five miles of the FQHC health center delivery site pursuant to which the existing retail pharmacy would provide prescription drugs to all FQHC patients at the same cost, convenience, and efficacy provided by the proposed new FQHC health center delivery site;

(5) as it pertains to an FQHC with a permitted retail pharmacy:

(a) the FQHC's retail pharmacy must be permitted pursuant to Section 40-43-83;

(b) the FQHC must obtain and maintain an FQHC permit for its affiliated health center delivery sites without an on-site pharmacy; and

(i) those affiliated delivery sites will be subject to the inspection requirements outlined in item (3) of this subsection; and

(ii) the FQHC pharmacist may serve as the consultant pharmacist for the FQHC's affiliated delivery sites;

(c) with prior approval of the Board of Pharmacy, the FQHC pharmacist may serve as the pharmacist in charge for more than one pharmacy at a time and need not be physically present in the pharmacy to serve as its pharmacist in charge.

(C) The Board of Pharmacy shall promulgate regulations needed to effectuate the purposes of this section."

Time effective

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 25th day of May, 2010.

Approved the 28th day of May, 2010.

No. 195

(R245, H4621)

AN ACT TO AMEND SECTION 44-39-20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DIABETES INITIATIVE OF SOUTH CAROLINA BOARD, SO AS TO MODIFY THE BOARD'S MEMBERSHIP COMPOSITION AND TERMS OF ITS MEMBERS.

Be it enacted by the General Assembly of the State of South Carolina:

Diabetes Initiative of South Carolina Board, members added, terms defined

SECTION 1. Section 44-39-20 of the 1976 Code, as last amended by Act 256 of 2008, is further amended to read:

"Section 44-39-20. (A) There is established within the Medical University of South Carolina the Diabetes Initiative of South Carolina Board. The purpose of this board is to establish a statewide program of education, surveillance, clinical research, and translation of new diabetes treatment methods to serve the needs of South Carolina residents with diabetes mellitus. The provisions of this chapter and the initiatives undertaken by the board supplement and do not supplant existing programs and services provided to this population.

(B) The board consists of:

(1) the following officials or their designees:

(a) the President of the Medical University of South Carolina;

(b) the Dean of the University of South Carolina School of Medicine;

(c) the Director of the Department of Health and Environmental Control;

(d) the Director of the State Department of Health and Human Services;

(e) the President of the South Carolina Medical Association;

(f) the Vice President of the Southeastern Division of the American Diabetes Association;

(g) the President of the American Association of Diabetes Educators;

(h) the President of the South Carolina Academy of Family Physicians;

(i) the Head of the Office of Minority Health in the Department of Health and Environmental Control;

(j) the Governor of the South Carolina Chapter of the American College of Physicians;

(k) the Chair of the Division of Endocrinology at the Medical University of South Carolina;

(l) the President of the South Carolina Hospital Association;

(2) a representative of the Office of the Governor, to be appointed by the Governor; and

(3) six representatives appointed by the President of the Medical University of South Carolina, three of whom must be from the general public and one each from the Centers of Excellence Council, the Outreach Council, and the Surveillance Council, all of whom must be persons knowledgeable about diabetes and its complications.

(C) The board may elect nonvoting members and honorary members.

(D) A member of the board is elected for a three-year term. A vacancy on the board must be filled for the remainder of the unexpired term in the manner of original appointment.

(E) The board shall elect from its members a chair for a term of three years.

(F) The board shall meet at least quarterly or more frequently upon the call of the chairman. A member of the board not employed by the State or a political subdivision of the State must receive per diem, subsistence, and mileage as provided by law for members of state boards, commissions, and committees while engaged in the work of the board."

Time effective

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 25th day of May, 2010.

Approved the 28th day of May, 2010.

No. 196

(R207, S454)

AN ACT TO AMEND CHAPTER 56, TITLE 40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATE BOARD OF PYROTECHNIC REGULATIONS, SO AS TO REVISE THE CHAPTER TITLE, TO PROVIDE STATE POLICY CONCERNING PYROTECHNICS, TO INCREASE THE STATE BOARD OF PYROTECHNIC SAFETY FROM SIX TO SEVEN MEMBERS, TO PROVIDE PROCEDURES FOR FILLING A BOARD SEAT THAT IS VACANT FOR SIXTY DAYS, TO PROVIDE THAT MILEAGE, PER DIEM, AND SUBSISTENCE FOR BOARD MEMBERS MUST BE PAID BY THE BOARD RATHER THAN FROM THE STATE GENERAL FUND, TO PROVIDE THAT THE OFFICE OF STATE FIRE MARSHAL WILL PROVIDE ADMINISTRATIVE SUPPORT TO THE BOARD AND THAT THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, AMONG OTHER FUNCTIONS, WILL PROVIDE ADMINISTRATIVE, FISCAL, INVESTIGATIVE, AND INSPECTION OPERATIONS AND ACTIVITIES OF THE BOARD, TO DEFINE TERMS, TO REQUIRE LICENSURE FOR THE MANUFACTURING, SALE, OR STORAGE OF FIREWORKS AND TO PROVIDE LICENSURE QUALIFICATIONS AND REQUIREMENTS, TO AUTHORIZE THE DEPARTMENT, FIRE CHIEFS, AND LAW ENFORCEMENT OFFICERS TO INVESTIGATE COMPLAINTS AND TAKE NECESSARY ACTION TO MAINTAIN PUBLIC SAFETY, TO PROVIDE GROUNDS FOR DISCIPLINARY ACTION AND SANCTIONS THAT MAY BE IMPOSED, TO PROVIDE PROCEDURES FOR HEARINGS AND APPEALS, TO ESTABLISH REQUIREMENTS FOR FACILITIES FOR THE MANUFACTURING, SALE, OR STORAGE OF FIREWORKS, TO PROVIDE REQUIREMENTS FOR A RETAIL FIREWORKS SALES LICENSE, INCLUDING THE REQUIREMENT TO HAVE LIABILITY INSURANCE, TO REQUIRE A WHOLESALE LICENSE TO STORE DISPLAY FIREWORKS, TO REQUIRE THE REPORTING OF FIRES AND EXPLOSIONS, TO PROVIDE CRIMINAL AND CIVIL PENALTIES FOR VIOLATIONS, AND TO FURTHER PROVIDE FOR THE LICENSURE AND REGULATION OF PERSONS MANUFACTURING, SELLING, OR STORING

FIREWORKS; AND TO REPEAL SECTIONS 23-35-10, 23-35-20, 23-35-30, 23-35-40, 23-35-50, 23-35-60, 23-35-70, 23-35-80, 23-35-90, 23-35-100, 23-35-110, 23-35-120, 23-35-140, AND 23-35-160 RELATING TO THE REGULATION, LICENSURE, AND PERMITTING OF FIREWORKS AND EXPLOSIVES.

Be it enacted by the General Assembly of the State of South Carolina:

Pyrotechnics; licensure and regulation

SECTION 1. Chapter 56, Title 40 of the 1976 Code is amended to read:

"CHAPTER 56

State Board of Pyrotechnic Safety

Section 40-56-1. It is the policy of this State, and the purpose of this chapter, to promote the safety of the public and the environment by effective regulation of pyrotechnics. Public safety requires that persons who handle pyrotechnics have demonstrated their qualifications, that they adhere to reliable safety standards, and that the sites where pyrotechnics are manufactured, stored, and sold adhere to reliable safety standards. It is neither the policy of this State nor the purpose of this chapter to place undue restrictions upon entry into the business of handling pyrotechnics.

Section 40-56-5. Unless otherwise provided for in this chapter, Chapter 1, Title 40 applies to the Board of Pyrotechnic Safety and licensees regulated under this chapter. If there is a conflict between this chapter and Chapter 1, the provisions of this chapter control.

Section 40-56-10. (A) The State Board of Pyrotechnic Safety is composed of seven members appointed by the Governor. One appointee must be employed by a local fire authority, one must be a pyrotechnics retailer, one must be a pyrotechnics wholesaler, one must be a law enforcement representative, and three must be members of the public who shall not possess any pecuniary interest in any entity engaged in a business directly involving the sale of pyrotechnics. A seat on the board that remains vacant for sixty days must be filled through an appointment by the Chairman of the House Labor,

Commerce and Industry Committee, and the Chairman of the Senate Labor, Commerce and Industry Committee.

(B) The terms of office for members are for four years and until their successors are appointed and qualified. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term.

(C) The board shall meet at least annually and not more than once per month. All meetings must be scheduled at the call of the chairman. The board shall elect from its members a chairman, vice chairman, and other officers as it considers necessary to serve for terms of one year and until their successors are elected and qualified. All members shall receive mileage, per diem, and subsistence as provided by law for members of state boards, committees, and commissions for days on which they are transacting official business, to be paid by the board.

(D) The department's Office of State Fire Marshal shall provide administrative support as required by the board to perform its prescribed functions. The State Fire Marshal is an official consultant and is authorized to attend all meetings.

Section 40-56-20. As used in this chapter:

(1) 'APA' means the American Pyrotechnics Association.

(2) 'Board' means the State Board of Pyrotechnic Safety.

(3) 'Consumer fireworks' means any small firework device designed to produce visible effects by combustion and which must comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Product Safety Commission, as set forth in Title 16, Code of Federal Regulations, parts 1500 and 1507 and APA Standard 87-1. Some small devices designed to produce audible effects are consumer fireworks, including, but not limited to, whistling devices, ground devices containing 50 mg or less of explosive materials, and aerial devices containing 130 mg or less of explosive materials. Consumer fireworks are classified as fireworks UN0336, and UN0337 by the U.S. Department of Transportation at 49 C.F.R. 172.101. This term does not include fused setpieces containing components which together exceed 50 mg of salute powder. Consumer fireworks are further defined as those classified by the U.S. Department of Transportation hazard classification 1.4G. These fireworks were formerly known as 'Class C Fireworks'.

(4) 'CPSC' means the U.S. Consumer Product Safety Commission.

(5) 'Department' means the Department of Labor, Licensing and Regulation.

(6) 'Display fireworks' means large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation. This term includes, but is not limited to, salutes containing more than 2 grains (130 mg) of explosive materials, aerial shells containing more than 40 grams of pyrotechnic compositions, and other display pieces which exceed the limits of explosive materials for classification as 'consumer fireworks'. Display fireworks are classified as fireworks UN0333, UN0334, or UN0335 by the U.S. Department of Transportation at 49 C.F.R. 172.101. This term also includes fused setpieces containing components which together exceed 50 mg of salute powder. Display fireworks are further defined as those classified by the U.S. Department of Transportation as hazard classification 1.3G. These fireworks were formerly known as 'Class B Fireworks'.

(7) 'DOT' means the U.S. Department of Transportation.

(8) 'Fireworks' means any composition or device designed to produce a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of 'consumer fireworks' or 'display fireworks' as defined by this section.

(9) 'Licensee' means a person, firm, or entity that has been issued a license by the board under the provisions of this chapter to manufacture, sell, or store fireworks.

(10) 'NFPA' means National Fire Protection Association.

(11) 'Pyrotechnics' means any composition or device designed to produce visible or audible effects for entertainment purposes by combustion, deflagration, or detonation.

(12) 'Small bottle rocket' is a consumer firework with a motor less than one-half inch in diameter and three inches in length, a stabilizing stick less than fifteen inches in length, and a total pyrotechnic composition not exceeding 20 grams in weight.

Section 40-56-30. It is unlawful for a person to engage in the manufacturing, storage, or sale of pyrotechnics unless in compliance with this chapter.

Section 40-56-35. (A) Except as otherwise provided for in this section, a person, firm, or entity that manufactures, sells, or stores fireworks shall obtain a license issued by the board pursuant to this chapter. General license requirements are as follows:

(1) A license may not be issued to anyone under the age of eighteen.

(2) An application for licensure must be submitted on forms prescribed by the board accompanied by applicable fees.

(3) A license is required for each physical address or site at which fireworks are manufactured, sold, or stored.

(4) A copy of the appropriate license issued by the South Carolina Department of Revenue for retail sales of fireworks must accompany each application for a retail fireworks sales license.

(5) Initial license applications and applications for license renewal may be approved only after an authorized agent of the board inspects the buildings and facilities where fireworks are to be manufactured, sold, or stored for compliance with the current codes and standards.

(6) All licenses and permits only may be issued for one calendar year.

(7) Licenses must be prominently displayed at the licensee's place of business approved for the manufacture, sale, or storage of fireworks.

(8) Licenses issued by the board are nontransferable.

(B) A license is not required for the:

(1) manufacture, sale, storage, transportation, handling, or a combination of these, including, but not limited to, railroad torpedoes, automotive, aeronautical, and marine flares and smoke signals;

(2) transportation, storage, handling, or use of fireworks, or a combination of these, by the Armed Forces of the United States;

(3) transportation, handling, or use of fireworks, or a combination of these, by the State Fire Marshal, his employees, or a commissioned law enforcement officer acting within his official capacity; or

(4) fireworks deregulated by the U.S. Department of Transportation.

Section 40-56-50. The Department of Labor, Licensing and Regulation shall provide all administrative, fiscal, investigative, inspection, clerical, secretarial, and license renewal operations and activities of the board pursuant to Chapter 1.

Section 40-56-70. (A) It is the duty and responsibility of the board to promulgate, pursuant to the Administrative Procedures Act, regulations relating to pyrotechnics in this State, including the manufacture, sale, storage, and fire safety of these products. These regulations must be adjusted using the procedures in Chapter 34, Title 1.

(B) The board may conduct hearings on alleged violations by licensees of this chapter or regulations promulgated pursuant to this chapter and may discipline these licensees.

(C) The board also shall recommend to the General Assembly legislation it considers necessary for the safety and control of the sale of pyrotechnics.

Section 40-56-80. (A) The Department of Labor, Licensing and Regulation shall investigate complaints and violations of this chapter as provided for in Chapter 1.

(B) During reasonable business hours, the department or its authorized agent may enter the premises or vehicle of a person engaged in the manufacture, sale, or storage of pyrotechnics to inspect, investigate, or examine the property or installation it considers necessary. When an emergency exists, as declared by the department, the inspector may enter the premises of a person and take necessary action for public safety including, but not limited to, the evacuation of the area where the emergency exists.

(C) A fire chief and his inspector, a sheriff and his deputy, a chief of police and his officer, and an agent of SLED may inspect a building, facility, or vehicle where fireworks may be manufactured, stored, or sold and records of manufacturing, storage, sales, and purchases that must be maintained.

(D) An official named in this section who has the authority to inspect may confiscate illegal fireworks being manufactured, offered for sale, stored, or possessed.

(E) The board may compel the attendance of witnesses to testify in relation to a matter within its jurisdiction.

Section 40-56-100. In addition to other remedies provided for in this chapter, the board pursuant to Chapter 1 may issue a cease and desist order or may petition the Administrative Law Court for a temporary restraining order or other equitable relief to enjoin a violation of this chapter or a regulation promulgated pursuant to this chapter.

Section 40-56-115. The board has jurisdiction over the actions of licensees and former licensees as provided for in Chapter 1.

Section 40-56-120. (A) Upon a determination by the board that grounds for discipline exist, the board is authorized to:

(1) issue a public reprimand;

(2) impose a civil penalty not to exceed two thousand five hundred dollars;

(3) place a licensee on probation or restrict or suspend a license for a definite or indefinite time period and prescribe conditions to be met during this period including, but not limited to, satisfactory completion of additional education, or a supervisory period; or

(4) revoke the license.

(B) The board may take disciplinary action against a person for:

(1) the grounds stated in Chapter 1; or

(2) a condition found as a result of an inspection, examination, or investigation provided for in Section 40-56-80 that is hazardous to public safety.

Section 40-56-130. The board may deny licensure to an applicant based on the same grounds for which the board may take disciplinary action against a licensee.

Section 40-56-140. A license may be denied based on a person's prior criminal record only as provided for in Chapter 1.

Section 40-56-150. A licensee under investigation for a violation of this chapter or a regulation promulgated pursuant to this chapter may voluntarily surrender the license pursuant to Chapter 1.

Section 40-56-160. A person aggrieved by a final action of the board may seek review of the decision pursuant to Chapter 1.

Section 40-56-170. A person found in violation of this chapter or a regulation promulgated pursuant this chapter may be required to pay costs associated with the investigation and prosecution of the case pursuant to Chapter 1.

Section 40-56-180. All costs and fines imposed pursuant to this chapter must be paid in accordance with, and are subject to, the collection and enforcement provisions of Chapter 1.

Section 40-56-190. Investigations and proceedings conducted under the provisions of this chapter are confidential, and all communications are privileged as provided for in Chapter 1.

Section 40-56-200. (A) A person required by this chapter to obtain a license to do business in this State, who has not obtained a

license or who operates while his license is suspended or revoked or who violates a provision of this chapter or a regulation promulgated pursuant to this chapter, is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars and not more than two thousand dollars or imprisoned for not less than ninety days and not more than one year.

(B) This chapter does not repeal, amend, or otherwise affect fire codes and regulations adopted by the State Fire Marshal.

Section 40-56-210. In addition to initiating a criminal proceeding for a violation of this chapter, the board may seek civil penalties and injunctive relief as provided for in Chapter 1.

Section 40-56-220. (A) All facilities for the manufacturing, sales, or storage of fireworks must comply with regulations established by the board.

(B) All consumer fireworks must comply with standards set by the U.S. Department of Transportation and the CPSC for consumer fireworks. The board may request fireworks be tested by a CPSC certified testing group to see that these standards are met.

(C) Retail sale and use of small bottle rockets are not legal within South Carolina.

(D) Fireworks may not be sold to anyone under the age of sixteen.

Section 40-56-230. (A) An application for a retail fireworks sales license must be accompanied by evidence that the applicant holds a policy that:

(1) provides public liability insurance coverage for retail sales activities at the location for the permitted sale period;

(2) is issued by an insurance company authorized to do business in this State; and

(3) provides coverage in the following minimum amounts:

(a) one million dollars for injuries or damage to any one person in one accident or occurrence;

(b) one million dollars for injuries to two or more persons in any accident or occurrence; and

(c) one million dollars combined single-limit coverage for any one accident or occurrence.

(B) A policy, except those policies issued for fewer than ninety days' use for seasonal permits, by its original term or an endorsement, must obligate the insurer to not cancel, suspend, or nonrenew the policy without thirty days' written notice of the proposed cancellation,

suspension, or nonrenewal being given to the board. The insured immediately shall give notice to the board if liability insurance is canceled, suspended, or nonrenewed.

Section 40-56-240. (A) A person may not store display fireworks in this State unless the person has obtained a wholesale license from the board.

(B) Only licensed wholesalers shall sell or provide fireworks for displays.

(C) All buildings and structures used to store display fireworks must meet regulations established by the board.

(D) These license holders also must comply with U.S. Bureau of Alcohol, Tobacco, and Firearms regulations.

Section 40-56-250. (A) If the board or its designee finds a condition as a result of an inspection, that is hazardous to the public safety or a violation of this chapter or regulations promulgated pursuant to this chapter, the board shall issue an order in writing to remove or correct the condition. If a person fails to comply with the terms of the order, the board may issue administrative citations and may assess administrative penalties against any licensee.

(B) Administrative penalties authorized under this section are separate from and in addition to all other remedies, either civil or criminal.

(C) Administrative penalties assessed pursuant to this section may not exceed two thousand five hundred dollars for each violation.

(D) An entity or individual assessed administrative penalties by citation under this section may appeal the citation to the Board of Pyrotechnic Safety within fifteen days of receipt of the citation. The appeal must be filed in writing. If an appeal is filed, the board shall schedule a hearing, which shall make a determination in the matter. If no appeal is filed, the citation is deemed a final order, and the administrative penalties must be paid within thirty days of receipt of the citation.

Section 40-56-260. An owner, manager, or operator of any location regulated by this chapter shall report to the board within twenty-four hours of any fire or explosion of which the person has knowledge, with as complete detail as possible, together with evidence as he has obtained after investigation of the fire or explosion. No reports filed pursuant to this section may be disclosed unless disclosure

is in compliance with the requirements of Chapter 4, Title 30 of the 1976 Code.

Section 40-56-270. If a provision of this chapter or the application of a provision to a person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter, which can be given effect without the invalid provisions, or application, and to this end the provisions of this chapter are severable."

Repeals

SECTION 2. The following sections of the 1976 Code are repealed: 23-35-10, 23-35-20, 23-35-30, 23-35-40, 23-35-50, 23-35-60, 23-35-70, 23-35-80, 23-35-90, 23-35-100, 23-35-110, 23-35-120, 23-35-140, and 23-35-160.

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 13th day of May, 2010.

Vetoed by the Governor -- 5/19/2010.
Veto overridden by Senate -- 5/26/2010.
Veto overridden by House -- 6/1/2010.

No. 197

(A197, R222, S836)

AN ACT TO AMEND SECTION 51-13-80, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO RULES AND REGULATIONS OF THE RIVERBANKS PARKS COMMISSION, SO AS TO DELETE PROVISIONS THAT AUTHORIZE THE RIVERBANKS PARKS COMMISSION TO ADOPT RULES AND REGULATIONS REGARDING PARK PROPERTY AND AUTHORIZE THE COMMISSION TO EMPLOY POLICE OFFICERS, TO PROHIBIT CERTAIN ACTIVITIES WHILE ON PARK PROPERTY, AND TO DELETE THE PROVISION THAT FINES AND FORFEITURES

COLLECTED PURSUANT TO SECTIONS 51-13-50 THROUGH 51-13-80 BE FORWARDED TO THE RIVERBANKS PARKS COMMISSION.

Be it enacted by the General Assembly of the State of South Carolina:

Deletion of provision authorizing Riverbanks Parks Commission to adopt rules and regulations regarding park property; prohibition of certain activities while on park property; deletion of provision regarding fines and fees forwarded to Riverbanks Parks Commission

SECTION 1. Section 51-13-80 of the 1976 Code is amended to read:

"Section 51-13-80. (A) A person who enters Riverbanks Park property may not, without express permission of the executive director:

(1) frighten, annoy, kill, injure, feed or attempt to frighten, annoy, kill, injure, or feed a mammal, bird, reptile, amphibian, or other animal in the zoo or gardens;

(2) display advertising matter by signs or distribute advertising matter within the park area;

(3) sell or offer for sale goods, wares, services, or merchandise within the park area;

(4) use boisterous, insulting, or profane language or conduct himself in a disorderly, lewd, obscene, or lascivious manner in the park area;

(5) enter a portion of the park which is designated as restricted, enter an area during the hours of the day when the area is not open to the public, or enter the park or recreation area which is closed. The executive director shall post the hours during which the area is open to the public;

(6) keep, permit, or bring a mammal, bird, reptile, amphibian, or other animal, domestic or wild, in a zoo or garden area unless permitted by the Parks Service Animal Guidelines and approved by the executive director;

(7) carry on or about his person or discharge a gun, pistol, or firearm of any kind, including an air gun, bow and arrow, or dangerous weapon within or across the park, which does not apply to a person licensed to carry a concealed weapon;

(8) wade, swim, fish, or boat within an area of the zoo or garden not so designated;

(9) drive or propel a vehicle in, over, or through the park area except in areas designated for driving or park purposes;

(10) operate a motor vehicle in the park area at a speed in excess of the posted speed limit;

(11) use the park or its recreation areas, grounds, or facilities to either perform or allow the performance of the following acts, unless the activity is authorized, permitted, or supervised by the executive director or his designees:

(a) wilfully mark, deface, disfigure, injure, tamper with, or displace or remove buildings, bridges, tables, benches, fireplaces, railings, paving or paving material, water lines, or other public utilities or parts or appurtenances, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal;

(b) throw, discharge, or otherwise place or cause to be placed in the waters of a fountain, pond, lake, stream, bay, or other body of water in or adjacent to the park or a tributary, stream, storm sewer, or drain flowing into these waters any substance, matter, or things, liquid or solid, which will or may result in the pollution of these waters;

(c) dig or remove soil, rock, stones, trees, shrubs, or plants, down-timber or other wood or materials, or make an excavation by tool, equipment, blasting, or other means, except that digging must be permitted in areas designated for this purpose;

(d) damage, cut, carve, transplant, or remove a tree or plant, injure the bark or pick the flowers or seeds of a tree or plant, or attach a rope, wire, or other contrivance to a tree or plant. A person may not dig in or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of an area;

(e) bring in or dump, deposit, or leave bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, refuse, or other litter, or place refuse or litter in waters in or contiguous to the park, or anywhere on the grounds, other than in the proper receptacles, where provided;

(f) endanger the safety of a person by conduct or act, prevent a person from using the park or its facilities, or interfere with use in compliance with this section;

(g) build or attempt to build a fire, except at places specifically designated for this purpose or as permitted by the park. A person may not drop, throw, or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco paper, or other inflammable material within the park;

(h) possess or consume alcoholic beverages, beer, or wine; provided, however, alcoholic beverages, beer, or wine, must be allowed:

(i) when possession and consumption is specifically authorized by the executive director and the event organizer obtains a permit or license if required by the South Carolina Department of Revenue for the possession or consumption of alcoholic beverages, beer, or wine at the event; or

(ii) at private functions, authorized by the executive director, for which the South Carolina Department of Revenue does not require a permit or license for the possession or consumption of alcoholic beverages, beer, or wine;

(i) possess, explode, discharge, or ignite fireworks unless specifically permitted by the park;

(j) park or leave automobiles, trucks, bicycles, unicycles, tricycles, scooters, mopeds, motorcycles, motorbikes, motorized carts, or other motorized vehicles in areas not specifically designated for that purpose or other than at unauthorized times; and

(k) vend, sell, peddle, or offer for sale a commodity or article, except sales conducted by or specifically permitted by the executive director.

(B)(1) A person who violates the provisions of this section must be tried by the magistrate of Richland or Lexington County who has jurisdiction of the area in which the violation occurred.

(2) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days."

Time effective

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 25th day of May, 2010.

Vetoed by the Governor -- 5/28/2010.
Veto overridden by Senate -- 6/2/2010.
Veto overridden by House -- 6/3/2010.

No. 198

(R223, S906)

AN ACT TO AMEND SECTION 9-8-50, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SERVICE CREDIT IN THE RETIREMENT SYSTEM FOR JUDGES AND SOLICITORS, SO AS TO PROVIDE THAT A MEMBER UPON TERMINATION WHO DOES NOT QUALIFY FOR A MONTHLY BENEFIT MAY TRANSFER HIS SERVICE CREDIT TO THE SOUTH CAROLINA RETIREMENT SYSTEM, AND TO CLARIFY PROVISIONS RELATED TO THE TRANSFER OF EARNED SERVICE CREDIT IN RETIREMENT PLANS ADMINISTERED BY THE SOUTH CAROLINA RETIREMENT SYSTEMS.

