CHAPTER 17

Offenses Against Public Policy

ARTICLE 1

Barratry

**SECTION 16‑17‑10.** Barratry prohibited.

 Any person who shall:

 (1) Wilfully solicit or incite another to bring, prosecute or maintain an action, at law or in equity, in any court having jurisdiction within this State and

 (a) thereby seeks to obtain employment for himself or for another to prosecute or defend such action,

 (b) has no direct and substantial interest in the relief thereby sought,

 (c) does so with intent to distress or harass any party to such action,

 (d) directly or indirectly pays or promises to pay any money or other thing of value to, or the obligations of, any party to such an action or

 (e) directly or indirectly pays or promises to pay any money or other thing of value to any other person to bring about the prosecution or maintenance of such an action; or

 (2) Wilfully bring, prosecute or maintain an action, at law or in equity, in any court having jurisdiction within this State and

 (a) has no direct or substantial interest in the relief thereby sought,

 (b) thereby seeks to defraud or mislead the court,

 (c) brings such action with intent to distress or harass any party thereto or

 (d) directly or indirectly receives any money or other thing of value to induce the bringing of such action;

 Shall be guilty of the crime of barratry.

 The crime of barratry shall be punishable by a fine of not more than five thousand dollars or by imprisonment of not more than two years, or both.

HISTORY: 1962 Code Section 16‑521; 1957 (50) 23.

**SECTION 16‑17‑20.** Persons convicted of barratry barred from practice of law.

 Any person convicted of barratry shall be forever barred from practicing law in this State.

HISTORY: 1962 Code Section 16‑522; 1957 (50) 23.

**SECTION 16‑17‑30.** Liability of corporations and unincorporated associations.

 As used in Section 16‑17‑10 the term "person" shall include corporations and unincorporated associations, and the statutes and laws of this State pertaining to criminal liability and enforcement thereof against corporations shall apply to any unincorporated association convicted of barratry.

HISTORY: 1962