Be it enacted by the General Assembly of the State of South Carolina:

Retirement System for Judges and Solicitors, options on termination, transfer of service credit

SECTION 1. Section 9-8-50(D) of the 1976 Code, as last amended by Act 108 of 2007, is further amended to read:

"(D) A member upon termination may either:

(1) elect to receive a refund of the member's employee contributions and accumulated interest;

(2) elect to leave the member's employee contributions and interest on deposit in the system. Regular interest must continue to be credited to the member's account in the same manner that interest is credited to the accounts of active members. At a later date, the member may either:

(a) return to employment as a judge, solicitor, or circuit public defender and once again become an active contributing member of the system;

(b) receive a refund of the member's accumulated contributions and interest;

(c) if vested, receive a deferred annuity in accordance with subsection (E) of this section; or

(d) if the member has been hired or elected to a position covered by the South Carolina Retirement System, the Police Officers Retirement System, or the Retirement System for Members of the

General Assembly, and becomes a member of one of these systems, the member may transfer the member's nonconcurrent service credit to the retirement system in which the member has become an active participant, by taking a refund of the member's employee contributions and accumulated interest in the system and by purchasing the nonconcurrent service as public service in the other system in which the member is an active participant; or

(3) if the member does not qualify for a monthly benefit, elect to transfer his service credit to the South Carolina Retirement System. Upon such election, the director must transfer to the South Carolina Retirement System the required employee and employer contributions. The required contributions shall be equal to the employer and employee contributions that would have been required under the South Carolina Retirement System had the member earned his highest career salary as a judge, solicitor, or circuit public defender in a position covered by the South Carolina Retirement System for each year of service credit transferred. Should either employee contributions or employer contributions be insufficient for the member to transfer all of his service credit, the member shall receive a prorated portion of his service credit in the South Carolina Retirement System and have the option to purchase the remaining service as public service pursuant to Section 9-1-1140. Any excess employer contributions following the transfer shall remain in the system and shall be held pursuant to Section 9-8-180. Any excess member contributions following the transfer shall be refunded to the member. Earned service credit transferred pursuant to this section shall be considered earned service credit in the South Carolina Retirement System as defined by Section 9-1-10(9). The member's salary as a judge, solicitor, or circuit public defender shall be considered earnable compensation in determining the member's average final compensation under the South Carolina Retirement System."

Certain transferred service deemed earned service

SECTION 2. Notwithstanding the limitations on establishment of additional service credit in the Retirement System for Judges and Solicitors provided in Section 9-8-50(A) of the 1976 Code, within thirty days of the effective date of this act, an active contributing member of the Retirement System for Judges and Solicitors, who was also an active contributing member on July 1, 2004, may transfer to the Retirement System for Judges and Solicitors any amount of nonconcurrent earned service credit from the South Carolina

Retirement System, the South Carolina Police Officers Retirement System, or the Retirement System for Members of the General Assembly in the manner provided in Section 9-8-50(B) of the 1976 Code. A member of the Retirement System for Judges and Solicitors may not establish in the aggregate more than sixteen years of service credit in the Retirement System for Judges and Solicitors pursuant to this act or Sections 9-8-50(A) and (B). For purposes of Section 9-8-60(5) of the 1976 Code, only service earned in the South Carolina Retirement System, the South Carolina Police Officers Retirement System, or the Retirement System for Members of the General Assembly and transferred to the Retirement System for Judges and Solicitors pursuant to this act shall be deemed earned service.

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 25th day of May, 2010.

Vetoed by the Governor -- 5/28/2010.
Veto overridden by Senate -- 6/2/2010.
Veto overridden by House -- 6/3/2010.

No. 199

(R224, S910)

AN ACT TO AMEND SECTION 6-21-185, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO A SPECIAL PURPOSE DISTRICT MORTGAGE TO SECURE CERTAIN BONDS OR LOANS WHEN THE SPECIAL PURPOSE DISTRICT PROVIDES HOSPITAL, NURSING HOME, OR CARE FACILITIES, SO AS TO REMOVE LIMITATIONS REGARDING ACCOMMODATIONS TAX COLLECTIONS FROM THE AUTHORITY OF A DISTRICT TO MORTGAGE ITS PROPERTY UNDER THE REVENUE BOND ACT FOR UTILITIES; BY ADDING SECTION 6-17-95 SO AS TO AUTHORIZE A MUNICIPALITY PROVIDING HOSPITAL, NURSING HOME, OR CARE FACILITIES TO BORROW MONEY IN A MANNER THAT IS CONSISTENT WITH

SECTION 44-7-60; AND BY ADDING SECTION 6-11-101 SO AS TO CLARIFY THE POWERS OF HOSPITAL DISTRICTS INCLUDING OWNING, LEASING, OPERATING, MAINTAINING, CONVEYING, SELLING, OR MORTGAGING OF HOSPITAL FACILITIES.

Be it enacted by the General Assembly of the State of South Carolina:

Special purpose districts providing hospital, nursing home, or care facilities; mortgages

SECTION 1. Section 6-21-185 of the 1976 Code, as added by Act 350 of 2008, is amended to read:

"Section 6-21-185. Under the revenue bond act for utilities in the case of a special purpose district providing hospital, nursing home, or care facilities, the special purpose district is authorized to provide a mortgage on any real or personal property to secure the purchase of any indebtedness by any federal agency or the guarantee of any indebtedness by any federal agency."

Municipalities providing hospital, nursing home, or care facilities; mortgages

SECTION 2. Chapter 17, Title 6 of the 1976 Code is amended by adding:

"Section 6-17-95. Under the revenue bond refinancing act, in the case of a municipality providing hospital, nursing home, or care facilities, the municipality may utilize the provisions of Section 44-7-60 to secure payment on any indebtedness purchased by any federal agency or any indebtedness guaranteed by any federal agency."

Hospital districts, powers

SECTION 3. Article 1, Chapter 11, Title 6 of the 1976 Code is amended by adding:

"Section 6-11-101. Any hospital district created by the General Assembly shall be authorized to own, lease, operate, maintain, convey, sell, or otherwise dispose of 'hospital facilities', as defined in Section 44-7-1430(f), and as authorized by Section 6-21-100. Additionally,

any hospital district shall be authorized to mortgage its hospital facilities so long as the action is made in connection with the purchase of the hospital district's indebtedness by any federal agency or the guarantee of the hospital district's indebtedness by any federal agency. Any hospital district shall be authorized to own, operate, convey, sell, or lease hospital facilities located outside the current limits of the hospital district in any county adjacent to the boundaries of the hospital district, as set out in the hospital district's enabling legislation, all on such terms as its governing body shall approve, whenever it shall be economically feasible. Additionally, any hospital district shall be authorized to create and establish an entity under Chapters 31 or 44, Title 33."

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 25th day of May, 2010.

Became law without the signature of the Governor -- 6/1/2010.

No. 200

(R232, S1340)

AN ACT TO AMEND SECTION 50-1-5, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITION OF TERMS USED IN TITLE 50, SO AS TO DEFINE CERTAIN WILDLIFE, FISH, AND PLANT SPECIES; TO AMEND SECTION 50-1-30, AS AMENDED, RELATING TO BIRD, GAME ANIMALS, AND FISH CLASSIFICATIONS RECOGNIZED IN TITLE 50, SO AS TO REVISE THESE CLASSIFICATIONS; BY ADDING SECTION 50-1-50 SO AS TO DEFINE THE BOUNDARIES FOR CERTAIN RIVERS, CREEKS, LAKES, BAYS, SOUNDS, HARBORS, AND RESERVOIRS REFERENCED IN TITLE 50; TO AMEND SECTION 50-5-1500, RELATING TO ANADROMOUS AND CATADROMOUS FISHERIES IN FRESHWATERS AND SALT WATERS, SO AS TO DELETE PROVISIONS RELATING TO LICENSES FOR TAKING STURGEON AND TO ADD EEL AND

TO DELETE PENALTIES FOR CERTAIN SHAD, HERRING, AND STURGEON VIOLATIONS; BY ADDING SECTION 50-5-1556 SO AS TO PROVIDE THAT A COMMERCIAL FISHERMAN WHO SELLS SHAD, HERRING, OR EELS MUST SELL TO A WHOLESALE SEAFOOD DEALER OR LICENSED BAIT DEALER OR BE LICENSED AS SUCH; TO AMEND SECTION 50-9-30, RELATING TO RESIDENCY REQUIREMENTS FOR OBTAINING RECREATIONAL OR COMMERCIAL LICENSES, SO AS TO FURTHER SPECIFY THESE REQUIREMENTS; TO AMEND SECTION 50-9-80, RELATING TO REQUIREMENTS FOR ISSUANCE OF DUPLICATE LICENSES, SO AS TO FURTHER SPECIFY THESE REQUIREMENTS; BY ADDING ARTICLE 4 TO CHAPTER 9, TITLE 50 SO AS TO PROVIDE REQUIREMENTS FOR FRESHWATER COMMERCIAL FISHING LICENSES AND BAIT DEALER LICENSES AND TO PROVIDE LICENSURE REQUIREMENTS FOR TAKING SHAD, HERRING, OR EELS FOR COMMERCIAL PURPOSES; BY ADDING SECTION 50-9-545 SO AS TO PROVIDE LICENSURE REQUIREMENTS WHEN TAKING SHAD, HERRING, OR EELS FOR RECREATIONAL PURPOSES; BY ADDING SECTION 50-9-610 SO AS TO PROVIDE TAG AND PERMIT REQUIREMENTS WHEN USING CERTAIN DEVICES TO TAKE NONGAME FRESHWATER FISH; BY ADDING SECTION 50-13-1615 SO AS TO REQUIRE A PERSON SELLING OR POSSESSING FOR SALE FRESHWATER NONGAME FISH TO HAVE CERTAIN DOCUMENTATION VERIFYING THE ORIGIN OF THE FISH; BY ADDING SECTION 50-19-250 SO AS TO PROHIBIT NIGHT FISHING IN BRIDGE LAKE IN DORCHESTER COUNTY AND TO PROVIDE CRIMINAL PENALTIES FOR VIOLATIONS; BY ADDING SECTION 50-19-251 SO AS TO PROVIDE FOR CERTAIN FISHING AND RECREATIONAL ACTIVITIES ON SLADE LAKE AND TO PROVIDE CRIMINAL PENALTIES FOR VIOLATIONS; BY ADDING SECTION 50-19-1190 SO AS TO ESTABLISH A FISH SANCTUARY IN MARION COUNTY AND TO PROVIDE CRIMINAL PENALTIES FOR FISHING OR ENTERING UPON THE SANCTUARY; AND TO REPEAL SECTIONS 50-1-100, 50-13-1130, 50-13-1135, 50-13-1150, 50-13-1155, 50-13-1160, 50-19-1910, 50-19-1920, 50-19-1930, ARTICLE 39, CHAPTER 19, TITLE 50, 50-19-2620, AND

50-19-2630 ALL RELATING TO VARIOUS FISHING REGULATIONS AND LICENSURE REQUIREMENTS.

Be it enacted by the General Assembly of the State of South Carolina:

Definitions added

SECTION 1. Section 50-1-5 of the 1976 Code is amended to read:

"Section 50-1-5. For the purposes of this title unless the context clearly indicates otherwise:

(1) 'Board' means the governing body of the department.

(2) 'Department' means the South Carolina Department of Natural Resources.

(3) 'Director' means the administrative head of the department, appointed by the board.

(4) 'Enforcement officer' means an enforcement officer of the Natural Resources Enforcement Division of the department.

(5) The following terms define wildlife, fish, and plant species under the jurisdiction of the department or its successor agency:

(a) 'Established' or 'naturalized' means a nonindigenous organism with one or more reproducing wild populations.

(b) 'Exotic' means an organism or species indigenous to a foreign ecosystem.

(c) 'Indigenous' or 'native' means an organism or species found naturally in this State prior to the arrival of the first European settlers.

(d) 'Introduced' means an organism or species moved by human action to an area or ecosystem where it was not found historically.

(e) 'Invasive' means nonindigenous organisms or species that establish in a new area or ecosystem, extend their geographic range and usually include native ecological or economic impacts.

(f) 'Locally established' means a nonindigenous species with one or more naturally reproducing populations in an area or ecosystem but with very restricted distribution and no evidence of range expansion.

(g) 'Nonindigenous', 'alien', 'exotic', 'foreign', 'transplanted', 'nonnative', or 'introduced' means an organism or species found in an area or ecosystem outside its historic or native geographic range.

(h) 'Transplant' or 'translocated' means an organism or species moved by human action, deliberately or accidentally from its indigenous ecosystem to an area outside of its native range.

(i) 'Wild' means an organism or species living in the environment not cultivated or domesticated."

Classifications revised

SECTION 2. Section 50-1-30 of the 1976 Code, as last amended by Act 227 of 2008, is further amended to read:

"Section 50-1-30. For the purpose of this title the following classifications are recognized:

(1) Game birds: mourning dove, northern bob white, ruffed grouse, wild turkey, Wilson snipe, woodcock, the Anatidae (commonly known as goose, brant, and duck), and the Rallidae (commonly known as marsh hen, coot, gallinule, and rail).

(2) Unprotected birds: house sparrow (Passer domesticus), rock pigeon (Columba livia), European starling (Sturnus vulgaris), and Eurasian collared dove (Streptopelia decaocto). These birds are unprotected by state law.

(3) Nongame birds: all native birds not named in items (1) and (2) of this section are nongame birds and must not be destroyed in any manner at any time, except as otherwise provided by law.

(4) Game animals: beaver, black bear, bobcat, white-tailed deer, fox, mink, muskrat, opossum, otter, rabbit, raccoon, skunk, squirrel, and weasel.

(5) Freshwater game fish: Bream: bluegill, flier, green sunfish; pumpkinseed, redbreast, redear (shellcracker), spotted sunfish; warmouth; Black Bass: largemouth bass, smallmouth bass, spotted bass, redeye bass (coosae bass); striped bass or rockfish; white bass; hybrid striped bass-white bass; white crappie, black crappie; Trout: rainbow, brown and brook, chain pickerel (jackfish), redfin pickerel, sauger, walleye, and yellow perch.

(6) Freshwater nongame fish: any freshwater fish species not classified as a game fish.

(7) Saltwater game fish: spotted seatrout (winter trout) Cynoscion nebulosus, red drum (channel bass) Sciaenops ocellatus; tarpon Megalops atlanticus, and any species of billfish of the Family Istiophoridae."

Geographic boundaries for certain bodies of water

SECTION 3. Chapter 1, Title 50 of the 1976 Code is amended by adding:

"Section 50-1-50. The following water bodies have the geographic boundaries as described:

'Ashepoo River' means all waters of the Ashepoo River from its confluence with Saint Helena Sound upstream to the confluence of Jones Swamp and Ireland Creeks, near S.C. State Highway 63/U.S. Highway 17A Bridge in Colleton County.

'Ashley River' means all waters of the Ashley River from its confluence with the Cooper River in Charleston Harbor upstream to the confluence of Great Cypress Swamp and Rumphs Hill Creeks.

'Back River (Jasper County)' means all waters of Back River from its confluence with the Savannah River upstream to its headwaters on Hutchinson Island.

'Little Back River (Jasper County)' means all waters of Little Back River from its confluence with Back River upstream to the confluence of McCoy's Creek and Union Creek.

'Beaufort River (Beaufort County)' means all waters of Beaufort River from its confluence with Port Royal Sound upstream to the confluence with Battery, Cowen, Albergottie, and Brickyard Creeks.

'Black Creek (Chesterfield, Darlington, and Florence Counties)' means all waters of Black Creek from its confluence with the Great Pee Dee River upstream to S.C. State Highway S-13-513 (Griggs Street Bridge) in Chesterfield County.

'Black Creek (Lexington County)' means all waters of Black Creek from its confluence with North Fork Edisto River upstream to its headwaters at Taylors Pond Dam near S.C. State Highway S-32-77 (Two Notch Road Bridge) in Lexington County.

'Black Mingo Creek' means all waters of Black Mingo Creek from its confluence with the Black River upstream to the confluence of Paisley Swamp and Cedar Swamp Creeks.

'Black River' means all waters of Black River from its confluence with the Great Pee Dee River upstream to its headwaters northwest of S.C. State Highway S-31-33 near McCutchens Crossroads in Lee County.

'Bohicket Creek (Charleston County)' means all waters of Bohicket Creek from its confluence with North Edisto River upstream to its confluence with Church Creek.

'Broad River' means all waters of Broad River from its confluence with the Saluda River at U.S. Highway 1/U.S. Highway 378 (Gervais Street Bridge) upstream to the North Carolina/South Carolina state line.

'Lower reach of the Broad River' means all waters of the Broad River from its confluence with the Saluda River at U.S. Highway 1/U.S. Highway 378 (Gervais Street Bridge) upstream to Parr Dam.

'Upper reach of the Broad River' means all waters of the Broad River from Parr Dam upstream to the North Carolina/South Carolina state line.

'Broad River **(**Beaufort County)' means all waters of Broad River from its confluence with Port Royal Sound upstream to the confluence of Whale Branch, Coosawhatchie River, and Pocotaligo River.

'Buffalo Creek (Newberry County)' means all waters of Buffalo Creek from its confluence with Lake Murray upstream to State Highway S-36-404.

'Bull Creek (Georgetown and Horry Counties)' means all waters of Bull Creek from its divergence from the Great Pee Dee River to its confluence with the Waccamaw River.

'Bull River (Beaufort County)' means all waters of Bull River from its confluence with Coosaw River upstream to its confluence with Wimbee Creek and Williman Creek.

'Bulls Bay' means all open bay waters bounded on the east by a line running northeast from the northern tip of Bull Island following the COLREG line to the southern tip of Sandy Point.

'Bush River' means all waters of Bush River from Lake Murray in Newberry County at S.C. State Highway S-36-41, upstream to its headwaters beyond S.C. State Highway S-30-72 Bridge (Gary Street) in Laurens County.

'Calibogue Sound' means all waters between Hilton Head Island and Daufuskie Island bounded on the seaward side by a line running due west from the westernmost tip of Hilton Head Island (N32° 6.825' W80° 49.776') and bounded on the inland side by a line from the northern tip of Daufuskie Island (N32° 8.838' W80° 50.354') running along the marsh shore of Bull Island to its easternmost point (N32° 11.459' W80° 47.371') and then running due east to Hilton Head Island, and then following the shoreline in a southwesterly direction across the confluence of Broad Creek to the westernmost tip of Hilton Head Island.

'Cape Romain Harbor (Charleston County)' means all waters inshore of the COLREG line between Cape Island and Murphy Island and bounded on the eastern side by Cape Island and to its confluence with Romain River, Horsehead Creek, Congaree Boat Creek, and Alligator Creek, and inshore of the COLREG line from Cape Island to Raccoon Key.

'Catawba River' means all waters of the Catawba River from the backwaters of Fishing Creek Reservoir at S.C. State Highway 9 upstream to the Lake Wylie Dam.

'Chattooga River' means all waters of the Chattooga River beginning at its confluence with Opossum Creek upstream to the North Carolina/South Carolina state line.

'East Fork Chattooga River' means all waters of East Fork Chattooga River from its confluence with the Chattooga River upstream to the North Carolina/South Carolina state line.

'Chauga River' means all waters of the Chauga River from Lake Hartwell upstream to the confluence of Village and East Village Creeks.

'Chechessee Creek (Beaufort County)' means all waters of Chechessee Creek from its confluence with Chechessee River upstream to the confluence with Colleton River near Manaqault Neck.

'Chechessee River (Beaufort County)' means all waters of Chechessee River from its confluence with Port Royal Sound upstream to the confluence with Hazzard Creek.

'New Chehaw River (Colleton County)' means all waters of New Chehaw River from its confluence with the Combahee River upstream to its diversion from the Old Chehaw River.

'Old Chehaw River (Colleton County)' means all waters of Old Chehaw River from its confluence with the Combahee River upstream to its headwaters outside of the town of Green Pond.

'Cheohee Creek' means all waters of Cheohee Creek from its confluence with Flat Shoal River and Tamassee Creek upstream to its headwaters east of S.C. State Highway 107 in Oconee County.

'Church Creek (Charleston County)' means all waters of Church Creek from its confluence with Wadmalaw River in Wadmalaw Sound upstream to its confluence with Bohicket Creek.

'Clark Sound' means all waters bounded on the northwestern side by James Island and on the eastern side by marshes associated with Morris Island.

'Clark's Creek' means all waters of Clark's Creek from its confluence with the Great Pee Dee River upstream to its divergence from the Lynches River in Florence County.

'Colleton River (Beaufort County)' means all waters of Colleton River from its confluence with Chechessee River upstream until its confluence with Okatee River.

'Combahee River' means all waters of the Combahee River from its confluence with the Coosaw River upstream to the confluence of the Salkehatchie and Little Salkehatchie Rivers.

'Congaree River' means all waters of the Congaree River from its confluence with the Wateree River upstream to the confluence with the Broad and Saluda Rivers at U.S. Highway 1/U.S. Highway 378 (Gervais Street Bridge).

'Cooper River (Beaufort County)' means all waters of Cooper River from its confluence with Calibogue Sound upstream to its confluence with the New River.

'Cooper River (Berkeley and Charleston Counties)' means all waters of Cooper River from its confluence with the Ashley River in the Charleston Harbor upstream to the confluence of East Branch Cooper River and West Branch Cooper River.

'Cooper River system (Berkeley and Charleston Counties)' means all waters of Cooper River and its fresh water tributaries, from the freshwater/saltwater dividing line to its headwaters including the East and West Branch and the Tailrace Canal.

'Coosaw River (Beaufort County)' means all waters of Coosaw River from its confluence with Saint Helena Sound upstream to its confluence with Whale Branch, McCalleys Creek, and Brickyard Creek.

'Coosawhatchie River' means all waters of the Coosawhatchie River from its confluence with the Broad River (Jasper County) upstream to U.S. Highway 301 in Allendale County.

'Great Cypress Swamp' means all waters of the Great Cypress Swamp from its confluence with the Ashley River upstream to the confluence of Partridge Creek and Wassamasaw Swamp Creek or Big Run Creek.

'Dawhoo River (Charleston County)' means all waters of Dawhoo River from its confluence with the North Edisto River upstream to its divergence with the South Edisto River.

'Durbin Creek (Greenville and Laurens Counties)' means all waters of Durbin Creek from its confluence with the Enoree River in Laurens County upstream to S.C. State Highway 418 in Laurens County.

'Eastatoe Creek' means all waters of Eastatoe Creek from Lake Keowee backwaters upstream to the North Carolina/South Carolina state line.

'Edisto River' means all waters of the Edisto River from its confluence with the South Edisto River and Dawhoo River upstream to the confluence of the North Fork Edisto River and South Fork Edisto River.

'North Edisto River' means all waters of the North Edisto River from its confluence with the Atlantic Ocean upstream to the confluence of Dawhoo River and Wadmalaw River.

'South Edisto River' means all waters of the South Edisto River from its confluence with Saint Helena Sound upstream to the confluence of the Edisto River and Dawhoo River.

'North Fork Edisto River' means all waters of the North Fork Edisto River from its confluence with the South Fork Edisto River upstream to the confluence of Chinquapin Creek and Lightwood Knot Creek in Lexington County.

'South Fork Edisto River' means all waters of the South Fork Edisto River from its confluence with the North Fork Edisto River upstream to S.C. State Highway S-19-41(Edisto Road) in Edgefield County.

'Enoree River' means all waters of the Enoree River from its confluence with the Broad River upstream to its headwaters near S.C. State Highway S-23-869 (Tubbs Mt. Road).

'Five Fathom Creek (Charleston County)' means all waters of Five Fathom Creek from its confluence with Bull's Bay just west of Sandy Point to its divergence from the Intracoastal Waterway.

'Folly Creek (Charleston County)' means all waters of Folly Creek from its confluence with Folly River upstream to its confluence with Lighthouse Creek.

'Folly River (Charleston County)' means all waters of Folly River from its confluence with the Atlantic Ocean north of Stono Inlet upstream to the tidal flats behind Folly Island and onto its confluence with Rat Island Creek.

'Harbor River (Beaufort County)' means all waters of Harbor River from its confluence with Saint Helena Sound and the Atlantic Ocean upstream to its confluence with Station Creek and Trenchards Inlet.

'Jefferies Creek' means all waters of Jefferies Creek from its confluence with the Great Pee Dee River upstream to S.C. State Highway 403 in Darlington County.

'Kiawah River (Charleston County)' means all waters of Kiawah River from its confluence with the Atlantic Ocean at Captain Sam's Inlet upstream to its confluence with the Stono River.

'Little River (Abbeville, Anderson, and McCormick Counties)' means all waters of Little River from the backwaters of Lake J. Strom Thurmond in McCormick County upstream to the confluence of Baker Creek (Long Branch) and Corner Creek in Anderson County. 'Little River (Horry County)' means all waters of Little River from its confluence with the Atlantic Ocean at Little River Inlet upstream to its confluence with the Intercoastal Waterway to the headwaters of Socastee Creek.

'Little River (Newberry and Laurens Counties)' means all waters of Little River from its confluence with the Saluda River upstream to S.C. State Highway S-30-419 (Ghost Creek Road) in Laurens County.

'Little River (Sumter County)' means all waters of Little River from its confluence with the Wateree River upstream to its divergence from the Wateree River.

'Log Creek (Edgefield County)' means all waters of Log Creek from its confluence with Turkey Creek upstream to S.C. State Highway 23 (Columbia Highway).

'Long Cane Creek (McCormick County)' means all waters of Long Cane Creek from the backwaters of Lake J. Strom Thurmond near S.C. State Highway 28 in McCormick County upstream to S.C. State Highway S-1-75 in Abbeville County.

'Lumber River' means all waters of Lumber River from its confluence with the Little Pee Dee River upstream to the North Carolina/South Carolina state line.

'Lynches River' means all waters of Lynches River from its confluence with the Great Pee Dee River upstream to the North Carolina/South Carolina state line.

'May River (Beaufort County)' means all waters of May River from its confluence with Calibogue Sound upstream to its headwaters just past the confluence of Stoney Creek.

'McCoy's Cut (Jasper County)' means all waters of McCoy's Cut from its divergence from Savannah River to its confluence with Union Creek to form the Little Back River.

'Mill Creek (Florence County)' means all waters of Mill Creek from its confluence with Muddy Creek upstream to its divergence from Lynches River.

'Morgan River (Beaufort County)' means all waters of Morgan River from its confluence with Saint Helena Sound upstream to the confluence of Lucy Point Creek and Warsaw Flats.

'Muddy Creek (Florence and Williamsburg Counties)' means all waters of Muddy Creek from its confluence with Clark's Creek upstream to its headwaters near Hemmingway, South Carolina.

'Mulberry Creek (Greenwood County)' means all waters of Mulberry Creek from the backwaters of Lake Greenwood upstream to U.S. Highway 25 in Greenwood County.

'Mungen Creek (Beaufort County)' means all waters of Mungen Creek from its divergence from the New River to its confluence with the New River.

'Murrell's Inlet (Georgetown County)' means all saltwaters of Murrell's Inlet from the seaward tip of the Murrell's Inlet jetties inland.

This includes these tributary creeks: Main Creek, Woodland Creek, Parsonage Creek, Allston Creek, and Oaks Creek and adjacent marshes.

'New River' means all waters of New River from its confluence with the Atlantic Ocean upstream to its headwaters at Garrett Lake near U.S. Interstate Highway 95.

'North Santee Bay' means all waters of the bay west of a line running southwest from the southern tip of South Island to the eastern tip of Cedar Island and upstream to the confluence of Mosquito and Big Duck Creeks.

'Okatee River (Beaufort County)' means all waters of Okatee River from its confluence with Colleton River upstream to its headwaters near U.S. Highway 278.

'Oolenoy River' means all waters of Oolenoy River from its confluence with the South Saluda River upstream to its headwaters near US Highway 178 in Pickens County.

'Pacolet River' means all waters of Pacolet River from its confluence with the Broad River upstream to the Lake H. Taylor Blalock Dam in Spartanburg County.

'North Pacolet River' means all waters of North Pacolet River from its confluence with the South Pacolet River upstream to the North Carolina/South Carolina state line.

'South Pacolet River' means all waters of South Pacolet River from Lake William C. Bowen in Spartanburg County upstream to its headwaters near Glassy Mountain in Greenville County.

'Great Pee Dee River (also known as Pee Dee River or Big Pee Dee River)' means all waters of Great Pee Dee River from its confluence with Winyah Bay upstream to the North Carolina/South Carolina state line.

'Little Pee Dee River' means all waters of Little Pee Dee River from its confluence with the Great Pee Dee River upstream to Red Bluff Lake Dam at the confluence of Gum Swamp Creek and Beaver Dam Creek in Marlboro County.

'Pocotaligo River (Beaufort, Hampton and Jasper Counties)' means all waters of Pocotaligo River from its confluence with the Broad River upstream to its headwaters north of U.S. Highway 17 in Jasper County.

'Pocotaligo River (Clarendon and Sumter Counties)' means all waters of Pocotaligo River from its confluence with the Black River upstream to the confluence of Cane Savannah Creek and Turkey Creek in Sumter County.

'Port Royal Sound' means all waters of Port Royal Sound between Hilton Head Island and Bay Point, bounded on the seaward side by a

line running northeasterly from the easternmost tip of Hilton Head Island (N32° 12.972' W80° 40.048'), to the southernmost tip of Bay Point (N32° 15.390' W80° 37.918'), and bounded on the inland side by a line from the northernmost tip of Hilton Head Island (N32° 16.236' W80° 43.676'), running northeasterly to the southern tip of Parris Island (N32° 17.875' W80° 40.076'), and thence running southeasterly to the southern tip of Bay Point.

'Price Creek (Charleston County)' means all waters of Price Creek from its confluence with the Atlantic Ocean upstream to its divergence from Sewee Bay.

'Rabon Creek (Laurens County)' means all waters of Rabon Creek from the backwaters of Lake Greenwood upstream to the Lake Rabon Dam in Laurens County.

'Re-diversion Canal' means all waters of the Re-diversion Canal from its confluence with the Santee River upstream to the St. Stephen Dam and those waters upstream of the dam to its juncture with Lake Moultrie in Berkeley County.

'Reedy River' means all waters of Reedy River from the backwaters of Lake Greenwood at S.C. State Highway S-30-6 in Laurens County, upstream to Boyd Millpond Dam, and all waters upstream of Boyd Millpond to its headwaters near Renfrew and Travelers Rest in Greenville County at S.C. State Highway S-23-103.

'Rocky River' means all waters of Rocky River from Lake Secession upstream to the confluence of Little Beaverdam and Beaverdam Creeks in Anderson County.

'Saint Helena Sound' means all waters of Saint Helena Sound bounded by Edisto Beach, Otter Island, Ashe Island, Morgan Island, St. Helena Island, and Harbor Island, bounded on the seaward side by the COLREG line from Edisto Beach to Hunting Island, and bounded on the inland side by the U.S. Highway 21 bridge in the mouth of Harbor River, from the northern tip of Coffin Point (N32° 26.782' W80° 29.007'), just east of the mouth of Coffin Creek running north crossing the mouth of Morgan River to the eastern tip of Morgan Island marsh (N32° 28.137' W80° 28.626'), and then running north across the mouth of Coosaw River to the southern tip of Ashe Island (N32° 29.768' W80° 28.355'), and by a line running due west from the western tip of Ashe Island (N32° 30.189' W80° 27.329'), crossing the mouth of Rock Creek to Hutchinson Island, and by a line running south across the mouth of the Ashepoo River to the eastern side of Otter Island (N32° 28.720' W80° 25.151') and extending to the southern tip of Edisto Beach (N32° 28.643' W80° 20.304').

'Salkehatchie River' means all waters of Salkehatchie River from its confluence with the Little Salkehatchie River upstream to the confluence of Buck Creek and Rosemary Creek near S.C. State Highway S-06-166 in Barnwell County.

'Little Salkehatchie River' means all waters of Little Salkehatchie River from its confluence with the Salkehatchie River upstream to the Lake Cynthia Dam in Barnwell County.

'Middle Saluda River' means all waters of Middle Saluda River from its confluence with South Saluda River upstream to its headwaters near U.S. Highway 276 in Greenville County.

'North Saluda River' means all waters of North Saluda River from its confluence with South Saluda River upstream to the North Saluda Reservoir (Poinsett Reservoir) Dam.

'South Saluda River' means all waters of South Saluda River from its confluence with Saluda River and North Saluda River upstream to the Table Rock Dam in Greenville County.

'Lower reach of the Saluda River' means all waters of Saluda River from its confluence with Broad River upstream to the Lake Murray Dam.

'Middle reach of the Saluda River' means all waters of Saluda River from the backwaters of Lake Murray at S.C. State Highway 395, upstream to the Lake Greenwood Dam.

'Upper reach of the Saluda River' means all waters of Saluda River from the backwaters of Lake Greenwood upstream to the confluence of North Saluda River and South Saluda River.

'Little Saluda River' means all waters of Little Saluda River from the backwaters of Lake Murray upstream to the confluence of Mine Creek and Red Bank Creek near U.S. Highway 378 in Saluda County.

'Sampit River' means all waters of Sampit River from its confluence with Winyah Bay upstream to U.S. Highway 17A in Georgetown County.

'Santee River' means all waters of Santee River from its confluence with North Santee River and South Santee River upstream to the Lake Marion Dam and from the backwaters of Lake Marion at the railroad trestle bridge near Rimini upstream to the confluence of the Congaree and Wateree Rivers.

'North Santee River' means all waters of North Santee River from its confluence with North Santee Bay upstream to its confluence with the Santee River and South Santee River.

'South Santee River' means all waters of South Santee River from its confluence with the Atlantic Ocean upstream to its confluence with Santee River and North Santee River.

'Lower reach of the Santee River' means all waters of Santee River from its confluence with the Atlantic Ocean upstream via the North Santee River, the South Santee River, and the Santee River to the Lake Marion Dam including the waters of the Re-diversion Canal upstream to the St. Stephen Dam.

'Upper reach of the Santee River' means all waters of Santee River from the backwaters of Lake Marion at the railroad trestle bridge near Rimini upstream to the confluence of the Congaree and Wateree Rivers.

'Santee River system' means all waters of Santee River including tributaries from the saltwater/freshwater dividing line on the North and South Santee Rivers upstream to the Lake Murray Dam on the Saluda River, the Canal Dam on the Broad River, and the Wateree Dam on the Wateree River.

'Savannah River' means all waters of Savannah River from its confluence with the Atlantic Ocean upstream to the Lake J. Strom Thurmond Dam and from the backwaters of Richard B. Russell Lake upstream to the Lake Hartwell Dam.

'Lower reach of the Savannah River' means all waters of Savannah River from its confluence with the Atlantic Ocean or mouth of the Savannah River as defined by a line from Jones Island, South Carolina (also known as Oysterbed Island) point at N32° 02'18" (N32.03833°), W80° 53' 21" (W80.88917°); across Cockspur Island, Georgia, point at N. 32° 01' 58" (N32.03278°), W80° 52' 56" (W80.88222°) to Lazaretto Creek, Georgia, point at N32° 01' 2" (N32.01722°) W80° 52' 51" (W80.88083°) upstream to the Lake J. Strom Thurmond Dam.

'Upper reach of the Savannah River' means all waters of Savannah River from S.C. State Highway 181 (the backwaters of Richard B. Russell Lake) upstream to the Lake Hartwell Dam.

'Socastee Creek (Horry County)' means all waters of Socastee Creek from its confluence with Waccamaw River upstream to the Intercoastal Waterway to the headwaters of Little River.

'Stevens Creek' means all waters of Stevens Creek from the back waters of Stevens Creek Reservoir upstream to the confluence of Hard Labor Creek and Cuffytown Creek in McCormick County.

'Stono River (Charleston County)' means all waters of Stono River from its confluence with the Atlantic Ocean at Stono Inlet upstream to its confluence with Wadmalaw River in Wadmalaw Sound.

'Story River (Beaufort County)' means all waters of Story River from its confluence with Fripps Inlet upstream to its confluence with Trenchards Inlet.

'Thicketty Creek' means all waters of Thicketty Creek, excluding private impoundments, from its confluence with the Broad River upstream to the Lake Thicketty Dam in Cherokee County.

'Trenchards Inlet (Beaufort County)' means all waters of Trenchards Inlet from its confluence with the Atlantic Ocean upstream to its confluence with Station Creek and Harbor River.

'Tulifinny River' means all waters of Tulifinny River from its confluence with the Coosawhatchie River upstream to its divergence from the Coosawhatchie River.

'Turkey Creek (Edgefield County)' means all waters of Turkey Creek from its confluence with Stevens Creek upstream to S.C. State Highway 23 in Edgefield County.

'Tyger River' means all waters of Tyger River from its confluence with Broad River upstream to the confluence of the North Tyger River and South Tyger River.

'Middle Tyger River' means all waters of Middle Tyger River from its confluence with the North Tyger River upstream to its headwaters just north of S.C. State Highway 11, excluding Lake Lyman.

'North Tyger River' means all waters of North Tyger River from its confluence with the South Tyger River upstream to its headwaters south of S.C. State Highway 11 in Spartanburg County.

'South Tyger River' means all waters of South Tyger River from its confluence with the North Tyger River upstream to the confluence of Mush Creek and Barton Creek in Greenville County, excluding the lakes.

'Union Creek (Jasper County)' means all waters of Union Creek from its confluence with McCoy's Cut and Little Back River upstream to its headwaters near Chisolm Cemetery.

'Waccamaw River' means all waters of Waccamaw River from its confluence with Winyah Bay upstream to the North Carolina/South Carolina state line.

'Wadmalaw River (Charleston County)' means all waters of Wadmalaw River from its confluence with the North Edisto River to its junction with the Intracoastal Waterway and Church Creek.

'Wando River' means all waters of Wando River from its confluence with the Cooper River upstream to its headwaters.

'Warrior Creek' means all waters of Warrior Creek from its confluence with the Enoree River upstream to its headwaters just west of S.C. State Highway S-30-660 in Laurens County.

'Wateree River' means all waters of Wateree River from its confluence with the Congaree River upstream to the Lake Wateree Dam.

'Whale Branch (Beaufort County)' means all waters of Whale Branch from its confluence with Coosaw River, McCalleys Creek, and Brickyard Creek upstream to its junction with the Broad River.

'Wilson Creek (Greenwood County)' means all waters of Wilson Creek from its confluence with the Saluda River upstream to U.S. Highway 25/U.S. Highway 221/U.S. Highway 178 Bypass in Greenwood County.

'Winyah Bay' means all waters of Winyah Bay east of a line running south from the southern tip of North Island to the eastern tip of Sand Island, and extending to the mouths of the Sampit, Great Pee Dee, and Waccamaw Rivers.

'Wright River (Jasper County)' means all waters of Wright River from its confluence with the Atlantic Ocean upstream to its headwaters in Jasper County.

'Lake H. Taylor Blalock' means all waters of Pacolet River impounded by the Lake Blalock Dam upstream to the confluence with North Pacolet River below Reservoir #1 (Rainbow Lake) Dam in Spartanburg County.

'Lake William C. Bowen' means all waters of South Pacolet River impounded by the Lake Bowen Dam upstream to S.C. State Highway 11.

'Cedar Creek Lake (also known as Stumpy Pond or Rocky Creek Lake)' means all waters of Catawba River impounded by the Cedar Creek/Rocky Creek Dam upstream to the Dearborn Powerhouse on Rocky Creek and U.S. Highway 21 on Rocky Creek. This includes waters between the Cedar Creek Hydro Station on the west bank upstream to the base of the shoals north of Hill Island (Bypass Reach).

'Lake Cooley' means all waters of Jordan Creek impounded by the Lake Cooley Dam upstream to S.C. State Highway S-42-784 (Ballenger Road) in Spartanburg County.

'Lake Cunningham' means all waters of South Tyger River impounded by the Lake Cunningham Dam upstream to S.C. State Highway 101 in Greenville County.

'Fishing Creek Reservoir' means all waters of Catawba River impounded by the Fishing Creek Dam upstream to S.C. State Highway 9. This includes all waters upstream of the Fishing Creek Dam to the confluence of Rum Creek and Cane Creek on Cane Creek and to Catawba Ridge Boulevard on Bear Creek.

'Goose Creek Reservoir' means all waters of Goose Creek impounded by the Goose Creek Reservoir Dam upstream to U.S. Highway 52 in Berkley County.

'Lake Greenwood' means all waters of Saluda River impounded by the Buzzard's Roost (Lake Greenwood) Dam upstream to U.S. Highway 25 including the tributaries of Cane Creek upstream to S.C. State Highway 72, Rabon Creek upstream to S.C. State Highway S-30-54 in Laurens County, and the Reedy River upstream to S.C. State Highway S-30-6 in Laurens County.

'Lake Hartwell' means all waters of Savannah River impounded by the Lake Hartwell Dam upstream to the Lake Yonah Dam on the Tugaloo River and to the Lake Keowee Dam on the Keowee River. This includes all waters upstream of Hartwell Dam to S.C. State Highway S-04-97 on Six and Twenty Creek in Anderson County.

'Lake Hartwell Tailwater' means all waters of Savannah River upstream of S.C. State Highway 181 to Lake Hartwell Dam.

'Lake Jocassee' means all waters of Keowee, Toxaway, and Whitewater Rivers impounded by the Lake Jocassee Dam upstream to the elevation of 1110 msl.

'Lake Keowee' means all waters of Keowee River impounded by the Little River Dam at Newry and the Keowee Dam to Jocassee Dam. This includes all waters upstream of the Little River Dam to the confluence of Cane Creek and Little Cane Creek on Cane Creek, to S.C. State Highway S-37-175 on Crooked Creek, to S.C. State Highway S-37-24 (Burnt Tanyard Road) on Little River, and to S.C. State Highway S-37-200 on Stamp Creek in Oconee County. This includes all waters upstream of the Keowee Dam to the confluence of Eastatoe River and Little Eastatoe Creek on the Eastatoe River; S.C. State Highway 133 on Cedar, Crowe, and Mile Creeks in Pickens County.

'Louther's Lake' means the oxbow lake off of the Great Pee Dee River in eastern Darlington County near S.C. State Highway S-16-495.

'Lake Lyman' means all waters of Middle Tyger River impounded by the Lake Lyman Dam upstream to S.C. State Highway S-42-75 in Spartanburg County.

'Lake Marion' means all waters of the Santee River and its tributaries impounded by the Lake Marion Dam including the flooded backwater areas within the Santee Cooper project area in Calhoun and Sumter Counties.

'Lake Monticello' means all waters of Frees Creek impounded by the Frees Creek Dam upstream to S.C. State Highway S-20-99 in Fairfield County.

'Lake Moultrie' means all waters impounded by the Pinopolis Dam including the Diversion Canal and those waters of the Re-diversion Canal within the Santee Cooper project area.

'Lake Murray' means all waters of Saluda River impounded by the Lake Murray Dam upstream to S.C. State Highway 395 and the Little Saluda River arm up to Big Creek.

'Parr Reservoir' means all waters of Broad River impounded by the Parr Reservoir Dam upstream to S.C. State Highway 34.

'Reservoir #1 (Rainbow Lake)' means all waters of South Pacolet River impounded by the Reservoir #1 Dam upstream to Lake William C. Bowen Dam in Spartanburg County.

'Lake Robinson (Darlington and Chesterfield Counties)' means all waters of Black Creek and its tributaries impounded by the Lake Robinson Dam upstream to its headwaters west of S.C. State Highway S-13-46 in Chesterfield County.

'Lake Robinson (Greenville County)' means all waters of South Tyger River impounded by the Lake Robinson Dam upstream to S.C. State Highway S-23-114.

'Lake Russell' means all waters of Savannah River impounded by the Lake Richard B. Russell Dam upstream to S.C. State Highway 181 including the tributary Rocky River upstream to the Lake Secession Dam.

'Lake Secession' means all the waters of Rocky River impounded by the Lake Secession Dam upstream to S.C. State Highway 413.

'Stevens Creek Reservoir' means all waters of Savannah River upstream of the Stevens Creek Dam to the Lake J. Strom Thurmond Dam including the tributary of Stevens Creek upstream to the confluence of Dry Branch, Cheves Creek, and Stevens Creek in Edgefield County.

'Lake J. Strom Thurmond (formerly Clarks Hill Lake)' means all waters of Savannah River impounded by the Lake J. Strom Thurmond Dam upstream to the Richard B. Russell Dam, including the tributaries of Little River to Calhoun Mill at the S.C. State Highway 823 Bridge and Long Cane Creek to Patterson Bridge at S.C. State Highway S-33-117 in McCormick County.

'Lake Tugaloo' means all waters of Tugaloo River impounded by the Lake Tugaloo Dam upstream to the confluence of the Chattooga River and Opossum Creek in Oconee County.

'Lake Wateree' means all waters of Catawba and Wateree Rivers impounded by the Lake Wateree Dam upstream to the Cedar Creek Hydro Station and Rocky Creek Hydro Station and the dam between the two. This includes the waters to the confluence of Colonel Creek and the first unnamed tributary on Colonel Creek; to the confluence of Fox (June) Creek and the first unnamed tributary on Fox (June) Creek; to S.C. State Highway S-28-101 on Rochelle Creek; to the confluence

of Dutchman's Creek and the first unnamed tributary on the south side of Dutchman's Creek; to the confluence of Taylor Creek and the first unnamed tributary on the north side of Taylor Creek; to U.S. Highway 21 on Little Wateree Creek and Big Wateree Creek; to Wildlife Road on Singletons Creek; to S.C. State Highway S-28-13 on Beaver Creek and to S.C. State Highway 97 on White Oak Creek.

'Lake Wylie' means all waters of Catawba River impounded by the Lake Wylie Dam upstream to the southern end of Sunset Island, which constitutes the North Carolina/South Carolina state line, and bounded on the east by the North Carolina/South Carolina state line, which follows the middle of the course of the Catawba River. This includes all waters impounded by the Lake Wylie Dam to S. C. State Highway 274 on Little Allison Creek; to the confluence of Big Branch and Allison Creek on Big Allison Creek; to Vineyard Road on Torrance Creek; to the confluence of Beaver Dam Creek and Crowder's Creek on Crowder's Creek; to the confluence of the first unnamed tributary on Mill Creek and Mill Creek; to the North Carolina/South Carolina state line on Catawba Creek. The upper boundary of Lake Wylie is the North Carolina/South Carolina state line located mid channel of the Catawba River at the confluence of the Catawba River and South Fork Catawba River.

'Lake Yonah' means all waters of Tugaloo River impounded by the Lake Yonah Dam upstream to the Lake Tugaloo Dam."

Regulation of devices for taking shad, herring, or eels

SECTION 4. Section 50-5-1500 of the 1976 Code is amended to read:

"Section 50-5-1500. (A) This article governs specific diadromous fisheries in both freshwaters and salt waters.

(B) The department may restrict the number of devices for taking shad, herring, or eels in any body of water because of statutory limitations on placement of devices or to prevent congestion of devices or watercraft or for conservation purposes. The department may grant permits to commercial saltwater or commercial freshwater fishermen for this purpose. Permits may be limited in number and may be conditioned so as to designate areas, size, and take limits, hours, type, and amount of equipment, and catch reporting requirements."

Shad, herring, or eel sale requirements

SECTION 5. Chapter 5, Title 50 of the 1976 Code is amended by adding:

"Section 50-5-1556. A commercial fisherman who sells shad, herring, or eels must sell to either a licensed wholesale seafood dealer or a licensed bait dealer or must be licensed as a wholesale seafood dealer or bait dealer."

Residency requirements for hunting and fishing licenses

SECTION 6. Section 50-9-30 of the 1976 Code is amended to read:

"Section 50-9-30. (A) For the purposes of obtaining:

(1) a recreational license, permit, or tag with a duration of three hundred sixty-five days or less, 'resident' means a United States citizen who has been domiciled in this State for thirty consecutive days or more immediately preceding the date of application;

(2) a multiyear recreational license, 'resident' means a United States citizen who has been domiciled in this State for one hundred eighty consecutive days or more immediately preceding the date of application;

(3) a recreational license, permit, or tag in item (1) and (2), the following are considered residents:

(a) a regularly enrolled full-time student in high school, technical school, college, or university within this State;

(b) an active member of the United States Armed Forces, and the member's dependents, stationed in this State for sixty days or longer or who is domiciled in this State;

(4) a lifetime recreational license, 'resident' means a United States citizen who has been domiciled in this State for one hundred eighty consecutive days or more immediately preceding the date of application;

(5) a disability recreational license, 'resident' means a United States citizen who has been domiciled in this State for three hundred sixty-five consecutive days or more immediately preceding the date of application;

(6)(a) a commercial license, permit, or tag, 'resident' means a United States citizen who has been domiciled in this State for three hundred sixty-five consecutive days or more immediately preceding the date of application;

(b) a commercial license or permit issued for a business, 'resident' means a business that has been incorporated and operating in this State for three hundred sixty-five days or more immediately preceding the date of application.

(B) Applicants for resident licenses must furnish proof of residency as may be required by the department.

(C)(1) 'Nonresident' means a citizen of a foreign country or a United States citizen who is not domiciled in this State or who maintains a permanent residence in another state or who does not otherwise meet the definition of a resident.

(2) For a business, a 'nonresident' means a business that is not incorporated in this State or that does not otherwise meet the definition of resident in item (A)(6)(b)."

Replacement licenses

SECTION 7. Section 50-9-80 of the 1976 Code is amended to read:

"Section 50-9-80. A license, permit, or tag issued pursuant to this title may be replaced only upon affidavit from the licensee that the original was lost or destroyed and upon payment of the fee:

(1) for a duplicate license or permit the fee is three dollars, one dollar of which the issuing sales vendor may retain;

(2) for a duplicate disability or lifetime license issued by the department, there is no fee;

(3) for a replacement nongame fish tag, the fee is one dollar per tag for residents and five dollars per tag for nonresidents;

(4) for a duplicate individual antlerless deer tag, the fee is one dollar per tag."

Commercial licenses

SECTION 8. Chapter 9, Title 50 of the 1976 Code is amended by adding:

"Article 4

Commercial Licenses

Section 50-9-410. (A) For the privilege of taking nongame freshwater fish for a commercial purpose, a resident must purchase an

annual freshwater commercial fishing license for fifty dollars, one dollar of which the issuing sales vendor may retain.

(B) For the privilege of taking nongame freshwater fish for a commercial purpose, a nonresident must purchase an annual freshwater commercial fishing license for one thousand dollars, twenty dollars of which the issuing sales vendor may retain.

(C) A commercial freshwater license is required to:

(1) fish six or more crayfish traps;

(2) fish three or more eel pots;

(3) fish an Elver fyke net;

(4) fish four or more gill nets or a total of more than one hundred yards of net;

(5) fish two or more hoop nets;

(6) fish three or more traps;

(7) fish four or more trotlines;

(8) acquire more than three trotline tags or fish trotlines with a combined total of more than one hundred fifty-one hooks;

(9) take freshwater fish for commercial purposes.

Section 50-9-420. A person taking shad, herring, or eels for commercial purposes:

(1) in the salt waters of this State, must obtain a commercial saltwater fishing license and a commercial saltwater equipment license and related permits;

(2) in the freshwaters of this State, must obtain a commercial freshwater license and a commercial saltwater equipment license and related permits.

Section 50-9-430. The cost for a scientific collection permit is ten dollars."

Type of license required for taking shad, herring, or eels

SECTION 9. Article 5, Chapter 9, Title 50 of the 1976 Code is amended by adding:

"Section 50-9-545. A person taking shad, herring, or eels for recreation:

(1) in the salt waters of this State must have a recreational saltwater fishing license; if using a gill net or eel pot, must have an annual recreational saltwater license and a saltwater commercial equipment license and related permits;

(2) in the freshwaters of this State must have a recreational freshwater fishing license; if using a gill net or eel pot, must have an annual recreational freshwater fishing license and a saltwater commercial equipment license and related permits."

Additional requirements for taking nongame freshwater fish

SECTION 10. Article 5, Chapter 9, Title 50 of the 1976 Code is amended by adding:

"Section 50-9-610. (A) In addition to the licenses required to take freshwater fish each licensee taking nongame freshwater fish, when using these devices must have:

(1) a tag for each eel pot, at five dollars a tag for residents and fifty dollars a tag for nonresidents;

(2) a tag for each fyke net, at ten dollars for residents and fifty dollars for nonresidents;

(3) a tag for each gill net, at five dollars a tag for residents and fifty dollars a tag for nonresidents;

(4) a tag for each hoop net, at ten dollars a tag for residents and fifty dollars a tag for nonresidents;

(5) a tag for each trap, at five dollars a tag for residents and fifty dollars a tag for nonresidents;

(6) a tag for each trotline, not to exceed fifty hooks each, at two dollars fifty cents a tag for residents and fifty dollars a tag for nonresidents;

(7) a permit for using up to fifty jugs, at five dollars a permit for residents and fifty dollars for nonresidents;

(8) a permit for using up to fifty set hooks, at five dollars a permit for residents and fifty dollars for nonresidents.

(B) Permits for jugs and set hooks are not required for residents assisting permit holders.

(C) A resident sixty-five years of age or older is not required to purchase a permit for recreational fishing of fifty set hooks or less but must tag each device with his name and department customer identification number."

Freshwater nongame fish sale requirements

SECTION 11. Article 11, Chapter 13, Title 50 of the 1976 Code is amended by adding:

"Section 50-13-1615. A person selling, offering for sale, or possessing for sale freshwater nongame fish must have in possession dated invoices, bills of sale, or other documentation verifying the origin of the fish and from whom procured."

Night fishing prohibited

SECTION 12. Article 5, Chapter 19, Title 50 of the 1976 Code is amended by adding:

"Section 50-19-250. Fishing at night in that portion of Four Hole Swamp known as Bridge Lake, in Dorchester County, is prohibited except during the shad season."

Slade Lake fishing and recreational requirements

SECTION 13. Article 5, Chapter 19, Title 50 of the 1976 Code is amended by adding:

"Section 50-19-251. (A) The lawful size for black bass in Slade Lake in Edgefield County is twelve inches. The lawful catch limit for bass in Slade Lake is two per day, and the lawful catch limit for all other fish is fifteen per day.

(B) The open season for fishing on Slade Lake is the first day of April and ends on the first day of November. During the open season, fishing is only allowed on Wednesdays, Saturdays, and Sundays, opening one-half hour before sunrise and closing one-half hour after sundown. A valid fishing license is required for a person sixteen years of age or older.

(C) It is unlawful to take any fish of any kind from Slade Lake except by hook and line, which includes poles, rod and reel, and natural or artificial bait, excluding minnows, and no person may use more than two poles at the same time. Nongame fishing devices may not be used.

(D) It is unlawful on Slade Lake or the recreational area of Slade Lake to:

(1) use watercraft of any kind on Slade Lake unless the watercraft is operated using oars or an electric trolling motor;

(2) have rifles, shotguns, or other firearms in one's possession;

(3) litter;

(4) have a glass container in one's possession;

(5) have beer, wine, or other alcoholic beverages in one's possession;

(6) operate a motor vehicle off designated roadways or park a vehicle outside of designated parking areas.

(E) A person violating a provision of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than ten dollars or more than one hundred dollars or imprisoned not less than ten days or more than thirty days, or both."

Shelly Lake fish sanctuary

SECTION 14. Article 19, Chapter 19, Title 50 of the 1976 Code is amended by adding:

"Section 50-19-1190. (A) There is created a fish sanctuary in Marion County to be known as Shelly Lake.

(B) It is unlawful for a person to fish, seine, net, or otherwise enter upon Shelly Lake in Marion County, located one-half mile south of Red Bluff Landing on the west side of the Little Pee Dee River. A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty-five dollars or more than one hundred dollars or imprisoned not less than fifteen days or more than thirty days."

Sections repealed

SECTION 15. Sections 50-1-100, 50-13-1130, 50-13-1135, 50-13-1150, 50-13-1155, 50-13-1160, 50-19-1910, 50-19-1920, 50-19-1930, Article 39, Chapter 19, Title 50, 50-19-2620, and 50-19-2630 of the 1976 Code are repealed.

Time effective

SECTION 16. This act takes effect upon approval by the Governor.

Ratified the 25th day of May, 2010.

Approved the 28th day of May, 2010.

No. 201

(R234, S1363)

AN ACT TO AMEND SECTION 59-26-85, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO NATIONAL BOARD RECERTIFICATION AND PAY INCREASES RELATING TO NATIONAL BOARD CERTIFICATION, SO AS TO PROVIDE THAT TEACHERS WHO RECEIVE NATIONAL BOARD CERTIFICATION BEFORE JULY 1, 2010, SHALL ENTER INTO A RECERTIFICATION CYCLE CONSISTENT WITH THE RECERTIFICATION CYCLE FOR NATIONAL BOARD CERTIFICATION, AND TO PROVIDE THAT NATIONAL BOARD CERTIFIED TEACHERS WHO RECEIVE THE CERTIFICATION BEFORE JULY 1, 2010, SHALL RECEIVE A PAY INCREASE FOR THE INITIAL TEN-YEAR CERTIFICATION PERIOD AND NO MORE THAN ONE TEN-YEAR RENEWAL PERIOD.

Be it enacted by the General Assembly of the State of South Carolina:

National Board certification and recertification; pay increase to National Board certified teachers

SECTION 1. Section 59-26-85 of the 1976 Code is amended to read:

"Section 59-26-85. (A)(1) Teachers who are certified by the National Board for Professional Teaching Standards (NBPTS) before July 1, 2010, shall enter a recertification cycle for their South Carolina certificate consistent with the recertification cycle for National Board certification and NBPTS certified teachers moving to this State are exempted from initial certification requirements and are eligible for continuing contract status and their recertification cycle will be consistent with National Board certification. Teachers receiving national certification from the NBPTS before July 1, 2010, shall receive an increase in pay for the initial ten-year National Board certification and no more than one ten-year renewal of National Board certification. The pay increase shall be determined annually in the appropriations act. The established amount shall be added to the annual pay of the nationally certified teacher.

(2) Teachers who apply on or after July 1, 2010, for certification by the NBPTS shall enter a recertification cycle for their South

Carolina certificate and consistent with the initial ten-year cycle for National Board certification, and teachers moving to this State who apply for National Board certification on or after July 1, 2010, and subsequently achieve National Board certification are exempted from initial certification requirements and are eligible for continuing contract status and their recertification cycle will be consistent with the initial ten-year cycle. Teachers receiving national certification from the NBPTS on or after July 1, 2010, only shall receive an increase in pay for the initial ten years of the certification. The pay increase shall be determined annually in the appropriations act. The established amount shall be added to the annual pay of the nationally certified teacher.

(B) The Center for Teacher Recruitment shall develop guidelines and administer the programs whereby teachers applying to the National Board for Professional Teaching Standards for certification before July 1, 2010, may receive a loan equal to the amount of the application fee. One-half of the loan principal amount and interest shall be forgiven when the required portfolio is submitted to the National Board. Teachers attaining certification within three years of receiving the loan will have the full loan principal amount and interest forgiven. This subsection does not apply to any application submitted on or after July 1, 2010."

Time effective

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 25th day of May, 2010.

Vetoed by the Governor -- 5/28/2010.
Veto overridden by Senate -- 6/2/2010.
Veto overridden by House -- 6/3/2010.

No. 202

(R235, S1379)

AN ACT TO AMEND SECTION 63-11-500, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SOUTH CAROLINA GUARDIAN AD LITEM PROGRAM, SO AS TO HONOR THE MEMORY OF CASS ELIAS MCCARTER BY

NAMING THE PROGRAM THE CASS ELIAS MCCARTER GUARDIAN AD LITEM PROGRAM.

Whereas, the South Carolina General Assembly finds that:

(1) in 1984, a young woman from Columbia, South Carolina, Cass Elias McCarter, worked tirelessly in establishing the first state-funded program;

(2) the South Carolina Guardian ad Litem program was established in 1984 as one of the first state-funded programs in the nation. The program initially began in four judicial circuits in the State and has now expanded into a statewide program;

(3) the statewide program utilizes volunteers as Guardians ad Litem in abuse and neglect proceedings. In 1988, the South Carolina General Assembly enacted legislation which governs the operation of the Guardian ad Litem program and establishes guidelines for the appointment and service of volunteers;

(4) Cass Elias McCarter served on the South Carolina Children's Committee and assisted the Joint Legislative Committee on Children with developing the training program for the Guardian ad Litem volunteers;

(5) for sixteen years, Cass Elias McCarter devoted her life and energy to protecting South Carolina's children, not only from abuse and neglect, but children also benefitted from her work and support on behalf of the Children's Hospital and the Ronald McDonald House; and

(6) on March 23, 2004, at the age of fifty, Cass Elias McCarter lost her life to a brain aneurism, leaving her husband, Nicky, and their two beautiful children, Lauren and Cole, to continue Cass' work in protecting children from abuse and neglect. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

Guardian ad Litem Program named

SECTION 1. Section 63-11-500 of the 1976 Code is amended to read:

"Section 63-11-500. (A) There is created the Cass Elias McCarter Guardian ad Litem Program in South Carolina. The program shall serve as a statewide system to provide training and supervision to volunteers who serve as court-appointed special advocates for children in abuse and neglect proceedings within the family court, pursuant to

Section 63-7-1620. This program must be administered by the Office of the Governor.

(B) Notwithstanding the provisions of subsection (A), a county providing the guardian ad litem services set forth in subsection (A) prior to the effective date of this act may continue to provide such services, provided the county guardian ad litem program is a member of the National Court Appointed Special Advocate Association. However, a county guardian ad litem program operating pursuant to this subsection must comply with all state and federal laws, even if compliance with state or federal laws would result in the violation of a requirement for membership in the National Court Appointed Special Advocate Association."

Time effective

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 25th day of May, 2010.

Vetoed by the Governor -- 5/28/2010.
Veto overridden by Senate -- 6/2/2010.
Veto overridden by House -- 6/3/2010.

No. 203

(R249, S329)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 24-3-580 SO AS TO PROHIBIT THE DISCLOSURE UNDER CERTAIN CIRCUMSTANCES OF THE IDENTITY OF MEMBERS OF AN EXECUTION TEAM AND TO ALLOW FOR CIVIL PENALTIES FOR A VIOLATION OF THE SECTION; AND BY ADDING SECTION 24-3-590 SO AS TO PROHIBIT LICENSING AGENCIES FROM TAKING ANY ACTION TO REVOKE, SUSPEND, OR DENY A LICENSE TO ANY PERSON SOLELY FOR HIS PARTICIPATION ON AN EXECUTION TEAM.

Be it enacted by the General Assembly of the State of South Carolina:

Disclosure of the name of a member of an execution team

SECTION 1. Article 5, Chapter 3, Title 24 of the 1976 Code is amended by adding:

"Section 24-3-580. A person may not knowingly disclose the identity of a current or former member of an execution team or disclose a record that would identify a person as being a current or former member of an execution team. However, this information may be disclosed only upon a court order under seal for the proper adjudication of pending litigation. Any person whose identity is disclosed in violation of this section shall have a civil cause of action against the person who is in violation of this section and may recover actual damages and, upon a showing of a wilful violation of this section, punitive damages."

Denial of a license to a member of an execution team

SECTION 2. Article 5, Chapter 3, Title 24 of the 1976 Code is amended by adding:

"Section 24-3-590. No licensing agency, board, commission, or association may file, attempt to file, initiate a proceeding, or take any action to revoke, suspend, or deny a license to any person solely because that person participated in the execution of a sentence of death on a person convicted of a capital crime as authorized by law or the director."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 1st day of June, 2010.

Approved the 7th day of June, 2010.

No. 204

(R251, S406)

AN ACT TO AMEND SECTION 40-60-35, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CONTINUING EDUCATION REQUIREMENTS FOR ASSESSORS, SO AS TO REDUCE THE NUMBER OF HOURS OF INSTRUCTION EACH YEAR FOR ASSESSORS WITH AN ACTIVE LICENSE OR CERTIFICATION FROM NINE HOURS TO SEVEN HOURS, AND TO MAKE TECHNICAL CHANGES.

Be it enacted by the General Assembly of the State of South Carolina:

Continuing education requirements for assessors; annual requirement reduced

SECTION 1. Section 40-60-35(A)(2) of the 1976 Code, as added by Act 257 of 2006, is amended to read:

"(2) For renewal of an active license or certification, assessors and other staff responsible for the assessment of property for ad valorem taxation purposes shall receive seven hours of instruction each year in the laws applicable to assessment for ad valorem taxation, methods of valuing property, administration of the assessor's office and records of the assessor's office, and other functions related to the assessor's office. This instruction shall be received from the Department of Revenue or other providers or courses approved by the Department of Labor, Licensing and Regulation. This instruction shall satisfy fourteen of the twenty-eight classroom hours required for renewal."

Time effective

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 1st day of June, 2010.

Approved the 7th day of June, 2010.

No. 205

(R252, S418)

AN ACT TO AMEND SECTION 7-17-220, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MEETINGS OF THE BOARD OF STATE CANVASSERS, SO AS TO PROVIDE THAT A MEETING MAY BE CONVENED BY TELEPHONE OR ELECTRONIC COMMUNICATION INSTEAD OF IN PERSON AT THE OFFICE OF THE STATE ELECTION COMMISSION; AND TO AMEND SECTION 7-17-510, AS AMENDED, RELATING TO THE CONVENING OF THE COUNTY COMMISSIONERS OF ELECTION AS COUNTY BOARDS OF CANVASSERS, SO AS TO PROVIDE THAT ANY REQUIRED MEETINGS MAY BE CONVENED BY TELEPHONE OR ELECTRONIC COMMUNICATION.

Be it enacted by the General Assembly of the State of South Carolina:

State Board of Canvassers, meetings, convening

SECTION 1. Section 7-17-220 of the 1976 Code, as last amended by Act 276 of 1992, is further amended to read:

"Section 7-17-220. Unless otherwise provided in Section 7-3-10(c), the Board of State Canvassers shall convene a meeting scheduled through the office of the Election Commission within ten days after any general election for the purpose of canvassing the vote for all officers voted for at such election, including the vote for the electors for President and Vice President, and for the purpose of canvassing the vote on all Constitutional Amendments and questions and other issues. Nothing in this section prohibits the meeting from being conducted by using telephone conference or other means of telecommunication or electronic communication. Any meeting of the Board of Canvassers as provided in this section must be accessible and without cost to the public and must comply with the notice requirements of Chapter 4, Title 30, the Freedom of Information Act."

Commissioners of election, meetings, convening

SECTION 2. Section 7-17-510 of the 1976 Code, as last amended by Act 253 of 1992, is further amended to read:

"Section 7-17-510. The commissioners of election for the counties shall convene a meeting on the Thursday next following the primary, before one o'clock p.m. of that day and shall organize as the county board of canvassers for primaries. They may appoint a competent person as secretary. The chairman shall administer the constitutional oath to each member of the board and to the secretary. The secretary shall administer to the chairman the same oath. Each county board of canvassers for primaries shall canvass the votes of the county and declare the results. The county board of canvassers for primaries shall make statements of the votes of the precincts of its county as the nature of the primary requires not later than twelve o'clock noon on the Saturday next following the primary and at that time transmit and certify to the Board of State Canvassers the results of its findings. This procedure must be repeated following every primary runoff. The Board of State Canvassers shall convene a meeting scheduled through the office of the State Election Commission and shall canvass the vote and declare the results of the primaries and the runoffs no later than twelve o'clock noon on the Saturday next following the primary in the State for state offices, federal offices, and offices involving more than one county. Nothing in this section prohibits any meeting required by this section from being conducted by using telephone conference or other means of telecommunication or electronic communication. Any meeting provided for in this section must be accessible and without cost to the public and must comply with the notice requirements of Chapter 4, Title 30, the Freedom of Information Act."

Time effective

SECTION 3. This act takes effect June 8, 2010.

Ratified the 1st day of June, 2010.

Approved the 2nd day of June, 2010.

No. 206

(R253, S749)

AN ACT TO AMEND SECTIONS 57-1-20 AND 57-1-30, BOTH AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ESTABLISHMENT OF THE DEPARTMENT OF TRANSPORTATION AND ITS CONSTITUENT DIVISIONS, SO AS TO RECONSTITUTE THE DIVISION OF MASS TRANSIT AS THE DIVISION OF INTERMODAL AND FREIGHT PROGRAMS AND REVISE THE RESPONSIBILITIES OF THIS DIVISION; TO AMEND SECTIONS 57-3-10 AND 57-3-20, RELATING TO THE DIVISIONS COMPRISING THE DEPARTMENT OF TRANSPORTATION AND THE RESPONSIBILITIES OF THE VARIOUS DIVISION DEPUTY DIRECTORS, SO AS TO REFLECT THE NEW DIVISION OF INTERMODAL AND FREIGHT PROGRAMS AND THE RESPONSIBILITIES OF THE NEW DIVISION'S DEPUTY DIRECTOR; BY ADDING SECTION 57-3-30 SO AS TO ESTABLISH THE OFFICE OF RAILROADS WITHIN THE DIVISION OF INTERMODAL AND FREIGHT PROGRAMS AND PROVIDE THE RESPONSIBILITIES AND FUNCTIONS OF THE OFFICE OF RAILROADS; TO AMEND SECTION 57-3-40, RELATING TO THE FUNCTIONS OF THE FORMER DIVISION OF MASS TRANSIT, SO AS TO ESTABLISH THE OFFICE OF PUBLIC TRANSIT WITHIN THE DIVISION OF INTERMODAL AND FREIGHT PROGRAMS AND PROVIDE FOR THE RESPONSIBILITIES AND FUNCTIONS OF THE OFFICE OF PUBLIC TRANSIT; BY ADDING SECTIONS 57-3-210, 57-3-220, AND 57-3-230 SO AS TO PROVIDE FOR THE FUNCTIONS AND RESPONSIBILITIES OF THE DEPARTMENT OF TRANSPORTATION WITH RESPECT TO PUBLIC TRANSIT PROGRAMS, PROVIDE FOR THE TEMPORARY USE OF RAILROAD RIGHT-OF-WAY CORRIDORS, AND PROVIDE FOR A SPECIAL ADVISORY COMMITTEE TO ASSIST THE DEPARTMENT OF TRANSPORTATION ON FREIGHT TRANSPORTATION ISSUES; AND TO AMEND SECTION 13-1-1710, AS AMENDED, RELATING TO THE COORDINATING COUNCIL FOR ECONOMIC DEVELOPMENT, SO AS TO ADD THE SECRETARY OF THE

DEPARTMENT OF TRANSPORTATION AS AN EX OFFICIO MEMBER OF THE COUNCIL.

Be it enacted by the General Assembly of the State of South Carolina:

Division of Intermodal and Freight Programs established

SECTION 1. Section 57-1-20 of the 1976 Code, as last amended by Act 114 of 2007, is further amended to read:

"Section 57-1-20. The Department of Transportation is established as an administrative agency of state government which is comprised of a Division of Intermodal and Freight Programs, a Division of Construction Engineering and Planning, and a Division of Finance and Administration. Each division of the Department of Transportation shall have such functions and powers as provided for by law."

Functions of the Department of Transportation

SECTION 2. Section 57-1-30 of the 1976 Code, as last amended by Act 114 of 2007, is further amended to read:

"Section 57-1-30. (A) The department shall have as its functions and purposes the systematic planning, construction, maintenance, and operation of the state highway system and the development of a statewide intermodal and freight system that is consistent with the needs and desires of the public.

(B) The department shall coordinate all state and federal programs relating to highways among all departments, agencies, and other bodies politic and legally constituted agencies of this State and the performance of such other duties and matters as may be delegated to it pursuant to law. The goal of the department is to provide adequate, safe, and efficient transportation services for the movement of people and goods."

Divisions comprising the Department of Transportation

SECTION 3. Section 57-3-10 of the 1976 Code is amended to read:

"Section 57-3-10. (A) The Department of Transportation is comprised of the following principal divisions:

(1) finance and administration;

(2) construction, engineering, and planning; and

(3) intermodal and freight programs.

(B) The Secretary of Transportation may establish other divisions, or ancillary or service divisions or offices as may be necessary for the efficient and economic operation of the department and to carry out the functions and purposes of the department."

Duties of Department of Transportation Division deputy directors

SECTION 4. Section 57-3-20 of the 1976 Code is amended to read:

"Section 57-3-20. The responsibilities and duties of the following division deputy directors must include, but not be limited to, the following:

(1) division deputy director for finance and administration:

(a) financial planning and management;

(b) accounting systems necessary to comply with all federal and/or state laws and/or regulations as well as all policies established by the Comptroller General; and

(c) administrative functions, including recording proceedings of the commission and developing policy and procedures to ensure compliance with these policies and procedures;

(2) division deputy director for construction, engineering, and planning:

(a) develop statewide strategic highway plans; and

(b) direct highway engineering activities, including construction, design, construction oversight, and maintenance of state highways;

(3) division deputy director for intermodal and freight programs:

(a) develop a statewide public transit system;

(b) coordinate the preservation and revitalization of existing rail corridors;

(c) develop and coordinate a statewide passenger and freight rail system, including the development of a comprehensive state rail plan for passenger and freight railroads and rail infrastructure services;

(d) plan, develop, and coordinate a comprehensive intermodal transportation program for the movement of passengers and freight through integrated highway, railroad, port, airport, and other transit systems;

(e) financial management of funding from federal, state, and local transit, rail, and other intermodal sources; and

(f) manage the Office of Railroads and the Office of Public Transit."

Office of Railroads established, functions

SECTION 5. Article 1, Chapter 3, Title 57 of the 1976 Code is amended by adding:

"Section 57-3-30. (A) The Office of Railroads is established within the Division of Intermodal and Freight Programs. The office is principally responsible for:

(1) preserving railroad rights-of-way for future use and coordinating the preparation of a state railroad corridor preservation and revitalization plan;

(2) coordinating high-speed and intercity passenger rail planning and development;

(3) planning, developing, maintaining, and coordinating a comprehensive state rail plan for passenger and freight railroads and infrastructure services with other modes of transportation to help facilitate effective and efficient interstate and intrastate movement of people and freight;

(4) applying for and receiving state, federal, or other funds for passenger and freight rail service and infrastructure needs, high-speed and intercity passenger rail planning and development, and rail corridor preservation and revitalization programs; and

(5) preparing and submitting by February first of each year a full, printed, detailed report to the House Education and Public Works Committee and the Senate Transportation Committee containing an analysis of the:

(a) state railroad corridor preservation and revitalization plan; and

(b) comprehensive state rail plan for passenger and freight railroads and infrastructure services.

(B) Every five years the office must develop and prepare a comprehensive state rail plan for passenger and freight railroads and infrastructure services. The plan must be approved by the United States Department of Transportation. The plan, and any updates, must be submitted to the General Assembly.

(C) All departments, boards, public authorities, or other agencies of the State or its political subdivisions, local government, transportation authorities, and other local public entities must cooperate with the office, provide assistance, data, and advice upon request, and must reimburse any such entity necessary costs in the event of any expense. This authority does not preclude another governmental entity, public or

private organization, or individual from entering into a contract or agreement concerning the purposes set forth in this section.

(D) Nothing in this section may be interpreted to subrogate the powers and duties of the Division of Public Railways to the Office of Railroads."

Office of Public Transit established, functions

SECTION 6. Section 57-3-40 of the 1976 Code is amended to read:

"Section 57-3-40. (A) The Office of Public Transit is established within the Division of Intermodal and Freight Programs. The office must develop and coordinate a general public transit program and policy for the State in order to encourage the efficient development, implementation, operation, evaluation, and monitoring of public transit systems, both public and private. The office is authorized to apply for and receive federal, state, and other funds for passenger public transit systems on the department's behalf.

(B) All departments, boards, public authorities, or other agencies of the State or its political subdivisions, local government, transportation authorities, and other local public entities must cooperate with the office, provide assistance, data, and advice upon request and must reimburse any such entity necessary costs in the event of any expense. This authority does not preclude another governmental entity, public or private organization, or individual from entering into a contract or agreement concerning the purposes set forth in this section.

(C) The office must develop and annually submit by February first of each year a full, printed, detailed report to the House Education and Public Works Committee and the Senate Transportation Committee containing an analysis of:

(1) the office's accomplishments during the past year;

(2) a five year plan detailing future needs and goals of the State as it relates to all forms of public transit; and

(3) a plan for funding and receiving federal matching funds or other funds as may be available.

(D) All powers, duties, and responsibilities of the Interagency Council on Public Transportation are devolved upon the office."

Responsibilities of Department of Transportation

SECTION 7. Article 2, Chapter 3, Title 57 of 1976 Code is amended by adding:

"Section 57-3-210. (A) The department is authorized to utilize public transit funds to contract directly with private operators of public transit systems to provide service to the general public, provided that the private operators have established a plan of service that has been approved by the local governmental entity that has jurisdiction over the area to be served, the department, the commission, and the federal government.

(B)(1) The department shall plan and develop mechanisms for increasing coordination of funding streams and resources for public transportation at both the state and local levels to improve access and delivery of transportation services, especially in rural areas. The department shall work with each agency that provides funding for transportation and assure input in the process from major local providers of transportation services to the public, including current providers of coordinated public service.

(2) The department shall prepare and submit a progress report to the General Assembly on or before January fifteenth each year. The progress report required by this section may be combined with the Department of Transportation Annual Report required pursuant to Section 57-3-760 and the Office of Public Transit Report required by Section 57-3-40.

(C)(1) Any agency, local government, or other entity, including nonprofit organizations, using state funds or state-administered federal funds to transport members of the general public on a regular basis must:

(a) provide input and information concerning its operations upon request by the Office of Public Transit for planning purposes. The input and information must be provided in a timely manner and in a format specified by the office; and

(b) demonstrate progress toward the development of or participation in a public transportation coordination plan.

(2) No transportation funds may be provided to any entity not in compliance with the requirements of this subsection.

(3) The Department of Corrections, the Department of Education, school districts, and institutions of higher education are exempt from the requirements of this subsection.

Section 57-3-220. (A) A railroad right-of-way corridor held for railroad right-of-way preservation may be used for a public purpose compatible with preservation of the corridor for future transportation use on an interim basis until the corridor is used for rail transport. A

railroad corridor held for railroad right-of-way preservation is not abandoned for the purpose of any law.

(B) Each railroad and railway, as defined in Section 58-17-10, shall file a report with the Office of Railroads concerning active, inactive, to be abandoned, and abandoned rail lines. The report must be amended to reflect additions, changes, and revisions to the status of reporting entity's rail lines within three months of the addition, change, or revision.

(C) To assist the facilitation of a comprehensive intermodal transportation program for the effective and efficient interstate and intrastate movement of people and freight, the Office of Railroads must be:

(1) notified by the State Ports Authority of any existing or future plans for expanding the authority's transportation infrastructure; and

(2) provided with master plans or construction plans for airport transportation improvements by the Division of Aeronautics.

Section 57-3-230. The Secretary of Transportation may convene a special advisory committee to assist the department in evaluating and addressing issues related to the facilitation of safe and efficient freight, transportation, and logistics infrastructure in the State. The advisory committee must include members of the general public to represent the freight transportation and supply chain industries. The secretary also may invite other state agencies to participate in the committee."

Coordinating Council for Economic Development, Secretary of the Department of Transportation made ex officio member

SECTION 8. Section 13-1-1710 of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

"Section 13-1-1710. There is created the Coordinating Council for Economic Development. The membership consists of the Secretary of Commerce, the Commissioner of Agriculture, the Executive Director of the South Carolina Department of Employment and Workforce, the Director of the South Carolina Department of Parks, Recreation and Tourism, the Chairman of the State Board for Technical and Comprehensive Education, the Chairman of the South Carolina Ports Authority, the Chairman of the South Carolina Public Service Authority, the Chairman of the South Carolina Jobs Economic Development Authority, the Director of the South Carolina Department of Revenue, the Secretary of the Department of Transportation, and the

Chairman of the South Carolina Research Authority. The Secretary of Commerce serves as the chairman of the coordinating council."

Reports required to be filed

SECTION 9. The reports required by Section 57-3-220 in Section 7 of this act must be filed within three months of the effective date of this act.

Time effective

SECTION 10. This act takes effect upon approval by the Governor.

Ratified the 1st day of June, 2010.

Approved the 7th day of June, 2010.

No. 207

(R260, S1078)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44-7-264 SO AS TO REQUIRE THE OWNER OF A NURSING HOME OR A COMMUNITY RESIDENTIAL CARE FACILITY TO UNDERGO STATE AND NATIONAL CRIMINAL RECORDS CHECKS AS A REQUIREMENT OF LICENSURE AND TO ENUMERATE THOSE CRIMES THAT PRECLUDE LICENSURE; AND TO AMEND SECTION 44-7-2910, AS AMENDED, RELATING TO THE DEFINITION OF "DIRECT CARE ENTITY" AS USED IN CONNECTION WITH CONDUCTING CRIMINAL RECORDS CHECKS OF DIRECT CARE STAFF.

Be it enacted by the General Assembly of the State of South Carolina:

Criminal records checks required for nursing home and community residential care licensure

SECTION 1. Article 3, Chapter 7, Title 44 of the 1976 Code is amended by adding:

"Section 44-7-264. (A) To obtain a license to operate a nursing home or a community residential care facility the person, or persons, required to sign the application for licensure pursuant to Section 44-7-270 shall undergo a state and national fingerprint-based criminal records check.

(B)(1) A nursing home license or community residential care facility license must not be issued to the applicant, and if issued, may be revoked, if the person or any one of the persons required to undergo a criminal records check pursuant to subsection (A) is required to register under the sex offender registry pursuant to Section 23-3-430 or has been convicted of:

(a) abuse, neglect, or exploitation of a child or vulnerable adult, as defined in Section 43-35-10;

(b) any violent crime, as defined in Section 16-1-60;

(c) any other drug related felony;

(d) forgery, embezzlement, or breach of trust with fraudulent intent, as classified in Section 16-1-90(E); or

(e) a criminal offense similar in nature to the crimes listed in this subsection committed in another jurisdiction or under federal law.

(2) This section does not prohibit obtaining licensure when a conviction or plea of guilty or nolo contendere for one of the crimes enumerated in this section has been pardoned. However, notwithstanding the entry of a pardon, the department may consider all information available, including the person's pardoned convictions or pleas and the circumstances surrounding them, to determine whether the applicant is unfit or otherwise unsuited for licensure for a community residential care facility.

(C) Criminal records checks required pursuant to this section must consist of a fingerprint-based records check conducted by the South Carolina Law Enforcement Division (SLED) for the state check and a fingerprint-based records check conducted by the Federal Bureau of Investigation (FBI) for the national check. An applicant shall submit with the criminal records check application one complete set of the applicant's fingerprints in a manner specified by SLED. Fingerprints submitted to SLED pursuant to this section must be collected in a manner specified by SLED and must be used to conduct a state

criminal records check by SLED and to facilitate a national criminal records check by the FBI. SLED is authorized to retain the fingerprints for licensing purposes and for notification of the department regarding criminal charges. The actual cost of obtaining state and national criminal records checks by SLED and the FBI must be paid by the licensure applicant directly to the required entity as specified by SLED."

Definition revised

SECTION 2. Section 44-7-2910(B)(1) of the 1976 Code, as last amended by Act 301 of 2006, is further amended to read:

"(1) 'Direct care entity' means:

(a) a nursing home, as defined in Section 44-7-130;

(b) a daycare facility for adults, as defined in Section 44-7-130;

(c) a home health agency, as defined in Section 44-69-20;

(d) a community residential care facility, as defined in Section 44-7-130;

(e) a residential program operated or contracted for operation by the Department of Mental Health or the Department of Disabilities and Special Needs;

(f) residential treatment facilities for children and adolescents;

(g) hospice programs."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 1st day of June, 2010.

Approved the 7th day of June, 2010.

No. 208

(R285, S144)

AN ACT TO RATIFY AN AMENDMENT TO SECTION 33, ARTICLE III OF THE CONSTITUTION OF SOUTH

CAROLINA, 1895, RELATING TO THE PROVISION PROVIDING THAT NO UNMARRIED WOMAN UNDER THE AGE OF FOURTEEN YEARS OLD MAY LEGALLY CONSENT TO SEXUAL INTERCOURSE, SO AS TO DELETE THAT PROVISION.

Be it enacted by the General Assembly of the State of South Carolina:

Constitution, amendment to Section 33, Article III ratified, Age of Consent deleted

SECTION 1. The amendment to Section 33, Article III of the Constitution of South Carolina, 1895, prepared under the terms of Joint Resolution 118 of 2007, having been submitted to the qualified electors at the General Election of 2008 as prescribed in Section 1, Article XVI of the Constitution of South Carolina, 1895, and a favorable vote having been received on the amendment, is ratified and declared to be a part of the Constitution so that Section 33, Article III is amended to read:

"Section 33. (Reserved)"

Ratified the 2nd day of June, 2010.

No. 209

(R242, H3996)

AN ACT TO AMEND SECTION 50-9-1130, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEDUCTION OF ACCUMULATED POINTS, SO AS TO REQUIRE THE DEPARTMENT OF NATURAL RESOURCES TO DEDUCT FOUR ACCUMULATED POINTS FROM A PERSON'S RECORD UPON A SHOWING THAT THE PERSON SUCCESSFULLY COMPLETED A DEPARTMENT PROGRAM OF INSTRUCTION ESTABLISHED PURSUANT TO SECTION 50-9-310, AND TO PROVIDE EXCEPTIONS.

Be it enacted by the General Assembly of the State of South Carolina:

Deduction of points; exceptions

SECTION 1. Section 50-9-1130 of the 1976 Code is amended to read:

"Section 50-9-1130. (A) Each time a person is convicted of a violation enumerated in Section 50-9-1120, the number of points assigned to the violation must be charged against the person. For each calendar year that passes after assignment in which the person received no points, the department shall deduct one-half of the accumulated points if the total number of points is greater than three. If a person has three or less points at the end of a calendar year in which no points were received, the department shall reduce his point total to zero; however, a person's record must not be less than zero points.

(B) The department shall deduct four accumulated points from a person's record upon a showing that the person successfully completed a department program of instruction established pursuant to Section 50-9-310.

(C) A person is not eligible for a reduction in points under the provisions of subsection (B) if at the time he accumulated eighteen or more points:

(1) he had any hunting, trapping, or fishing suspension within the previous five years; or

(2) he had a previous point reduction under the provisions of subsection (B) within the previous five years.

(D) The department is authorized to promulgate appropriate regulations to effectuate the provisions of this section."

Time effective

SECTION 2. This act takes effect July 1, 2010.

Ratified the 25th day of May, 2010.

Became law without the signature of the Governor -- 6/1/2010.

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No. 210

(R244, H4446)

AN ACT TO AMEND SECTION 44-29-210, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MASS IMMUNIZATION PROJECTS APPROVED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL AND THE PARTICIPATION OF MEDICAL PERSONNEL IN THESE PROJECTS, SO AS TO PROVIDE THAT LICENSED NURSES, RATHER THAN REGISTERED NURSES, ARE INCLUDED IN THE PERSONNEL WHO MAY PARTICIPATE IN THESE PROJECTS AND WHO ARE EXEMPT FROM LIABILITY; AND TO AMEND SECTION 44-29-40, RELATING TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL HAVING GENERAL SUPERVISION OVER VACCINATION, SCREENING, AND IMMUNIZATION, SO AS TO REQUIRE THE DEPARTMENT TO ESTABLISH A STATEWIDE IMMUNIZATION REGISTRY, TO REQUIRE HEALTH CARE PROVIDERS TO REPORT THE ADMINISTRATION OF IMMUNIZATIONS TO THE DEPARTMENT, AND TO PROVIDE CIVIL PENALTIES FOR VIOLATIONS.

Be it enacted by the General Assembly of the State of South Carolina:

Medical personnel authorized to participate in mass immunization projects are exempt from liability

SECTION 1. Section 44-29-210 of the 1976 Code is amended to read:

"Section 44-29-210. (A) If the Board of the Department of Health and Environmental Control or the Director of the Department of Health and Environmental Control approves in writing a mass immunization project to be administered in any part of this State in cooperation with an official or volunteer medical or health agency, any authorized employee of the agency, any physician who does not receive compensation for his services in the project, and any licensed nurse who participates in the project, except as provided in subsection (B), is not liable to any person for illness, reaction, or adverse effect arising from or out of the use of any drug or vaccine administered in the project by the employee, physician, or nurse. Neither the board nor

the director may approve the project unless either finds that the project conforms to good medical and public health practice.

For purposes of this section, a person is considered to be an authorized employee of an official or volunteer medical or health agency if he has received the necessary training for and approval of the department for participation in the project.

(B) Nothing in this section exempts any physician, licensed nurse, or authorized public health employee participating in any mass immunization project from liability for gross negligence, and the provisions of this section do not exempt any drug manufacturer from any liability for any drug or vaccine used in the project."

Immunization registry to be established

SECTION 2. Section 44-29-40 of the 1976 Code is amended to read:

"Section 44-29-40. (A) The Department of Health and Environmental Control shall have general direction and supervision of vaccination, screening, and immunization in this State. The Department of Health and Environmental Control has the authority to promulgate regulations concerning vaccination, screening, and immunization requirements.

(B) The department shall establish a statewide immunization registry and shall promulgate regulations for the implementation and operation of the registry. All health care providers shall report to the department the administration of any immunization in a manner and including such data as specified by the department. The department may make immunization information available to persons and organizations in accordance with state and federal disclosure and reporting laws. The department may seek enforcement of this section and issue civil penalties in accordance with Section 44-1-150."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 25th day of May, 2010.

Became law without the signature of the Governor -- 6/1/2010.

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No. 211

(R255, S932)

AN ACT TO AMEND SECTION 50-16-25, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE RELEASE OF PIGS FOR HUNTING PURPOSES, SO AS TO PROVIDE THAT IT IS UNLAWFUL TO POSSESS, BUY, SELL, OFFER FOR SALE, TRANSFER, RELEASE, OR TRANSPORT FOR THE PURPOSE OF RELEASE A MEMBER OF THE SUIDAE FAMILY INTO THE WILD, EXCEPT THAT A CAPTURED FREE ROAMING PIG MAY BE RELEASED UNDER CERTAIN CONDITIONS UPON A PERMIT ISSUED BY THE DEPARTMENT OF NATURAL RESOURCES; TO AMEND SECTION 50-11-710, RELATING TO THE PROHIBITION AGAINST NIGHT HUNTING, SO AS TO PERMIT THE NIGHT HUNTING OF HOGS UNDER SPECIFIED CONDITIONS; TO AMEND SECTION 50-16-70, RELATING TO PUNISHMENT FOR VIOLATIONS OF CHAPTER 16, TITLE 50, SO AS TO INCLUDE VIOLATIONS OF PERMIT CONDITIONS; BY ADDING SECTION 50-9-655 SO AS TO REQUIRE PERMITS FOR TAKING, TRANSPORTING, AND RELEASING A PIG FROM A FREE ROAMING POPULATION AND FOR MAINTAINING A PIG HUNTING ENCLOSURE; AND TO REPEAL SECTION 5-11-380 RELATING TO UNLAWFUL POSSESSION OF CERTAIN AMMUNITION AND FIREARMS IN GAME ZONE 1.

Be it enacted by the General Assembly of the State of South Carolina:

Unlawful release; permit exceptions

SECTION 1. Section 50-16-25 of the 1976 Code is amended to read:

"Section 50-16-25. (A) It is unlawful to possess, buy, sell, offer for sale, transfer, release, or transport for the purpose of release a member of the family Suidae (pig) into the wild. A person who holds a valid permit, issued by the Department of Natural Resources, for the taking, transporting, and releasing of a pig from a free roaming population or his agent may capture and release a free roaming pig so long as: (1) the permit holder has express permission from the landowner to capture and transport free roaming pigs from the tract on

which the free roaming pig is to be captured, (2) the free roaming pig is captured, transported, and released pursuant to a permit issued by the Department of Natural Resources, and (3) the pig is released on the same tract on which the pig was captured or into a permitted pig enclosure utilized for hunting purposes. Under no circumstances may a free roaming pig be released in a county other than the county in which the pig was captured.

(B) All free roaming pigs captured pursuant to a permit must be tagged at the point of capture as prescribed by the department and the tags must remain affixed to the pigs. Pig hunting enclosures must be permitted by the department at a cost of fifty dollars annually.

(C) It is unlawful to transport a live pig captured in the wild except as permitted by this section."

Night hunting of hogs

SECTION 2. Section 50-11-710 of the 1976 Code is amended to read:

"Section 50-11-710. (A) Night hunting in this State is unlawful except that:

(1) raccoons, opossums, foxes, coyotes, mink, and skunk may be hunted at night; however, they may not be hunted with artificial lights except when treed or cornered with dogs, or with buckshot or any shot larger than a number four, or any rifle ammunition larger than a twenty-two rimfire; and

(2) hogs may be hunted at night with an artificial light that is carried on the hunter's person attached to a helmet or hat, or part of a belt system worn by the hunter and with a sidearm that has iron sites, and barrel length not exceeding nine inches. The sidearm may not be equipped with a butt-stock, scope, laser site, or light emitting or light enhancing device. However, hogs may not be hunted at night from a vehicle, or with a centerfire rifle or shotgun, unless specifically permitted by the department. A person that violates this item is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned for not more than thirty days, or both.

(B) For the purposes of this section, 'night' means that period of time between one hour after official sundown of a day and one hour before official sunrise of the following day.

(C) Any person violating the provisions of this section, upon conviction, must be fined for the first offense not more than one thousand dollars, or be imprisoned for not more than one year, or both;

for the second offense within two years from the date of conviction for the first offense, not more than two thousand dollars nor less than four hundred dollars, or be imprisoned for not more than one year nor for less than ninety days, or both; for a third or subsequent offense within two years of the date of conviction for the last previous offense, not more than three thousand dollars nor less than five hundred dollars, or be imprisoned for not more than one year nor for less than one hundred twenty days, or both. Any person convicted under this section after more than two years have elapsed since his last conviction must be sentenced as for a first offense.

(D) In addition to any other penalty, any person convicted for a second or subsequent offense under this section within three years of the date of conviction for a first offense shall have his privilege to hunt in this State suspended for a period of two years. No hunting license may be issued to an individual while his privilege is suspended, and any license mistakenly issued is invalid. The penalty for hunting in this State during the period of suspension, upon conviction, must be imprisonment for not more than one year nor less than ninety days.

(E) The provisions of this section may not be construed to prevent any owner of property from protecting the property from destruction by wild game as provided by law.

(F) It is unlawful for a person to use artificial lights at night, except vehicle headlights while traveling in a normal manner on a public road or highway, while in possession of or with immediate access to both ammunition of a type prohibited for use at night by the first paragraph of this section and a weapon capable of firing the ammunition. A violation of this paragraph is punishable as provided by Section 50-11-720."

Penalty provisions supplemented

SECTION 3. Section 50-16-70 of the 1976 Code is amended to read:

"Section 50-16-70. A person violating the provisions of this chapter, or any condition of a permit issued pursuant to this chapter, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than six months, or both."

Permits required

SECTION 4. Chapter 9, Title 50 of the 1976 Code is amended by adding:

"Section 50-9-655. (A) For the privilege of taking, transporting, and releasing a pig from a free roaming population, a person must obtain an annual pig transport and release permit from the department for fifty dollars.

(B) For the privilege of maintaining a pig hunting enclosure, a pig hunting enclosure owner must obtain an annual pig enclosure permit from the department for fifty dollars."

Repeal

SECTION 5. Section 50-11-380 of the 1976 Code is repealed.

Time effective

SECTION 6. This act takes effect upon approval by the Governor.

Ratified the 1st day of June, 2010.

Became law without the signature of the Governor -- 6/8/2010.

No. 212

(R258, S973)

AN ACT TO AMEND ARTICLE 7, CHAPTER 3, TITLE 23, CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE "ELECTRONIC SECURING AND TARGETING OF ONLINE PREDATORS ACT (E-STOP)", BY ADDING SECTION 23-3-555 SO AS TO PROVIDE THAT A SEX OFFENDER WHO IS REQUIRED TO REGISTER WITH THE SEX OFFENDER REGISTRY MUST PROVIDE INFORMATION REGARDING THE OFFENDER'S INTERNET ACCOUNTS WITH INTERNET ACCESS PROVIDERS AND THE OFFENDER'S INTERNET IDENTIFIERS, TO PROVIDE THAT AN AUTHORIZED INTERNET ENTITY MAY REQUEST CERTAIN SEX OFFENDER REGISTRY INFORMATION FROM SLED, TO PROVIDE THAT SLED MUST PROVIDE CERTAIN SEX OFFENDER REGISTRY INFORMATION TO AN AUTHORIZED INTERNET ENTITY, TO PROVIDE THAT

CERTAIN SEX OFFENDERS MUST, AS A CONDITION OF PROBATION OR PAROLE, BE PROHIBITED FROM USING THE INTERNET TO ACCESS SOCIAL NETWORKING WEBSITES, COMMUNICATE WITH OTHER PERSONS OR GROUPS FOR THE PURPOSE OF PROMOTING SEXUAL RELATIONS WITH PERSONS UNDER THE AGE OF EIGHTEEN, AND COMMUNICATE WITH PERSONS UNDER THE AGE OF EIGHTEEN, AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THIS PROVISION; TO AMEND SECTION 23-3-430, AS AMENDED, RELATING TO THE SEX OFFENDER REGISTRY, SO AS TO PROVIDE THAT A PERSON CONVICTED OF AN OFFENSE SPECIFIED BY THE SEX OFFENDER REGISTRATION AND NOTIFICATION ACT MUST BE REFERRED TO AS A SEX OFFENDER; TO AMEND SECTION 23-3-450, RELATING TO REQUIRING A SEX OFFENDER TO REGISTER WITH A SHERIFF'S DEPARTMENT, SO AS TO PROVIDE THAT A SEX OFFENDER ALSO MUST REGISTER WITH THE SHERIFF IN EACH COUNTY IN WHICH HE IS EMPLOYED OR ENROLLED, VOLUNTEERS, INTERNS, OR CARRIES ON A VOCATION AT A SCHOOL, TO REVISE THE PERIOD OF TIME IN WHICH A SHERIFF SHALL FORWARD REGISTRATION INFORMATION TO SLED, AND PROVIDE THAT A SHERIFF IN THE COUNTY IN WHICH AN OFFENDER IS EMPLOYED, ENROLLED, VOLUNTEERS, INTERNS, OR CARRIES ON A VOCATION AT A SCHOOL SHALL NOTIFY CERTAIN ENTITIES WITHIN THREE DAYS OF THE OFFENDER'S PRESENCE WITHIN THE LAW ENFORCEMENT AGENCY'S JURISDICTION; TO AMEND SECTION 23-3-460, AS AMENDED, RELATING TO LIFETIME REGISTRATION FOR SEX OFFENDERS, SO AS TO REVISE THE LIST OF COUNTIES IN WHICH AN OFFENDER MUST REGISTER, TO PROVIDE THAT A PERSON CLASSIFIED AS A TIER III OFFENDER MUST REGISTER EVERY NINETY DAYS, TO REVISE THE PERIOD IN WHICH AN OFFENDER MUST REGISTER, AND TO REVISE THE CIRCUMSTANCES UPON WHICH AN OFFENDER MUST REGISTER; TO AMEND SECTION 23-3-470, AS AMENDED, RELATING TO A SEX OFFENDER'S FAILURE TO REGISTER, SO AS TO REVISE THE INFORMATION THAT A SEX OFFENDER MUST PROVIDE TO A SHERIFF WHEN HE REGISTERS, TO REVISE THE PENALTY THAT MUST BE IMPOSED UPON AN

OFFENDER WHO FAILS TO REGISTER, AND TO PROVIDE THAT A FIRST OFFENSE MAY BE TRIED IN MAGISTRATES COURT; TO AMEND SECTION 23-3-475, RELATING TO PENALTIES IMPOSED UPON A SEX OFFENDER WHO PROVIDES FALSE INFORMATION WHEN REGISTERING, SO AS TO REVISE THE PENALTIES AND PROVIDE THAT A FIRST OFFENSE MAY BE TRIED IN MAGISTRATES COURT; AND TO AMEND SECTION 23-3-530, AS AMENDED, RELATING TO SLED'S PROTOCOL MANUAL FOR ITS ADMINISTRATION OF THE SEX OFFENDER REGISTRY, SO AS TO REVISE THE PROVISIONS IN THE MANUAL RELATING TO THE REGISTERING AND REREGISTERING OF SEX OFFENDERS.

Be it enacted by the General Assembly of the State of South Carolina:

Electronic Securing and Targeting of Online Predators Act

SECTION 1. Sections 1 and 2 of this act may be cited as the "Electronic Securing and Targeting of Online Predators Act (E-STOP)".

Electronic Securing and Targeting of Online Predators

SECTION 2. Article 7, Chapter 3, Title 23 of the 1976 Code is amended by adding:

"Section 23-3-555. (A) As used in this section:

(1) 'Interactive computer service' means an information service, system, or access software provider that offers users the capability of generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via an Internet access provider, including a service or system that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

(2) 'Internet access provider' means a business, organization, or other entity providing directly to consumers a computer and communications facility through which a person may obtain access to the Internet. An Internet access provider does not include a business, organization, or other entity that provides only telecommunications

services, cable services, or video services, or any system operated or services offered by a library or educational institution.

(3) 'Internet identifier' means an electronic mail address, user name, screen name, or similar identifier used for the purpose of Internet forum discussions, Internet chat room discussions, instant messaging, social networking, or similar Internet communication.

(B)(1) A sex offender who is required to register with the sex offender registry pursuant to this article must provide, upon registration and each reregistration, information regarding the offender's Internet accounts with Internet access providers and the offender's Internet identifiers.

(2) A sex offender who is required to register with the sex offender registry pursuant to this article and who changes an Internet account with an Internet access provider or changes an Internet identifier must send written notice of the change to the appropriate sheriff within three business days of changing the Internet account or Internet identifier. A sheriff who receives notification of change of an Internet account or Internet identifier must notify the South Carolina Law Enforcement Division (SLED) within three business days.

(3) A sex offender who fails to provide Internet account or Internet identifier information, or who fails to provide notification of change of an Internet account or an Internet identifier, must be punished as provided for in Section 23-3-470. An offender who knowingly and wilfully gives false information regarding an Internet account or Internet identifier must be punished as provided for in Section 23-3-475.

(C)(1) An interactive computer service may request from SLED, on a form prescribed by SLED, a list of all registered sex offenders or information regarding specific registered sex offenders. In order to receive such information, the interactive computer service must provide identifying information as prescribed by SLED, including, but not limited to, the name, address, telephone number, legal nature, and corporate form of the interactive computer service.

(2) SLED must release information requested by an interactive computer service, including, but not limited to, the full names of the registered sex offenders, any aliases, any other identifying characteristics, each offender's date of birth, the home address on file, the offense for which the offender was required to register pursuant to Section 23-3-430, the date, city, and state of conviction, and any Internet identifiers. A photocopy of a current photograph also must be provided.

(3) SLED may charge a reasonable fee to cover the cost of copying and distributing information as provided for in this section. These funds must be used for the sole purpose of offsetting the cost of providing such information.

(4) SLED is not liable and must not be named as a party in an action to recover damages or seek relief for errors or omissions related to the distribution of information pursuant to this section; however, if the error or omission was done intentionally, with malice, or in bad faith, SLED is not immune from liability.

(5) The interactive computer service may use the information obtained from SLED to prescreen persons wanting to register for its service, identify sex offenders wanting to register for its service or using its service, prevent sex offenders from registering for its service, block sex offenders from using its service, disable sex offenders from using its service, remove sex offenders from its service, or to advise law enforcement or other governmental entities of potential violations of law or threats to public safety. An interactive computer service must not publish or in any way disclose or redisclose any information provided to the interactive computer service by SLED. A person who commits a criminal offense using information disclosed to the person pursuant to this section must be punished as provided for in Section 23-3-510.

(6) An interactive computer service is not liable and must not be named as a party in an action to recover damages or seek relief for:

(a) making or not making a request for information as permitted by this section;

(b) prescreening or not prescreening a person wanting to register for its service;

(c) identifying, blocking, or otherwise preventing a person from registering for its service based on a good faith belief that such person's Internet account information or Internet identifier appears in the information obtained from SLED, the National Sex Offender Registry, or any analogous state registry;

(d) not identifying, blocking, or otherwise preventing a person from registering for its service whose Internet account information or Internet identifier appears in the information obtained from SLED, the National Sex Offender Registry, or any analogous state registry;

(e) identifying, blocking, disabling, removing, or otherwise affecting a user based on a good faith belief that such user's Internet account information or Internet identifier appears in the information obtained from SLED, the National Sex Offender Registry, or any analogous state registry;

(f) not identifying, blocking, disabling, removing, or otherwise affecting a user, whose Internet account information or Internet identifier appears in the information obtained from SLED, the National Sex Offender Registry, or any analogous state registry; or

(g) using or not using the information obtained from SLED to advise law enforcement or other governmental entities of potential violations of law or threats to public safety.

(D) If a person commits a sexual offense in which the victim is under the age of eighteen at the time of the offense or the person reasonably believes is under the age of eighteen at the time of the offense, and the offender is required to register with the sex offender registry for the offense, then, upon conviction, adjudication of delinquency, guilty plea, or plea of nolo contendere, the judge must order as a condition of probation or parole that the person is prohibited from using the Internet to access social networking websites, communicate with other persons or groups for the purpose of promoting sexual relations with persons under the age of eighteen, and communicate with a person under the age of eighteen when the person is over the age of eighteen. The judge may permit a person to use the Internet to communicate with a person under the age of eighteen when such a person is the parent or guardian of a child under the age of eighteen, or the grandparent of a grandchild under the age of eighteen, and the person is not otherwise prohibited from communicating with the child or grandchild."

Sex offender

SECTION 3. Section 23-3-430(C) of the 1976 Code is amended to read:

"(C) For purposes of this article, a person who has been convicted of, pled guilty or nolo contendere to, or been adjudicated delinquent for any of the following offenses shall be referred to as an offender:

(1) criminal sexual conduct in the first degree (Section 16-3-652);

(2) criminal sexual conduct in the second degree (Section 16-3-653);

(3) criminal sexual conduct in the third degree (Section 16-3-654);

(4) criminal sexual conduct with minors, first degree (Section 16-3-655(1));

(5) criminal sexual conduct with minors, second degree. If evidence is presented at the criminal proceeding and the court makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct, as contained in Section 16-3-655(3) provided the offender is eighteen years of age or less, or consensual sexual conduct between persons under sixteen years of age, the convicted person is not an offender and is not required to register pursuant to the provisions of this article;

(6) engaging a child for sexual performance (Section 16-3-810);

(7) producing, directing, or promoting sexual performance by a child (Section 16-3-820);

(8) criminal sexual conduct: assaults with intent to commit (Section 16-3-656);

(9) incest (Section 16-15-20);

(10) buggery (Section 16-15-120);

(11) committing or attempting lewd act upon child under sixteen (Section 16-15-140);

(12) peeping, voyeurism, or aggravated voyeurism (Section 16-17-470);

(13) violations of Article 3, Chapter 15 of Title 16 involving a minor;

(14) a person, regardless of age, who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in this State, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in a comparable court in the United States, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in the United States federal courts of indecent exposure or of a similar offense in other jurisdictions is required to register pursuant to the provisions of this article if the court makes a specific finding on the record that based on the circumstances of the case the convicted person should register as a sex offender;

(15) kidnapping (Section 16-3-910) of a person eighteen years of age or older except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense;

(16) kidnapping (Section 16-3-910) of a person under eighteen years of age except when the offense is committed by a parent;

(17) criminal sexual conduct when the victim is a spouse (Section 16-3-658);

(18) sexual battery of a spouse (Section 16-3-615);

(19) sexual intercourse with a patient or trainee (Section 44-23-1150);

(20) criminal solicitation of a minor if the purpose or intent of the solicitation or attempted solicitation was to:

(a) persuade, induce, entice, or coerce the person solicited to engage or participate in sexual activity as defined in Section 16-15-375(5);

(b) perform a sexual activity in the presence of the person solicited (Section 16-15-342);

(21) administering, distributing, dispensing, delivering, or aiding, abetting, attempting, or conspiring to administer, distribute, dispense, or deliver a controlled substance or gamma hydroxy butyrate to an individual with the intent to commit a crime listed in Section 44-53-370(f), except petit larceny or grand larceny; or

(22) any other offense specified by Title I of the federal Adam Walsh Child Protection and Safety Act of 2006 (Pub. L. 109-248), the Sex Offender Registration and Notification Act (SORNA)."

Sex offender registration

SECTION 4. Section 23-3-450 of the 1976 Code is amended to read:

"Section 23-3-450. The offender shall register with the sheriff of each county in which he resides, owns real property, is employed, or attends, is enrolled, volunteers, interns, or carries on a vocation at any public or private school, including, but not limited to, a secondary school, adult education school, college or university, and any vocational, technical, or occupational school. To register, the offender must provide information as prescribed by SLED. The sheriff in the county in which the offender resides, owns real property, is employed, or attends, is enrolled, volunteers, interns, or carries on a vocation at any public or private school shall forward all required registration information to SLED within three business days. A copy of this information must be kept by the sheriff's department. The county sheriff shall ensure that all information required by SLED is secured and shall establish specific times of the day during which an offender may register. An offender shall not be considered to have registered until all information prescribed by SLED has been provided to the sheriff. The sheriff in the county in which the offender resides, owns real property, is employed, or attends, is enrolled, volunteers, interns, or carries on a vocation at any public or private school shall notify all local law enforcement agencies, including college or university law enforcement agencies, within three business days of an offender who resides, owns real property, is employed, or attends, is enrolled,

volunteers, interns, or carries on a vocation at any public or private school within the local law enforcement agency's jurisdiction."

Lifetime registration

SECTION 5. Section 23-3-460 of the 1976 Code, as last amended by Act 342 of 2006, is further amended to read:

"Section 23-3-460. (A) A person required to register pursuant to this article is required to register biannually for life. For purposes of this article, 'biannually' means each year during the month of his birthday and again during the sixth month following his birth month. The person required to register shall register and must reregister at the sheriff's department in each county where he resides, owns real property, is employed, or attends any public or private school, including, but not limited to, a secondary school, adult education school, college or university, and any vocational, technical, or occupational school. A person determined by a court to be a sexually violent predator pursuant to state law is required to verify registration and be photographed every ninety days by the sheriff's department in the county in which he resides unless the person is committed to the custody of the State, and verification will be held in abeyance until his release.

(B) A person classified as a Tier III offender by Title I of the federal Adam Walsh Child Protection and Safety Act of 2006 (Pub. L. 109-248), the Sex Offender Registration and Notification Act (SORNA), is required to register every ninety days.

(C) If a person required to register pursuant to this article changes his address within the same county, that person must send written notice of the change of address to the sheriff within three business days of establishing the new residence. If a person required to register under this article owns or acquires real property or is employed within a county in this State, or attends, is enrolled, volunteers, interns, or carries on a vocation at any public or private school, including, but not limited to, a secondary school, adult education school, college or university, and any vocational, technical, or occupational school, he must register with the sheriff in each county where the real property, employment, or the public or private school is located within three business days of acquiring the real property or attending the public or private school.

(D) If a person required to register pursuant to this article changes his permanent or temporary address into another county in South

Carolina, the person must register with the county sheriff in the new county within three business days of establishing the new residence. The person also must provide written notice within three business days of the change of address in the previous county to the sheriff with whom the person last registered. For purposes of this subsection, 'temporary address' or 'residence' means the location of the individual's home or other place where the person habitually lives or resides, or where the person lives or resides for a period of ten or more consecutive days. For purposes of this subsection, 'habitually lives or resides' means locations at which the person lives with some regularity.

(E) A person required to register pursuant to this article and who is employed by, attends, is enrolled, volunteers, interns, or carries on a vocation at any public or private school, including, but not limited to, a kindergarten, elementary school, middle school or junior high, high school, secondary school, adult education school, college or university, and any vocational, technical, or occupational school, must provide written notice within three business days of each change in attendance, enrollment, volunteer status, intern status, employment, or vocation status at any public or private school in this State. For purposes of this subsection, 'employed and carries on a vocation' means employment that is full time or part time for a period of time exceeding fourteen days or for an aggregate period of time exceeding thirty days during a calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit; and 'student' means a person who is enrolled on a full-time or part-time basis, in a public or private school, including, but not limited to, a kindergarten, elementary school, middle school or junior high, high school, secondary school, adult education school, college or university, and a vocational, technical, or occupational school.

(F) If a person required to register pursuant to this article moves outside of South Carolina, the person must provide written notice within three business days of the change of address to a new state to the county sheriff with whom the person last registered.

(G) A person required to register pursuant to this article who moves to South Carolina from another state establishes residence, acquires real property, is employed in, or attends, is enrolled, volunteers, interns, is employed by, or carries on a vocation at a public or private school, including, but not limited to, a kindergarten, elementary school, middle school or junior high, high school, secondary school, adult education school, college or university, and a vocational, technical, or occupational school in South Carolina, and is not under the jurisdiction

of the Department of Corrections, the Department of Probation, Parole and Pardon Services, the Department of Juvenile Justice, or the Juvenile Parole Board at the time of moving to South Carolina must register within three business days of establishing residence, acquiring real property, gaining employment, attending or enrolling, volunteering or interning, being employed by, or carrying on a vocation at a public or private school in this State.

(H) The sheriff of the county in which the person resides must forward all changes to any information provided by a person required to register pursuant to this article to SLED within three business days.

(I) A sheriff who receives registration information, notification of change of permanent or temporary address, or notification of change in employment, or attendance, enrollment, employment, volunteer status, intern status, or vocation status at a public or private school, including, but not limited to, a kindergarten, elementary school, middle school or junior high, high school, secondary school, adult education school, college or university, and a vocational, technical, or occupational school, must notify all local law enforcement agencies, including college or university law enforcement agencies, within three business days of an offender whose permanent or temporary address, real property, or public or private school is within the local law enforcement agency's jurisdiction.

(J) The South Carolina Department of Motor Vehicles, shall inform, in writing, any new resident who applies for a driver's license, chauffeur's license, vehicle tag, or state identification card of the obligation of sex offenders to register. The department also shall inform, in writing, a person renewing a driver's license, chauffeur's license, vehicle tag, or state identification card of the requirement for sex offenders to register."

Sex offender registration

SECTION 6. Section 23-3-470 of the 1976 Code, as last amended by Act 77 of 2009, is further amended to read:

"Section 23-3-470. (A) It is the duty of the offender to contact the sheriff in order to register, provide notification of change of permanent or temporary address, or notification of change of employment, or in attendance, enrollment, employment, volunteer status, intern status, or vocation status at any public or private school, including, but not limited to, a kindergarten, elementary school, middle school or junior high, high school, secondary school, adult education school, college or

university, and any vocational, technical, or occupational school. If an offender fails to register, provide notification of change of address, or notification of permanent or temporary change in employment, or attendance, enrollment, employment, volunteer status, intern status, or vocation status at any public or private school, as required by this article, he must be punished as provided in subsection (B).

(B)(1) A person convicted for a first offense is guilty of a misdemeanor and may be fined not more than one thousand dollars, or imprisoned for not more than three hundred sixty-six days, or both. Notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, or any other provision of law, a first offense may be tried in magistrates court.

(2) A person convicted for a second offense is guilty of a misdemeanor and must be imprisoned for a mandatory period of three hundred sixty-six days, no part of which shall be suspended nor probation granted.

(3) A person convicted for a third or subsequent offense is guilty of a felony and must be imprisoned for a mandatory period of five years, three years of which shall not be suspended nor probation granted."

Sex offender registration

SECTION 7. Section 23-3-475 of the 1976 Code is amended to read:

"Section 23-3-475.(A) Anyone who knowingly and wilfully gives false information when registering as an offender pursuant to this article must be punished as provided in subsection (B).

(B)(1) A person convicted for a first offense is guilty of a misdemeanor and may be fined not more than one thousand dollars, or imprisoned for not more than three hundred sixty-six days, or both. Notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, or any other provision of law, a first offense may be tried in magistrates court.

(2) A person convicted for a second offense is guilty of a misdemeanor and must be imprisoned for a mandatory period of three hundred sixty-six days, no part of which shall be suspended nor probation granted.

(3) A person convicted for a third or subsequent offense is guilty of a felony and must be imprisoned for a mandatory period of five years, three years of which shall not be suspended nor probation granted."

SLED sex offender protocol manual

SECTION 8. Section 23-3-530 of the 1976 Code, as last amended by Act 342 of 2006, is further amended to read:

"Section 23-3-530. The State Law Enforcement Division shall develop and maintain a protocol manual to be used by contributing agencies in the administration of the sex offender registry. The protocol manual must include, but is not limited to, the following:

(1) procedures for the verification of addresses by the sheriff's department in the county where the person resides; and

(2) specific requirements for registration and reregistration including, but not limited to, the following:

(a) the name, social security number, age, race, sex, date of birth, height, weight, hair and eye color; address of permanent residence, address of current temporary residence, within the State or out of state, including rural route address and post office box, which may not be provided instead of a physical residential address; date and place of employment; vehicle make, model, color, and license tag number, including work vehicles that are used the majority of the employee's work time, and the permanent or frequent location where all vehicles are kept; fingerprints and palm prints; Internet identifiers; passport and immigration documents; and a photograph;

(b) the name, address, and county of each institution of higher learning, including the specific campus location, if the person is enrolled, employed, volunteers, interns, or carries on a vocation there;

(c) the vehicle identification number, license tag number, registration number, and a description, including the color scheme, if the person lives in a motor vehicle, trailer, mobile home, or manufactured home and the permanent or frequent location where all vehicles, trailers, mobile homes, and manufactured homes are kept;

(d) the hull identification number, the manufacturer's serial number, the name of the vessel, live-aboard vessel, or houseboat, the registration number, and a description of the color scheme, if the person lives in a vessel, live-aboard vessel, or houseboat; and

(e) the tail number, manufacturer's serial number, and model of any aircraft, and a description of the aircraft, including the color scheme, and the permanent or frequent location where all aircraft are kept, if the person owns or operates an aircraft."

Time effective

SECTION 9. This act takes effect upon approval by the Governor.

Ratified the 1st day of June, 2010.

Approved the 7th day of June, 2010.

No. 213

(R259, S1070)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING PART 7 TO ARTICLE 5, TITLE 62 SO AS TO ENACT THE "SOUTH CAROLINA ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION ACT", TO DEFINE NECESSARY TERMS, AND TO PROVIDE A UNIFORM PROCEDURE FOR JURISDICTION OVER ADULT GUARDIANSHIPS, CONSERVATORSHIPS, AND OTHER PROTECTIVE PROCEEDINGS TO ENSURE ONLY ONE STATE HAS JURISDICTION AT A GIVEN TIME.

Be it enacted by the General Assembly of the State of South Carolina:

South Carolina Adult Guardianship and Protective Proceedings Jurisdiction Act

SECTION 1. Article 5, Title 62 of the 1976 Code is amended by adding:

"Part 7

South Carolina Adult Guardianship and Protective Proceedings Jurisdiction Act

Section 62-5-700. This act may be cited as the 'South Carolina Adult Guardianship and Protective Proceedings Jurisdiction Act'.

Section 62-5-701. Notwithstanding another provision of law, this part provides the exclusive jurisdictional basis for a court of this State to appoint a guardian or issue a protective order for an adult.

Section 62-5-702. As used in this part, the term:

(1) 'Adult' means an individual who has attained eighteen years of age or who has been emancipated by a court of competent jurisdiction.

(2) 'Conservator' means a person appointed by a court to manage an estate of a protected person.

(3) 'Court' means a probate court in this State or a court in another state with the same jurisdiction as a probate court in this State.

(4) 'Emergency' means circumstances that will likely result in substantial harm to a respondent's health, safety, or welfare or substantial economic loss or expense.

(5) 'Guardian' means a person who has qualified as a guardian of an incapacitated person pursuant to a court appointment, but excludes one who is a guardian ad litem or a statutory guardian.

(6) 'Guardianship order' means an order appointing a guardian.

(7) 'Guardianship proceeding' means a judicial proceeding in which an order for the appointment of a guardian is sought or has been issued.

(8) 'Home state' means the state in which the respondent was physically present, including a period of temporary absence, for at least six consecutive months immediately before the filing of a petition for a protective order or the appointment of a guardian; or if none, the state in which the respondent was physically present, including a period of temporary absence, for at least six consecutive months ending within the six months prior to the filing of the petition.

(9) 'Incapacitated person' means an adult for whom a guardian or conservator has been appointed.

(10) 'Party' means the respondent, petitioner, guardian, conservator, or other person allowed by the court to participate in a guardianship or protective proceeding.

(11) 'Person', except in the term 'incapacitated person' or 'protected person', means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or another legal or commercial entity.

(12) 'Protected person' means an adult for whom a protective order has been issued.

(13) 'Protective order' means an order appointing a conservator or a court order relating to the management of property of an incapacitated person.

(14) 'Protective proceeding' means a judicial proceeding in which a protective order is sought or has been issued.

(15) 'Record' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(16) 'Respondent' means an adult for whom a protective order or the appointment of a guardian is sought.

(17) 'Significant-connection state' means a state, other than the home state, with which a respondent has a significant connection other than mere physical presence and in which substantial evidence concerning the respondent is available. In determining pursuant to Sections 62-5-707 and 62-5-714(E) whether a respondent has a significant connection with a particular state, the court shall consider the:

(a) location of the respondent's family and other persons required to be notified of the guardianship or protective proceeding;

(b) length of time the respondent at any time was physically present in the state and the duration of any absence;

(c) location of the respondent's property; and

(d) extent to which the respondent has ties to the state such as voting registration, state or local tax return filing, vehicle registration, driver's license, social relationship, and receipt of services.

(18) 'State' means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or a territory or insular possession subject to the jurisdiction of the United States.

(19) 'Ward' means a person for whom a guardian has been appointed.

Section 62-5-703. The court may treat a foreign country as if it were a state for the purpose of applying this part.

Section 62-5-704. (A) The court may communicate with a court in another state concerning a proceeding arising pursuant to this article. The court shall allow the parties to participate in a discussion between courts on the merits of a proceeding. Except as otherwise provided in subsection (B), the court shall make a record of the communication. When a discussion on the merits of a proceeding between courts is held, the record must show that the parties were given an opportunity

to participate, must summarize the issues discussed, and must list the participants to the discussion. In all other matters except as provided in subsection (B), the record may be limited to the fact that the communication occurred.

(B) Courts may communicate concerning schedules, calendars, court records, and other administrative matters without making a record. A court may allow the parties to a proceeding to participate in any communications held pursuant to this subsection.

Section 62-5-705. (A) In a guardianship or protective proceeding in this State, the court may request the appropriate court of another state to do any of the following:

(1) hold an evidentiary hearing;

(2) order a person in that state to produce evidence or give testimony pursuant to procedures of that state;

(3) order that an evaluation or assessment be made of the respondent;

(4) order an appropriate investigation of a person involved in a proceeding;

(5) forward to the court a certified copy of the transcript or other record of a hearing pursuant to item (1) or another proceeding, evidence otherwise produced pursuant to item (2), and an evaluation or assessment prepared in compliance with an order pursuant to item (3) or (4);

(6) issue an order necessary to assure the appearance in the proceeding of a person whose presence is necessary for the court to make a determination, including the respondent or the incapacitated or protected person; and

(7) issue an order authorizing the release of medical, financial, criminal, or other relevant information in that state, including protected health information as defined in 45 C.F.R. Section 164.504.

(B) If a court of another state in which a guardianship or protective proceeding is pending requests assistance of the kind provided in subsection (A), the court has jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request.

Section 62-5-706. (A) In a guardianship or protective proceeding, in addition to other procedures that may be available, testimony of a witness who is located in another state may be offered by deposition or other means allowable in this State for testimony taken in another state. The court on its own motion may order that the

testimony of a witness be taken in another state and may prescribe the manner in which and the terms upon which the testimony is to be taken.

(B) In a guardianship or protective proceeding, a court in this State may permit a witness located in another state to be deposed or to testify by telephone or audiovisual or other electronic means. The court shall cooperate with the court of the other state in designating an appropriate location for the deposition or testimony.

(C) Documentary evidence transmitted from another state to a court of this State by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

Section 62-5-707. The court has jurisdiction to appoint a guardian or issue a protective order for a respondent if:

(1) this State is the respondent's home state;

(2) on the date the petition is filed, this State is a significant-connection state; and

(a) the respondent does not have a home state or a court of the respondent's home state has declined to exercise jurisdiction because this State is a more appropriate forum; or

(b) the respondent has a home state, a petition for an appointment or order is not pending in a court of that state or another significant-connection state and, before the court makes the appointment or issues the order:

(i) a petition for an appointment or order is not filed in the respondent's home state;

(ii) an objection to the court's jurisdiction is not filed by a person required to be notified of the proceeding; and

(iii) the court concludes that it is an appropriate forum pursuant to the factors provided in Section 62-5-710(C);

(3) this State does not have jurisdiction pursuant to either item (1) or (2), the respondent's home state and all significant-connection states have declined to exercise jurisdiction because this State is the more appropriate forum, and jurisdiction in this State is consistent with the constitutions of this State and the United States; or

(4) the requirements for special jurisdiction pursuant to Section 62-5-708 are met.

Section 62-5-708. (A) The court lacking jurisdiction pursuant to Section 62-5-707(1) through (3) has special jurisdiction to do any of the following:

(1) appoint a guardian in an emergency pursuant to this article for a term not exceeding ninety days for a respondent who is physically present in this State;

(2) issue a protective order with respect to real or tangible personal property located in this State; or

(3) appoint a guardian or conservator for an incapacitated or protected person for whom a provisional order to transfer the proceeding from another state has been issued pursuant to procedures similar to Section 62-5-714.

(B) If a petition for the appointment of a guardian in an emergency is brought in this State pursuant to this article and this State was not the respondent's home state on the date the petition was filed, the court shall dismiss the proceeding at the request of the court of the home state, if any, whether dismissal is requested before or after the emergency appointment.

Section 62-5-709. Except as otherwise provided in Section 62-5-708, a court that has appointed a guardian or issued a protective order consistent with this article has exclusive and continuing jurisdiction over the proceeding until it is terminated by the court or the appointment or order expires by its own terms.

Section 62-5-710. (A) The court having jurisdiction pursuant to Section 62-5-707 to appoint a guardian or issue a protective order may decline to exercise its jurisdiction if it determines at any time that a court of another state is a more appropriate forum.

(B) If the court declines to exercise its jurisdiction pursuant to subsection (A), it shall either dismiss or stay the proceeding. The court may impose any condition the court considers just and proper, including the condition that a petition for the appointment of a guardian or issuance of a protective order be filed promptly in another state.

(C) In determining whether it is an appropriate forum, the court shall consider all relevant factors, including:

(1) the expressed preference of the respondent;

(2) whether abuse, neglect, or exploitation of the respondent has occurred or is likely to occur and which state could best protect the respondent from the abuse, neglect, or exploitation;

(3) the length of time the respondent was physically present in or was a legal resident of this or another state;

(4) the distance of the respondent from the court in each state;

(5) the financial circumstances of the respondent's estate;

(6) the nature and location of the evidence;

(7) the ability of the court in each state to decide the issue expeditiously and the procedures necessary to present evidence;

(8) the familiarity of the court of each state with the facts and issues in the proceeding; and

(9) if an appointment is made, the court's ability to monitor the conduct of the guardian or conservator.

Section 62-5-711. (A) If at any time the court determines that it acquired jurisdiction to appoint a guardian or issue a protective order because of unjustifiable conduct, the court may:

(1) decline to exercise jurisdiction;

(2) exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to ensure the health, safety, and welfare of the respondent or the protection of the respondent's property or prevent a repetition of the unjustifiable conduct, including staying the proceeding until a petition for the appointment of a guardian or issuance of a protective order is filed in a court of another state having jurisdiction; or

(3) continue to exercise jurisdiction after considering:

(a) the extent to which the respondent and all persons required to be notified of the proceedings have acquiesced in the exercise of the court's jurisdiction;

(b) whether it is a more appropriate forum than the court of any other state pursuant to the factors provided in Section 62-5-710(C); and

(c) whether the court of any other state would have jurisdiction under factual circumstances in substantial conformity with the jurisdictional standards of Section 62-5-708.

(B) If the court determines that it acquired jurisdiction to appoint a guardian or issue a protective order because a party seeking to invoke its jurisdiction engaged in unjustifiable conduct, it may assess against that party necessary and reasonable expenses, including attorney's fees, investigative fees, court costs, communication expenses, witness fees and expenses, and travel expenses. The court may not assess fees, costs, or expenses of any kind against this State or a governmental subdivision, agency, or instrumentality of this State unless authorized by law other than this article.

Section 62-5-712. If a petition for the appointment of a guardian or issuance of a protective order is brought in this State and this State was not the respondent's home state on the date the petition was filed, in addition to complying with the notice requirements of this State,

notice of the petition must be given to those persons who would be entitled to notice of the petition if a proceeding were brought in the respondent's home state. The notice must be given in the same manner as notice is required to be given in this State.

Section 62-5-713. Except for a petition for the appointment of a guardian in an emergency or issuance of a protective order limited to property located in this State pursuant to Section 62-5-708(A)(1) or (2), if a petition for the appointment of a guardian or issuance of a protective order is filed in this State and in another state and neither petition has been dismissed or withdrawn, the following rules apply:

(1) if the court has jurisdiction pursuant to Section 62-5-707, it may proceed with the case unless a court in another state acquires jurisdiction under provisions similar to Section 62-5-707 before the appointment or issuance of the order.

(2) if the court does not have jurisdiction pursuant to Section 62-5-707, whether at the time the petition is filed or at any time before the appointment or issuance of the order, the court shall stay the proceeding and communicate with the court in the other state. If the court in the other state has jurisdiction, the court in this State shall dismiss the petition unless the court in the other state determines that the court in this State is a more appropriate forum.

Section 62-5-714. (A) A guardian or conservator appointed in this State may petition the court to transfer the guardianship or conservatorship to another state.

(B) Notice of a petition pursuant to subsection (A) must be given to the persons that would be entitled to notice of a petition in this State for the appointment of a guardian or conservator.

(C) On the court's own motion or on request of the guardian or conservator, the incapacitated or protected person, or other person required to be notified of the petition, the court shall hold a hearing on a petition filed pursuant to subsection (A), except that no hearing shall be required if a consent order is signed by all parties who have pled, defended, or otherwise participated in the proceeding, as provided by the South Carolina Rules of Civil Procedure.

(D) The court shall issue an order provisionally granting a petition to transfer a guardianship and shall direct the guardian to petition for guardianship in the other state if the court is satisfied that the guardianship will be accepted by the court in the other state and the court finds that:

(1) the incapacitated person is physically present in or is reasonably expected to move permanently to the other state;

(2) an objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the incapacitated person; and

(3) plans for care and services for the incapacitated person in the other state are reasonable and sufficient.

(E) The court shall issue a provisional order granting a petition to transfer a conservatorship and shall direct the conservator to petition for conservatorship in the other state if the court is satisfied that the conservatorship will be accepted by the court of the other state and the court finds that:

(1) the protected person is physically present in or is reasonably expected to move permanently to the other state, or the protected person has a significant connection to the other state considering the factors provided in Section 62-5-707(2)(b);

(2) an objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the protected person; and

(3) adequate arrangements will be made for management of the protected person's property.

(F) The court shall issue a final order confirming the transfer and terminating the guardianship or conservatorship upon its receipt of:

(1) a provisional order accepting the proceeding from the court to which the proceeding is to be transferred which is issued under provisions similar to Section 62-5-715; and

(2) the documents required to terminate a guardianship or conservatorship in this State.

Section 62-5-715. (A) To confirm transfer of a guardianship or conservatorship transferred to this State under provisions similar to Section 62-5-714, the guardian or conservator must petition the court in this State to accept the guardianship or conservatorship. The petition must include a certified copy of the other state's provisional order of transfer.

(B) Notice of a petition pursuant to subsection (A) must be given to those persons that would be entitled to notice if the petition were a petition for the appointment of a guardian or issuance of a protective order in both the transferring state and this State. The notice must be given in the same manner as notice is required to be given in this State.

(C) On the court's own motion or on request of the guardian or conservator, the incapacitated or protected person, or other person required to be notified of the proceeding, the court shall hold a hearing on a petition filed pursuant to subsection (A).

(D) The court shall issue an order provisionally granting a petition filed pursuant to subsection (A) unless:

(1) an objection is made and the objector establishes that transfer of the proceeding would be contrary to the interests of the incapacitated or protected person; or

(2) the guardian or conservator is ineligible for appointment in this State.

(E) The court shall issue a final order accepting the proceeding and appointing the guardian or conservator as guardian or conservator in this State upon its receipt from the court from which the proceeding is being transferred of a final order issued pursuant to provisions similar to Section 62-5-714 transferring the proceeding to this State.

(F) Not later than ninety days after issuance of a final order accepting transfer of a guardianship or conservatorship, the court shall determine whether the guardianship or conservatorship needs to be modified to conform to the laws of this State.

(G) In granting a petition pursuant to this section, the court shall recognize a guardianship or conservatorship order from the other state, including the determination of the incapacitated or protected person's incapacity and the appointment of the guardian or conservator.

(H) The denial by the court of a petition to accept a guardianship or conservatorship transferred from another state does not affect the ability of the guardian or conservator to seek appointment as guardian or conservator in this State pursuant to another provision of this article if the court has jurisdiction to make an appointment other than by reason of the provisional order of transfer.

Section 62-5-716. (A) If a guardian has been appointed in another state and a petition for the appointment of a guardian is not pending in this State, the guardian appointed in the other state, after giving notice to the appointing court of an intent to register, may register the guardianship order in this State by filing as a foreign judgment in a court, in any appropriate county of this State, certified copies of the order and letters of office.

(B) If a conservator has been appointed in another state and a petition for a protective order is not pending in this State, the conservator appointed in the other state, after giving notice to the appointing court of an intent to register, may register the protective

order in this State by filing as a foreign judgment in a court of this State, in any county in which property belonging to the protected person is located, certified copies of the order and letters of office and of any bond.

(C)(1) Upon registration of a guardianship or protective order from another state, the guardian or conservator may exercise in this State all powers authorized in the order of appointment except as prohibited under the laws of this State, including maintaining actions and proceedings in this State and, if the guardian or conservator is not a resident of this State, subject to any conditions imposed upon nonresident parties.

(2) A probate court of this State may grant any relief available pursuant to the provisions of this article and other laws of this State to enforce a registered order."

Savings clause

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Severability clause

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 4. The provisions of this act take effect on January 1, 2011, and apply to guardianship and protective proceedings begun on or after that date.

Ratified the 1st day of June, 2010.

Approved the 7th day of June, 2010.

No. 214

(R261, S1134)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 38 TO TITLE 59 SO AS TO ENACT THE "SOUTH CAROLINA EDUCATION BILL OF RIGHTS FOR CHILDREN IN FOSTER CARE" TO PROVIDE THAT SCHOOL DISTRICTS SHALL TAKE CERTAIN MEASURES TO HELP ENSURE THAT THE EDUCATION NEEDS OF CHILDREN IN FOSTER CARE ARE MET BY ASSISTING WITH ENROLLMENT, SCHOOL RECORDS AND CREDIT TRANSFERS, ACCESS TO RESOURCES AND ACTIVITIES, AND EXCUSED ABSENCE MAKE-UP REQUIREMENTS; TO PROVIDE THAT SCHOOL DISTRICTS SHALL ALLOW AN AUTHORIZED REPRESENTATIVE OF THE DEPARTMENT OF SOCIAL SERVICES TO HAVE ACCESS TO SCHOOL RECORDS OF CHILDREN IN FOSTER CARE; AND TO REQUIRE THE DEPARTMENT OF SOCIAL SERVICES TO PROVIDE AN EDUCATIONAL ADVOCATE FOR CHILDREN IN FOSTER CARE.

Whereas, the South Carolina General Assembly finds that:

(1) it is universally acknowledged that a quality education is important for the future success of all children;

(2) a child in foster care in South Carolina is entitled to the same rights and privileges regarding access to public education as any other child;

(3) it is acknowledged that a child who is in the custody of the South Carolina Department of Social Services as a result of abuse or neglect or exploitation has experienced significant emotional trauma which may negatively affect the child's educational outcomes;

(4) a child in foster care often experiences frequent school changes that negatively affect the child's educational outcomes; and

(5) the State of South Carolina averages over 5,000 children in foster care each month and 70% of those children are of school age. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

Act citation

SECTION 1. This act may cited as the "South Carolina Education Bill of Rights for Children in Foster Care".

Education Bill of Rights for Children in Foster Care

SECTION 2. Title 59 of the 1976 Code is amended by adding:

"CHAPTER 38

South Carolina Education Bill of Rights
for Children in Foster Care

Section 59-38-10. (A) Each school district shall have in place procedures to ensure seamless transitions between schools and school districts for children upon notice that a child is in foster care. School districts shall consider maintaining a child in foster care in the same school if it is in the child's best interest. A school district must not place additional enrollment requirements on a child based solely on the fact that the child is in foster care.

(B) Each school district shall:

(1) facilitate the immediate enrollment of a child in foster care residing in a foster home, group living facility, or any other setting that is located within the district or area served by the district;

(2) assist a child in foster care transferring from one district to another by ensuring proper transfer of records;

(3) request school records within two school days of placement into a school and transfer records within two school days of receiving a request for school records.

(C) The Department of Social Services immediately shall enroll the child in school, maintaining the child in the same school if possible, and shall provide a copy of the court order to the school district to be included in the student's school record.

(D) Educational and school placement decisions for children in foster care must be made to ensure that each child immediately is placed in the least restrictive educational program and has access to all academic resources, services, and extracurricular and enrichment activities that are available to all students.

(E) Each school district shall accept for credit full or partial course work satisfactorily completed by a child in foster care while attending a public school, nonpublic school, or nonsectarian school in accordance with state and district policies or regulations.

(F) Each school district shall ensure that when a decision to change the foster home placement of a child is made by the court or the Department of Social Services and the child must change schools, the grades and credits of that child must be calculated as of the date the child left school, and the child's grades must not be lowered as a result of these circumstances.

(G) Each school district shall ensure that if a child in foster care is absent from school due to a certified court appearance or related court-ordered activity including, but not limited to, court-ordered treatment services, these absences must be counted as excused absences upon submission of appropriate documentation. If these absences exceed the limit provided for by law, the school administrator shall allow the child an opportunity to make up all assignments and required seat time.

(H) Each school district, subject to federal law, may permit an authorized representative of the Department of Social Services to have access to the school records of a child in foster care for the purpose of fulfilling educational case management responsibilities required by law and to assist with the school transfer or placement of the child.

(I) The Department of Social Services shall ensure that children in foster care have a willing and available adult to advocate for their best educational interests, and school districts shall acknowledge and accept this person's role in advocating for educational services necessary to meet each child's needs."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 1st day of June, 2010.

Approved the 7th day of June, 2010.

No. 215

(R263, S1167)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY REPEALING CHAPTER 29, TITLE 23 RELATING TO THE SUBVERSIVE ACTIVITIES REGISTRATION ACT.

Be it enacted by the General Assembly of the State of South Carolina:

Chapter 29, Title 23 of the 1976 Code repealed

SECTION 1. Chapter 29, Title 23 of the 1976 Code is repealed.

Time effective

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 1st day of June, 2010.

Approved the 7th day of June, 2010.

No. 216

(R264, S1171)

AN ACT TO AMEND SECTION 56-1-10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS PERTAINING TO DRIVER'S LICENSES, SO AS

TO CHANGE CERTAIN EXISTING DEFINITIONS AND TO DEFINE "HOME JURISDICTION"; TO AMEND SECTION 56-1-640, RELATING TO RECIPROCITY IN REPORTING CERTAIN CONVICTIONS TO OTHER PARTY JURISDICTIONS, SO AS TO INCLUDE CANADA AND MEXICO AS PARTY JURISDICTIONS; TO AMEND SECTION 56-1-2030, AS AMENDED, RELATING TO CERTAIN DEFINITIONS PERTAINING TO COMMERCIAL DRIVER'S LICENSES, SO AS TO MODIFY THE DEFINITION OF HAZARDOUS MATERIAL; TO AMEND SECTION 56-1-2100, RELATING TO COMMERCIAL DRIVER'S LICENSE CLASSIFICATIONS, SO AS TO MODIFY THE DESCRIPTION OF A CLASS C VEHICLE; AND TO AMEND SECTION 56-1-2070, RELATING TO VIOLATIONS FOR OUT-OF-SERVICE ORDERS, SO AS TO PROVIDE GRADUATED FINES FOR THESE VIOLATIONS.

Be it enacted by the General Assembly of the State of South Carolina:

Definitions related to driver's licenses; certain terms amended or added

SECTION 1. Section 56-1-10 of the 1976 Code, as last amended by Act 279 of 2008, is further amended to read:

"Section 56-1-10. For the purpose of this title, unless otherwise indicated, the following words, phrases, and terms are defined as follows:

(1) 'Driver' means every person who drives or is in actual physical control of a vehicle.

(2) 'Operator' means every person who drives or is in actual physical control of a motor vehicle or who is exercising control over or steering a vehicle being towed by a motor vehicle.

(3) 'Owner' means a person, other than a lienholder, having the property or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security.

(4) 'Department' means the Department of Motor Vehicles when the term refers to the duties, functions, and responsibilities of the former Motor Vehicle Division of the Department of Public Safety and means the Department of Public Safety otherwise and in Section 56-3-840.

(5) 'State' means a state, territory, or possession of the United States and the District of Columbia, or the Commonwealth of Puerto Rico.

(6) 'Highway' means the entire width between the boundary lines of every way publicly maintained when any part of it is open to the use of the public for purposes of vehicular travel.

(7) 'Motor vehicle' means every vehicle which is self-propelled, and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails.

(8) 'Motorcycle' means every motor vehicle having no more than two permanent functional wheels in contact with the ground or trailer and having a saddle for the use of the rider, but excluding a tractor.

(9) 'Nonresident' means every person who is not a resident of this State.

(10) 'Nonresident's operating privilege' means the privilege conferred upon a nonresident by the laws of this State pertaining to the operation by the person of a motor vehicle, or the use of a vehicle owned by the person, in this State.

(11) 'Conviction' means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

(12) 'Cancellation of driver's license' means the annulment or termination by formal action of the Department of Motor Vehicles of a person's driver's license because of some error or defect in the license or because the licensee is no longer entitled to the license; the cancellation of a license is without prejudice, and application for a new license may be made at any time after the cancellation.

(13) 'Revocation of driver's license' means the termination by formal action of the Department of Motor Vehicles of a person's driver's license or privilege to operate a motor vehicle on the public highways, which privilege to operate is not subject to renewal or restoration, except that an application for a new license may be presented and acted upon by the department.

(14) 'Suspension of driver's license' means the temporary withdrawal by formal action of the Department of Motor Vehicles of a person's driver's license or privilege to operate a motor vehicle on the

public highways, which temporary withdrawal shall be as specifically designated.

(15) 'Automotive three-wheel vehicle' means every motor vehicle having no more than three permanent functional wheels in contact with the ground, having a bench seat for the use of the operator, and having an automotive type steering device, but excluding a tractor or motorcycle three-wheel vehicle.

(16) 'Alcohol' means a substance containing any form of alcohol including, but not limited to, ethanol, methanol, propanol, and isopropanol.

(17) 'Alcohol concentration' means:

(a) the number of grams of alcohol for each one hundred milliliters of blood by weight; or

(b) as determined by the South Carolina Law Enforcement Division for other bodily fluids.

(18) 'Motorcycle three-wheel vehicle' means every motor vehicle having no more than three permanent functional wheels in contact with the ground to include motorcycles with detachable side cars, having a saddle type seat for the operator, and having handlebars or a motorcycle type steering device but excluding a tractor or automotive three-wheel vehicle.

(19) 'Low speed vehicle' or 'LSV' means a four-wheeled motor vehicle, other than an all terrain vehicle, 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, and whose GVWR is less than three thousand pounds.

(20) 'All terrain vehicle' or 'ATV' means a motor vehicle measuring fifty inches or less in width, designed to travel on three or more wheels and designed primarily for off-road recreational use, but not including farm tractors or equipment, construction equipment, forestry vehicles, or lawn and grounds maintenance vehicles.

(21) 'Operator' or 'driver' means a person who is in actual physical control of a motor vehicle.

(22) 'Person' means every natural person, firm, partnership, trust, company, firm, association, or corporation. Where the term 'person' is used in connection with the registration of a motor vehicle, it includes any corporation, association, partnership, trust, company, firm, or other aggregation of individuals which owns or controls the motor vehicle as actual owner, or for the purpose of sale or for renting, as agent, salesperson, or otherwise.

(23) 'Office of Motor Vehicle Hearings' means the Office of Motor Vehicle Hearings created by Section 1-23-660. The Office of Motor

Vehicle Hearings has exclusive jurisdiction to conduct all contested case hearings or administrative hearings arising from department actions.

(24) 'Administrative hearing' means a 'contested case hearing' as defined in Section 1-23-310. It is a hearing conducted pursuant to the South Carolina Administrative Procedures Act.

(25) 'Home jurisdiction' means the jurisdiction which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle."

Reciprocity in reporting motor vehicle convictions in party jurisdictions; Canada and Mexico added as party jurisdictions

SECTION 2. Section 56-1-640 of the 1976 Code is amended to read:

"Section 56-1-640. The Department of Motor Vehicles shall report each conviction of a person from another party jurisdiction, Canada, or Mexico occurring within South Carolina to the licensing authority of the home jurisdiction of the licensee. The report shall clearly identify the person convicted, describe the violation specifying the section of the statute or ordinance violated, identify the court in which action was taken, indicate whether a plea of guilty or not guilty was entered or the conviction was a result of the forfeiture of bail, bond, or other security, and include any special findings."

Definitions related to commercial driver's licenses; hazardous material definition modified

SECTION 3. Section 56-1-2030(17) of the 1976 Code is amended to read:

"(17) 'Hazardous materials' means any material that has been designated as hazardous under 49 C.F.R. Section 383.5 and 49 U.S.C. 5103 and is required to be placarded under 49 C.F.R. Part 172, subpart F or any quantity of a material listed as a select agent or toxin in 42 C.F.R. Part 73."

Commercial driver's license classifications; Class C vehicle description modified

SECTION 4. Section 56-1-2100(B)(1)(c) of the 1976 Code is amended to read:

"(c) Class C: A single vehicle, or combination of vehicles, that are not Class A or B vehicles but either designed to transport sixteen or more passengers including the driver, or are required to be placarded for hazardous materials under 49 C.F.R. Part 172, subpart F."

Service order violations; graduated fines modified

SECTION 5. Section 56-1-2070(E) of the 1976 Code is amended to read:

"(E) A person violating the requirements of subsection (D)(3) must be punished as follows, while all other violations of this section must be punished as though convicted of a violation of Section 56-1-460. A person is disqualified for not less than:

(1) ninety days nor more than one year if the person is convicted of a first violation of an out-of-service orders. Additionally, a person who is convicted of a first violation of an out-of-service order is subject to a civil penalty of not less than two thousand five hundred dollars;

(2) one year nor more than five years if during a ten-year period the person is convicted of two violations of out of- service orders in separate incidents. Additionally, a person who, within a ten-year period, is convicted of two violations of out-of-service orders in separate incidents is subject to a civil penalty of five thousand dollars;

(3) three years nor more than five years if during a ten-year period the person is convicted of three or more violations of out-of-service orders in separate incidents. Additionally, a person who, within a ten-year period, is convicted of three or more violations of out-of-service orders in separate incidents is subject to a civil penalty of five thousand dollars;

(4) one hundred eighty days nor more than two years if the driver is convicted of a first violation of an out-of-service orders while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act (49 U.S.C. 5101-5127), or while operating motor vehicles designed to transport more than fifteen passengers, including the driver. A driver is disqualified for a period of not less than three years nor more than five years if during a ten-year

period the person is convicted of any subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act, or while operating motor vehicles designed to transport more than fifteen passengers, including the driver. Additionally, a driver who is convicted of violating an out-of-service order while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act (49 U.S.C. 5101-5127), or while operating motor vehicles designed to transport more than fifteen passengers, including the driver, is subject to a civil penalty of two thousand five hundred dollars for a first violation and five thousand dollars for a second or subsequent violation."

Time effective

SECTION 6. This act takes effect upon approval by the Governor.

Ratified the 1st day of June, 2010.

Approved the 7th day of June, 2010.

No. 217

(R265, S1224)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT "MICHELLE'S LAW" BY ADDING SECTIONS 38-71-355 AND 38-71-785 SO AS TO REQUIRE HEALTH INSURANCE ISSUERS TO PERMIT A DEPENDENT CHILD ON A MEDICALLY NECESSARY LEAVE OF ABSENCE FROM A POSTSECONDARY EDUCATIONAL INSTITUTION TO CONTINUE DEPENDENT COVERAGE AND TO PROVIDE FOR THE REQUIREMENTS RELATED TO THAT COVERAGE; TO AMEND SECTION 38-71-850, RELATING TO THE DEFINITION OF "CREDITABLE COVERAGE" FOR GROUP HEALTH INSURANCE COVERAGE AND SPECIAL ENROLLMENT IN GROUP HEALTH INSURANCE COVERAGE, BOTH UNDER THE HEALTH INSURANCE PORTABILITY AND

ACCOUNTABILITY ACT OF 1996, SO AS TO ADD COVERAGE OF AN INDIVIDUAL UNDER THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM AND TO ENACT FEDERAL REQUIREMENTS SET FORTH IN THE CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2009 TO PROVIDE FOR SPECIAL ENROLLMENT OF AN EMPLOYEE OR AN EMPLOYEE'S DEPENDENT IN THE CASE OF TERMINATION OF MEDICAID COVERAGE OR COVERAGE UNDER A STATE CHILDREN'S HEALTH INSURANCE PROGRAM OR THE INDIVIDUAL BECOMING ELIGIBLE FOR ASSISTANCE IN THE PURCHASE OF EMPLOYMENT-BASED COVERAGE; TO AMEND SECTION 38-74-10, AS AMENDED, RELATING TO THE DEFINITION OF "CREDITABLE COVERAGE" FOR THE SOUTH CAROLINA HEALTH INSURANCE POOL, SO AS TO ADD COVERAGE OF AN INDIVIDUAL UNDER THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM; TO AMEND SECTIONS 38-90-40, AS AMENDED, 38-90-45, AND 38-90-50, AS AMENDED, RELATING TO CAPITALIZATION REQUIREMENTS FOR CAPTIVE INSURANCE COMPANIES, SO AS TO PROVIDE THAT THE DIRECTOR OF INSURANCE MAY CONSIDER THE NET AMOUNT OF RISK RETAINED FOR AN INDIVIDUAL RISK WHEN ARRIVING AT A FINDING RELATING TO ADDITIONAL CAPITAL OR NET ASSETS REQUIREMENTS; TO AMEND SECTION 38-90-70, AS AMENDED, RELATING TO REPORTS REQUIRED TO BE SUBMITTED BY A CAPTIVE INSURANCE COMPANY TO THE DIRECTOR, SO AS TO REQUIRE AN ASSOCIATION CAPTIVE INSURANCE COMPANY AND INDUSTRIAL INSURED GROUP TO SUBMIT ITS REPORT IN THE MANNER REQUIRED BY SECTION 38-13-80; TO AMEND SECTION 38-90-80, AS AMENDED, RELATING TO INSPECTIONS AND EXAMINATIONS OF A CAPTIVE INSURANCE COMPANY, SO AS TO PERMIT THE DIRECTOR TO GRANT ACCESS TO, USE, AND MAKE PUBLIC CERTAIN INFORMATION DISCOVERED OR DEVELOPED DURING THE COURSE OF AN EXAMINATION; TO AMEND SECTION 38-90-160, AS AMENDED, RELATING TO THE APPLICATION OF THE PROVISIONS OF TITLE 38 TO CAPTIVE INSURANCE COMPANIES, SO AS TO SPECIFY THAT REGULATIONS PROMULGATED PURSUANT TO

APPLICABLE STATUTES ALSO APPLY TO CAPTIVE INSURANCE COMPANIES AND TO PROVIDE A LISTING OF THOSE PROVISIONS OF TITLE 38 THAT APPLY TO CERTAIN CAPTIVE INSURANCE COMPANIES; TO AMEND SECTION 38-90-430, AS AMENDED, RELATING TO THE APPLICATION OF THE PROVISIONS OF TITLE 38 TO SPECIAL PURPOSE FINANCIAL CAPTIVES, SO AS TO SPECIFY THAT REGULATIONS PROMULGATED PURSUANT TO APPLICABLE STATUTES ALSO APPLY TO SPECIAL PURPOSE FINANCIAL CAPTIVES; AND TO AMEND CHAPTER 93, TITLE 38, RELATING TO THE PRIVACY OF GENETIC INFORMATION, SO AS TO ENACT FEDERAL REQUIREMENTS SET FORTH IN THE GENETIC INFORMATION NONDISCRIMINATION ACT OF 2008 TO PROHIBIT DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION, PROVIDE FOR THE REQUIREMENTS RELATING TO THE COLLECTION OF GENETIC INFORMATION, AND TO PROVIDE FOR THE SCOPE OF THE CHAPTER.

Be it enacted by the General Assembly of the State of South Carolina:

Michelle's Law

SECTION 1. Sections 2 and 3 of this act may be cited as "Michelle's Law".

Definition, "dependent child"

SECTION 2. Subarticle 1, Article 3, Chapter 71, Title 38 of the 1976 Code is amended by adding:

"Section 38-71-355. (A) As used in this section:

(1) 'Dependent child' means a covered person under a policy who:

(a) is a dependent child, under the terms of the coverage, of an individual under the coverage; and

(b) was enrolled in the coverage, on the basis of being a student at a postsecondary educational institution immediately before the first date of the medically necessary leave of absence involved.

(2) 'Health insurance coverage' means as defined in Section 38-71-670(6).

(3) 'Health insurance issuer' or 'issuer' means an entity that provides health insurance coverage in this State as defined in Section 38-71-670(7).

(4) 'Medically necessary leave of absence' means a leave of absence of a dependent child from a postsecondary educational institution, including an institution of higher education as defined in Section 102 of the Higher Education Act of 1965, or any other change in enrollment of the child at such an institution, that:

(a) commences while the child is suffering from a serious illness or injury;

(b) is medically necessary; and

(c) causes the child to lose student status for purposes of coverage under the terms of the policy.

(B) This section applies to health insurance coverage offered by a health insurance issuer, that is delivered, issued for delivery, or renewed in this State and which provides health insurance coverage in the individual market.

(C)(1) In the case of a dependent child, a health insurance issuer may not terminate health insurance coverage of the child due to a medically necessary leave of absence before the date that is the earlier of:

(a) one year after the first day of the medically necessary leave of absence; or

(b) the date on which the coverage would otherwise terminate under the terms of the policy.

(2) The provisions of this subsection apply to health insurance coverage offered by a health insurance issuer only if the issuer has received written certification by a treating physician of the dependent child that states the child is suffering from a serious illness or injury and that the leave of absence or other change of enrollment is medically necessary.

(D) Each health insurance issuer shall include with a notice regarding a requirement for certification of student status for coverage under the policy or coverage in a plain-language description of the terms of this section for continued coverage during medically necessary leaves of absence.

(E) A dependent child whose benefits are continued under this section is entitled to the same benefits during the medically necessary leave of absence as if the child continued to be a covered student at the institution of higher education and was not on a medically necessary leave of absence.

(F) Coverage of the dependent child shall continue for the remainder of the period of the medically necessary leave of absence under the changed coverage in the same manner as it would have under the previous coverage in the case where:

(1) a dependent child is in a period of health insurance coverage pursuant to a medically necessary leave of absence;

(2) the manner in which the insured or dependent child is covered under the policy changes, whether through a change in health insurance coverage or health insurance issuer, or otherwise; and

(3) the coverage as changed continues to provide coverage of dependent children."

Definition, "dependent child"

SECTION 3. Subarticle 1, Article 5, Chapter 71, Title 38 of the 1976 Code is amended by adding:

"Section 38-71-785. (A) As used in this section:

(1) 'Dependent child' means a beneficiary under a policy or certificate of coverage who:

(a) is a dependent child, under the terms of the coverage, of a participant or beneficiary under the coverage; and

(b) was enrolled in the coverage, on the basis of being a student at a postsecondary educational institution immediately before the first date of the medically necessary leave of absence involved.

(2) 'Health insurance coverage' means as defined in Section 38-71-840(14).

(3) 'Health insurance issuer' or 'issuer' means an entity that provides health insurance coverage in this State as defined in Section 38-71-840(16).

(4) 'Medically necessary leave of absence' means a leave of absence of a dependent child from a postsecondary educational institution, including an institution of higher education as defined in Section 102 of the Higher Education Act of 1965, or any other change in enrollment of the child at such an institution, that:

(a) commences while the child is suffering from a serious illness or injury;

(b) is medically necessary; and

(c) causes the child to lose student status for purposes of coverage under the terms of the policy or certificate of coverage.

(5) 'State health plan' means the employee and retiree insurance program provided for in Article 5, Chapter 11, Title 1.

(B) This section applies to health insurance coverage offered by a health insurance issuer, including the state health plan, that is delivered, issued for delivery, or renewed in this State and which provides health insurance coverage in the group market.

(C)(1) In the case of a dependent child, a health insurance issuer may not terminate health insurance coverage of the child due to a medically necessary leave of absence before the date that is the earlier of:

(a) one year after the first day of the medically necessary leave of absence; or

(b) the date on which the coverage would otherwise terminate under the terms of the policy or certificate of coverage.

(2) The provisions of this subsection apply to health insurance coverage offered by a health insurance issuer only if the issuer has received written certification by a treating physician of the dependent child that states the child is suffering from a serious illness or injury and that the leave of absence or other change of enrollment is medically necessary.

(D) Each health insurance issuer shall include with a notice regarding a requirement for certification of student status for coverage under the policy or coverage in a plain-language description of the terms of this section for continued coverage during medically necessary leaves of absence.

(E) A dependent child whose benefits are continued under this section is entitled to the same benefits during the medically necessary leave of absence as if the child continued to be a covered student at the institution of higher education and was not on a medically necessary leave of absence.

(F) Coverage of the dependent child shall continue for the remainder of the period of the medically necessary leave of absence under the changed coverage in the same manner as it would have under the previous coverage in the case where:

(1) a dependent child is in a period of health insurance coverage pursuant to a medically necessary leave of absence;

(2) the manner in which the participant or beneficiary is covered under the policy or certificate of coverage changes, whether through a change in health insurance coverage or health insurance issuer, a change from self-insured coverage to health insurance coverage, or otherwise; and

(3) the coverage as changed continues to provide coverage of dependent children."

Definition, "creditable coverage"

SECTION 4. Section 38-71-850(B)(1) of the 1976 Code is amended to read:

"(1) For purposes of this subarticle, 'creditable coverage' means, with respect to an individual, coverage of the individual under:

(a) a group health plan;

(b) health insurance coverage;

(c) Part A or Part B, Title XVIII of the Social Security Act;

(d) Title XIX of the Social Security Act, other than coverage consisting solely of benefits under Section 1928;

(e) Chapter 55, Title 10 of the United States Code;

(f) a medical care program of the Indian Health Service or of a tribal organization;

(g) a state health benefits risk pool, including the South Carolina Health Insurance Pool;

(h) a health plan offered under Chapter 89 of Title 5, United States Code;

(i) a public health plan as defined in regulations;

(j) a health benefit plan under Section 5(e) of the Peace Corps Act (22 U.S.C. 2504(e)); or

(k) Title XXI of the Social Security Act (State Children's Health Insurance Program).

The term does not include coverage consisting only of those benefits excepted from the definition of health insurance coverage."

Permit enrollment, conditions

SECTION 5. Section 38-71-850(E) of the 1976 Code is amended by adding a new item to read:

"(4) A health insurance issuer offering group health insurance coverage in connection with a group health plan shall permit an employee who is eligible, but not enrolled for coverage, or a dependent of the employee if the dependent is eligible, but not enrolled for coverage, to enroll for coverage under the terms of the plan if one of the following conditions is met:

(a) the employee or dependent was covered under a Medicaid plan pursuant to Title XIX of the Social Security Act or under a State Children's Health Insurance Program pursuant to Title XXI of the Social Security Act and coverage of the employee or dependent under

the plan or program is terminated as a result of loss of eligibility for the coverage and the employee requests enrollment not later than sixty days after the date of termination of the coverage; or

(b) the employee or dependent becomes eligible for assistance with respect to coverage under the group health plan under a Medicaid plan or State Children's Health Insurance Program, including under any waiver or demonstration project conducted under or in relation to the plan or program, if the employee requests enrollment not later than sixty days after the date the employee or dependent is determined to be eligible for assistance.

An individual who requests enrollment as specified in this item must be enrolled, even if there is otherwise no open enrollment period, without any penalties for late enrollment."

Definition, "creditable coverage"

SECTION 6. Section 38-74-10(20) of the 1976 Code is amended to read:

"(20) 'Creditable coverage' means, with respect to an individual, coverage of the individual under:

(a) a group health plan;

(b) health insurance;

(c) Part A or B of Title XVIII of the Social Security Act;

(d) Title XIX of the Social Security Act, other than coverage consisting solely of benefits under Section 1928;

(e) Chapter 55, Title 10 of the United States Code;

(f) a medical care program of the Indian Health Service or of a tribal organization;

(g) a state health benefits risk pool, including the South Carolina Health Insurance Pool;

(h) a health plan offered under Chapter 89, Title 5 of the United States Code;

(i) a public health plan, as defined in regulations;

(j) a health benefit plan under Section 5(e) of the Peace Corps Act (22 U.S.C. 2504(e)); or

(k) Title XXI of the Social Security Act (State Children's Health Insurance Program).

The term does not include coverage consisting only of those benefits excepted from the definition of health insurance.

A period of creditable coverage is not counted if, after such period and before the enrollment date, there was a sixty-three day period

during all of which the individual was not covered under any creditable coverage. However, in determining whether there has been continuous coverage, no period must be taken into account during which the individual is in a waiting period for any coverage under a group health plan or for group health insurance coverage or is in an affiliation period.

Periods of creditable coverage with respect to an individual must be established through presentation of certifications as described in Section 38-71-850(D) or in a manner specified in regulations."

Director may prescribe additional capital or assets

SECTION 7. Section 38-90-40(D) of the 1976 Code, as last amended by Act 332 of 2006, is further amended to read:

"(D) The director may prescribe additional capital or net assets based upon the type, volume, and nature of insurance business transacted including, but not limited to, the net amount of risk retained for an individual risk. Contributions in connection with these prescribed additional net assets or capital must be in the form of:

(1) cash;

(2) cash equivalent;

(3) an irrevocable letter of credit issued by a bank chartered by this State or a member bank of the Federal Reserve System with a branch office in this State or as approved by the director; or

(4) securities invested as provided in Section 38-90-100."

Director may prescribe additional capital or surplus

SECTION 8. Section 38-90-45(B) of the 1976 Code, as added by Act 58 of 2001, is amended to read:

"(B) The director may prescribe additional capital or surplus based upon the type, volume, and nature of the insurance business transacted including, but not limited to, the net amount of risk retained for an individual risk."

Director may prescribe additional surplus

SECTION 9. Section 38-90-50(D) of the 1976 Code, as last amended by Act 332 of 2006, is further amended to read:

"(D) The director may prescribe additional surplus based upon the type, volume, and nature of insurance business transacted including, but not limited to, the net amount of risk retained for an individual risk. This additional surplus must be in the form of:

(1) cash;

(2) cash equivalent;

(3) an irrevocable letter of credit issued by a bank chartered by this State, or a member bank of the Federal Reserve System with a branch in this State or as approved by the director; or

(4) securities invested as provided in Section 38-90-100."

Report

SECTION 10. Section 38-90-70(B) of the 1976 Code, as last amended by Act 291 of 2004, is further amended to read:

"(B) Before March first of each year, a captive insurance company or a captive reinsurance company shall submit to the director a report of its financial condition, verified by oath of two of its executive officers. Except as provided in Sections 38-90-40 and 38-90-50, a captive insurance company or a captive reinsurance company shall report using generally accepted accounting principles, unless the director approves the use of statutory accounting principles, with useful or necessary modifications or adaptations required or approved or accepted by the director for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the director. Except as otherwise provided, an association captive insurance company and an industrial insured group shall file its report in the form and manner required by Section 38-13-80, and each industrial insured group shall comply with the requirements provided for in Section 38-13-85. The director by regulation shall prescribe the forms in which pure captive insurance companies and industrial insured captive insurance companies shall report. Information submitted pursuant to this section is confidential as provided in Section 38-90-35, except for reports submitted by a captive insurance company formed as a Risk Retention Group under the Product Liability Risk Retention Act of 1986, 15 U.S.C. Section 3901, et seq., as amended."

Director may grant access to certain information

SECTION 11. Section 38-90-80(B)(2) and (3) of the 1976 Code, as last amended by Act 291 of 2004, is further amended to read:

"(2) The director may grant access to this information to public officers having jurisdiction over the regulation of insurance in any other state or country, or to law enforcement officers of this State or any other state or country or agency of the federal government at any time, so long as the officers receiving the information agree in writing to hold it in a manner consistent with this section.

(3) The confidentiality provisions of this subsection do not extend to final reports produced by the director in inspecting or examining a captive insurance company formed as a Risk Retention Group under the Product Liability Risk Retention Act of 1986, 15 U.S.C. Section 3901, et seq., as amended. In addition, nothing contained in this subsection limits the authority of the director or his designee to use and, if appropriate, make public a preliminary examination report, examiner or insurer work papers or other documents, or other information discovered or developed during the course of an examination in the furtherance of a legal or regulatory action which the director or his designee, in his sole discretion, considers appropriate."

Applicability

SECTION 12. Section 38-90-160 of the 1976 Code, as last amended by Act 188 of 2002, is further amended to read:

"Section 38-90-160. (A) No provisions of this title, other than those contained in this chapter or contained in specific references contained in this chapter and regulations applicable to them, apply to captive insurance companies.

(B) The director may exempt, by rule, regulation, or order, special purpose captive insurance companies, on a case by case basis, from provisions of this chapter that he determines to be inappropriate given the nature of the risks to be insured.

(C) The provisions of Sections 38-5-120(A)(3), 38-5-120(C), 38-5-120(D), 38-9-225, 38-9-230, 38-9-320, 38-21-10, 38-21-30, 38-21-60, 38-21-70, 38-21-90, 38-21-95, 38-21-120, 38-21-130, 38-21-140, 38-21-150, 38-21-160, 38-21-170, 38-21-250, 38-21-270, 38-21-280, 38-21-310, 38-21-320, 38-21-330, 38-21-360, 38-55-75 and Chapters 44 and 46, Title 38 apply in full to a risk retention group licensed as an industrial insured captive insurance company and, if a conflict occurs between those code sections and chapters referenced in this subsection and this chapter (Chapter 90, Title 38), then the code sections and chapters referenced in this subsection control.

(D) Except as provided elsewhere in this chapter, the provisions of Chapter 87, Title 38 apply to a risk retention group licensed as an industrial insured captive insurance company."

Applicability

SECTION 13. Section 38-90-430(A) of the 1976 Code, as added by Act 291 of 2004, is amended to read:

"(A) No provisions of Title 38, other than those specifically referenced in this article and regulations applicable to them, apply to a SPFC, and those provisions apply only as modified by this article. If a conflict occurs between a provision of Title 38 and a provision of this article, the latter controls."

Privacy of genetic information

SECTION 14. Chapter 93, Title 38 of the 1976 Code is amended to read:

"CHAPTER 93

Privacy of Genetic Information

Section 38-93-10. As used in this chapter:

(1) 'Family member' means, with respect to an individual:

(a) a dependent of the individual; and

(b) any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of the individual or his dependent.

(2)(a) 'Genetic information' means, with respect to an individual, the:

(i) individual's genetic tests;

(ii) genetic tests of the individual's family members; and

(iii) manifestation of a disease or disorder in family members of the individual.

(b) The term includes, with respect to an individual, a request for, or receipt of, genetic services or participation in clinical research which includes genetic services by the individual or a family member of the individual.

(c) A reference to genetic information concerning an individual or family member of an individual includes:

(i) with respect to an individual or family member of an individual who is a pregnant woman, genetic information on any fetus carried by the pregnant woman; or

(ii) with respect to an individual or family member of an individual utilizing an assisted reproductive technology, genetic information of an embryo legally held by the individual or family member.

(d) The term does not include information about the sex or age of an individual.

(3) 'Genetic services' means:

(a) a genetic test;

(b) genetic counseling, including obtaining, interpreting, or assessing genetic information; or

(c) genetic education.

(4)(a) 'Genetic test' means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites that detects genotypes, mutations or chromosomal changes.

(b) The term does not include:

(i) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or

(ii) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that reasonably could be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

(5) 'Health insurance coverage' or 'coverage' means as defined in Sections 38-71-670(6) and 38-71-840(14).

(6) 'Health insurance issuer' or 'issuer' means an entity that provides health insurance coverage in this State as defined in Sections 38-71-670(7) and 38-71-840(16).

(7) 'Individual' means an insured, individual enrollee, covered dependent, participant, covered person, beneficiary, eligible employee, dependent of an eligible employee, or applicant for coverage.

(8) 'Secretary' means the Secretary of the United States Department of Health and Human Services.

(9) 'Underwriting purposes' means:

(a) rules for, or determination of, eligibility including enrollment and continued eligibility for benefits under the policy or coverage;

(b) the computation of premium or contribution amounts under the policy or coverage;

(c) the application of any preexisting condition exclusion under the policy or coverage; and

(d) other activities related to the creation, renewal, or replacement of a policy or contract of health insurance coverage.

Section 38-93-20. This chapter applies to health insurance coverage offered in connection with an individual health plan, a group health plan, or a health benefit plan that is delivered, issued for delivery, or renewed in this State. Producers, agencies, and insurance support organizations are subject to the provisions of this chapter to the extent of their participation in the issue, reissue, or renewal of a policy or contract of health insurance coverage.

Section 38-93-30. (A) A health insurance issuer when issuing, renewing, or reissuing a policy or contract of health insurance coverage, on the basis of any genetic information obtained concerning an individual or a family member of the individual or on the individual's request for genetic services, with respect to the policy or contract, may not:

(1) terminate, restrict, limit, or otherwise apply conditions to coverage of an individual or restrict the sale to an individual;

(2) cancel or refuse to renew the coverage of an individual;

(3) exclude an individual from coverage or establish rules for eligibility, including continued eligibility, of an individual to enroll for coverage;

(4) impose a waiting period before commencement of coverage of an individual;

(5) impose a preexisting condition exclusion;

(6) require inclusion of a rider that excludes coverage for certain benefits or services; or

(7) adjust premium or contribution amounts or establish a differential in premium rates for coverage.

(B)(1) In the case of group health insurance coverage, a health insurance issuer is prohibited from adjusting premium or contribution amounts for the group covered under a policy or contract of group health insurance coverage on the basis of genetic information.

(2) Nothing in item (1) may be construed to limit the ability of an issuer offering group health insurance coverage to increase the premium for an employer based on the manifestation of a disease or disorder in an individual who is enrolled in the policy or contract of coverage. In this case, the manifestation of a disease or disorder in one individual may not be used as genetic information about other group members and to further increase the premium for the employer.

(C) In addition, discrimination must not be made in the fees or commissions of a producer or agency for an enrollment, application, or the renewal of coverage of an individual or group on the basis of an individual's genetic information.

Section 38-93-40. (A) All genetic information obtained before or after the effective date of this chapter must be confidential and must not be disclosed to a third party in a manner that allows identification of the individual tested without first obtaining the written informed consent of that individual or a person legally authorized to consent on behalf of the individual, except that genetic information may be disclosed without consent:

(1) as necessary for the purpose of a criminal or death investigation, a criminal or judicial proceeding, an inquest, or a child fatality review, or for purposes of the State DNA Database established by Section 23-3-610;

(2) to determine the paternity of a person pursuant to Section 63-17-30;

(3) pursuant to an order of a court of competent jurisdiction specifically ordering disclosure of the genetic information;

(4) where genetic information concerning a deceased individual will assist in medical diagnosis of blood relatives of the decedent;

(5) to a law enforcement or other authorized agency for the purpose of identifying a person or a dead body; or

(6) as specifically authorized or required by a state or federal statute.

(B) A health insurance issuer may not require an individual to consent to the disclosure of genetic information to the issuer as a condition for obtaining health insurance coverage.

Section 38-93-50. It is unlawful to perform a genetic test on an individual without first obtaining specific informed consent to the test from the individual, or a person legally authorized to consent on behalf of the individual, unless the test is performed:

(1) by or for a law enforcement agency in a criminal investigation or for the State DNA Database as provided in Sections 23-3-620 through 23-3-640;

(2) for purposes of identifying a person or a dead body;

(3) to establish paternity as provided by Section 63-17-30;

(4) pursuant to a statute or court order specifically requiring that the test be performed; or

(5) for diagnosis or treatment of the individual if performed by a clinical laboratory that has received a specimen referral from the individual's treating physician or another clinical laboratory. Nothing in this item may be construed so as to waive the requirement that the treating physician obtain specific informed consent in accordance with the provisions of this section.

Section 38-93-60. (A) A health insurance issuer may not request or require an individual or a family member of an individual to undergo a genetic test. However, nothing in this subsection may be construed so as to limit the authority of a health care professional who is providing health care services to an individual to request that the individual undergo a genetic test.

(B) Notwithstanding subsection (A), a health insurance issuer may request, but not require, that an individual or a family member of the individual undergo a genetic test if each of the following conditions is met:

(1) the request is made pursuant to research that complies with Part 46 of Title 45, Code of Federal Regulations, or equivalent federal regulations and any applicable state law or regulations for the protection of human subjects in research;

(2) the issuer clearly indicates to each individual, or a person legally authorized to consent on behalf of the individual, to whom the request is made that:

(i) compliance with the request is voluntary; and

(ii) noncompliance will have no effect on enrollment or coverage status or premium or contribution amounts;

(3) no genetic information collected or acquired under this chapter may be used for underwriting purposes;

(4) the issuer notifies the Secretary in writing that the issuer is conducting activities pursuant to the exception provided in this subsection, including a description of the activities conducted; and

(5) the issuer complies with other conditions as the secretary may require by regulation for activities conducted under this subsection.

Section 38-93-70. (A)(1) A health insurance issuer may not request, require, or purchase genetic information for underwriting purposes.

(2) An issuer may not request, require, or purchase genetic information with respect to an individual before the individual's enrollment under the policy or contract of health insurance coverage.

(B) If an issuer obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning an individual, the request, requirement, or purchase may not be considered a violation of item (2) of subsection (A) if the request, requirement, or purchase is not a violation of item (1) of subsection (A).

Section 38-93-80. Nothing in this chapter may be construed so as to preclude a health insurance issuer from:

(1) establishing rules for eligibility for an individual to purchase or enroll for individual coverage based on the manifestation of a disease or disorder in that individual or in a family member of the individual where the family member is covered under the policy or contract of individual health insurance coverage that covers the individual;

(2) adjusting premium or contribution amounts for an individual on the basis of a manifestation of a disease or disorder in that individual or in a family member of the individual where the family member is covered under the policy or contract of health insurance coverage that covers the individual. In this case, the manifestation of a disease or disorder in one individual must not be used as genetic information about other individuals covered under the policy or contract of health insurance coverage issued to the individual and to further increase premiums or contribution amounts;

(3) imposing a preexisting condition exclusion as otherwise permitted by law for an individual with respect to coverage under the policy or contract of health insurance coverage on the basis of a manifestation of a disease or disorder in that individual; or

(4) obtaining and using the results of a genetic test in making a determination regarding payment (as that term is defined for purposes of applying the regulations promulgated by the secretary under Part C of Title XI of the Social Security Act and Section 264 of HIPAA, as may be revised) consistent with the provisions of this chapter. However, the issuer may request only the minimum amount of information necessary to make a determination.

Section 38-93-90. (A) A violation of this chapter, including a single instance of a prohibited practice, is an unfair trade practice pursuant to Chapter 57, Title 38 and is subject to the penalties as provided for in Chapter 57 and in Section 38-2-10. The director or his designee at any time may examine an issuer, producer, agency, or insurance support organization to enforce this chapter. The expense of examination must be paid by the issuer, producer, agency, or insurance

support organization. If an issuer, producer, agency, or insurance support organization determines that the fees assessed are unreasonable in relation to the examination performed, the issuer, producer, agency, or insurance support organization may appeal the assessments to the Administrative Law Court. Examination fees must be retained by the department and are considered 'other' funds.

(B) In addition, a violation of this chapter is an unfair trade practice as defined in Section 39-5-20 and is subject to the provisions of Sections 39-5-110 to 39-5-160.

(C) The penalties and enforcement provisions of subsections (A) and (B) are in addition to penalties and enforcement provisions of federal law, including those set forth in the Genetic Information Nondiscrimination Act of 2008, Public Law 110-233.

(D) An individual who is injured by a person's violation of this chapter may recover in a court of competent jurisdiction the following remedies:

(1) equitable relief, which may include a retroactive order, directing the person to provide health insurance appropriate to the injured individual under the same terms and conditions as would have applied had the violation not occurred; and

(2) an amount equal to any actual damages suffered by the individual as a result of the violation.

(E) The prevailing party in an action under this section may recover costs and reasonable attorney's fees."

Regulations

SECTION 15. The Department of Insurance may promulgate regulations necessary for implementation of this act.

Severability

SECTION 16. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 17. This act takes effect upon approval by the Governor.

Ratified the 1st day of June, 2010.

Approved the 7th day of June, 2010.

No. 218

(R266, S1294)

AN ACT TO AMEND SECTION 50-11-2540, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TRAPPING SEASON OF FURBEARING ANIMALS, SO AS TO CHANGE FROM JANUARY TO DECEMBER AS THE BEGINNING OF THE TRAPPING SEASON, TO DELETE THE MAXIMUM SIXTY-ONE DAY SEASON LIMITATION, TO AUTHORIZE THE TRAPPING OF COYOTES FROM DECEMBER FIRST OF EACH YEAR TO MARCH FIRST OF THE SUCCEEDING YEAR, AND AUTHORIZE THE TAKING OF COYOTES BY OTHER LAWFUL MEANS AT ANY TIME DURING THE YEAR.

Be it enacted by the General Assembly of the State of South Carolina:

Taking of coyotes

SECTION 1. Section 50-11-2540 of the 1976 Code is amended to read:

"Section 50-11-2540. (A) It is lawful to trap furbearing animals for commercial purposes from December first of each year to March first of the succeeding year. It is unlawful to trap any other times unless authorized by the department. It is lawful to take furbearing animals by other lawful means during the general open hunting seasons established therefor.

(B) It is lawful to trap coyotes from December first of each year to March first of the succeeding year. It is unlawful to trap coyotes at any

other time unless authorized by the department. Notwithstanding the provisions of Section 50-11-1080, it is lawful to take coyotes by other lawful means at any time during the year."

Time effective

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 1st day of June, 2010.

Approved the 7th day of June, 2010.

No. 219

(R267, S1303)

AN ACT TO AMEND SECTION 42-7-65, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE AVERAGE WEEKLY WAGE DESIGNATED FOR CERTAIN CATEGORIES OF EMPLOYEES, SO AS TO ESTABLISH THE AVERAGE WEEKLY WAGE FOR AN INMATE WHO WORKS IN A FEDERALLY APPROVED PRISON INDUSTRIES ENHANCEMENT CERTIFICATION PROGRAM.

Be it enacted by the General Assembly of the State of South Carolina:

Average weekly wage for an inmate

SECTION 1. Section 42-7-65 of the 1976 Code, as last amended by Act 98 of 2005, is further amended to read:

"Section 42-7-65. Notwithstanding the provisions of Section 42-1-40, for the purpose of this title and while serving in this capacity, the total average weekly wage of the following categories of employees is the following:

(1) for all members of the State and National Guard, regardless of rank, seventy-five percent of the average weekly wage in the State for the preceding fiscal year, or the average weekly wage the service member would be entitled to, if any, if injured while performing his

civilian employment, if the average weekly wage in his civilian employment is greater;

(2) for all voluntary firemen of organized voluntary rural fire units and voluntary municipal firemen, thirty-seven and one-half percent of the average weekly wage in the State for the preceding fiscal year;

(3) for all members of organized volunteer rescue squads, thirty-seven and one-half percent of the average weekly wage in the State for the preceding fiscal year;

(4) for all volunteer deputy sheriffs, thirty-seven and one-half percent of the average weekly wage in the State for the preceding fiscal year; and

(5) for all volunteer state constables appointed pursuant to Section 23-1-60, while performing duties in connection with their appointments and authorized by the State Law Enforcement Division, thirty-seven and one-half percent of the average weekly wage in the State for the preceding fiscal year.

The wages provided in items (2), (3), (4), and (5) of this section may not be increased as a basis for any computation of benefits because of employment other than as a volunteer. Persons in the categories provided by items (2), (3), (4), and (5) must be notified of the limitation on average weekly wages prescribed in this section by the authority responsible for obtaining coverage under this title.

'Volunteer firemen' and 'rescue squad members' mean members of organized units whose membership is certified to the municipal clerk or chairman of the council of the municipality or county in which their unit is based by the chief officer of the unit concerned. A 'volunteer deputy sheriff' is a volunteer whose membership is certified by the sheriff to the governing body of the county. No volunteer deputy sheriff may be included under the provisions of this title unless approved by the governing body of the county or municipality. A voluntary constable appointed pursuant to Section 23-1-60 must be included under the provisions of this title only while performing duties in connection with his appointment and as authorized by the State Law Enforcement Division. The workers' compensation premiums for these constables must be paid from the state general fund upon warrant of the Chief of the State Law Enforcement Division. Notwithstanding any other provision of law, voluntary firemen of organized volunteer fire units and members of organized volunteer rescue squads are covered under this title by the county governing body unless the governing body of the county opts out of the coverage.

The average weekly wage for inmates of the State Department of Corrections as defined in Section 42-1-480 is forty dollars a week.

However, the average weekly wage for an inmate who works in a federally approved Prison Industries Enhancement Certification Program must be based upon the inmate's actual net earnings after any statutory reductions. The average weekly wage for county and municipal prisoners is forty dollars a week. The average weekly wage for students of high schools, state technical schools, and state-supported colleges and universities while engaged in work study, marketing education, or apprentice programs on the premises of private companies or while engaged in the Tech Prep or other structured school-to-work programs on the premises of a sponsoring employer is fifty percent of the average weekly wage in the State for the preceding fiscal year."

Time effective

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 1st day of June, 2010.

Approved the 7th day of June, 2010.

No. 220

(R288, S1014)

AN ACT TO AMEND SECTION 33-31-1402, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DISSOLUTION OF NONPROFIT CORPORATIONS BY DIRECTORS, MEMBERS, AND THIRD PERSONS, SO AS TO PROVIDE THAT BEFORE THE SECRETARY OF STATE MAY ACCEPT FOR FILING ARTICLES OF DISSOLUTION OF AN EXISTING NONPROFIT ORGANIZATION EXECUTED BY A PERSON AUTHORIZED BY THIS SECTION TO TAKE SUCH ACTION, THE SECRETARY OF STATE SHALL REQUIRE THIS PERSON TO ATTACH AN AFFIDAVIT TO THE FILING WHERE THE PERSON UNDER OATH SUBJECT TO A PENALTY OF PERJURY CERTIFIES THAT HE HOLDS THE REQUISITE AUTHORITY TO TAKE SUCH ACTION; AND TO AMEND SECTION 33-31-1403, RELATING TO NOTICES TO THE ATTORNEY GENERAL IN REGARD TO THE

DISSOLUTION OF SPECIFIED NONPROFIT CORPORATIONS, SO AS TO REVISE CERTAIN REFERENCES AND PROVIDE THAT THE NONPROFIT ORGANIZATION SHALL SUBMIT TO THE SECRETARY OF STATE COPIES OF ALL DOCUMENTS PROVIDED TO THE ATTORNEY GENERAL AT THE TIME OF THE FILING OF THE ARTICLES OF DISSOLUTION.

Be it enacted by the General Assembly of the State of South Carolina:

Affidavit required

SECTION 1. Section 33-31-1402 of the 1976 Code is amended by adding:

"(f) Before the Secretary of State may accept for filing articles of dissolution of an existing nonprofit organization executed by a person authorized by this section to take such action either in his own right under appropriate authority or on behalf of the board or other entity or group, the Secretary of State shall require this person to attach an affidavit to the filing when the person under oath subject to a penalty of perjury certifies that he holds the requisite authority to take such action."

Copies to Secretary of State

SECTION 2. Section 33-31-1403(a) of the 1976 Code is amended to read:

"(a) A nonprofit organization shall give the Attorney General written notice that it intends to dissolve at or before the time it delivers articles of dissolution to the Secretary of State. The notice shall include a copy or summary of the plan of dissolution. The nonprofit organization shall submit to the Secretary of State copies of all documents provided to the Attorney General at the time of the filing of the articles of dissolution."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 2nd day of June, 2010.

Approved the 8th day of June, 2010.

No. 221

(R289, S1028)

AN ACT TO AMEND SECTION 32-8-320, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PERSONS WHO MAY SERVE AS A DECEDENT'S AGENT TO AUTHORIZE CREMATION, SO AS ALSO TO PERMIT A PERSON NAMED IN THE DECEDENT'S DEPARTMENT OF DEFENSE RECORD OF EMERGENCY DATA FORM (DD FORM 93), OR ITS SUCCESSOR FORM, TO AUTHORIZE CREMATION IF THE DECEDENT DIED WHILE SERVING IN ANY BRANCH OF THE UNITED STATES ARMED SERVICES AND THERE IS NO KNOWN DESIGNATION IN THE WILL OR OTHER VERIFIED AND ATTESTED DOCUMENT OF THE DECEDENT; AND TO AMEND SECTION 40-19-280, AS AMENDED, RELATING TO, AMONG OTHER PROVISIONS, THE REQUIREMENT OF CONTACT WITH THE NEXT-OF-KIN OR OTHER PERSONS RESPONSIBLE FOR FUNERAL ARRANGEMENTS BEFORE A DECEDENT'S REMAINS MAY BE REMOVED TO A FUNERAL ESTABLISHMENT, SO AS TO INCLUDE A PERSON NAMED BY THE DECEDENT IN HIS DD FORM 93 AS A PERSON REQUIRED TO BE CONTACTED IF THE DECEDENT DIED WHILE SERVING IN ANY BRANCH OF THE UNITED STATES ARMED SERVICES.

Be it enacted by the General Assembly of the State of South Carolina:

Authorization of cremation

SECTION 1. Section 32-8-320 of the 1976 Code is amended to read:

If the last act shown on the opposite page is not complete, it will be continued in the next Advance Sheet.

STEPHEN T. DRAFFIN
Code Commissioner
P. O. Box 11489
Columbia, S.C. 29211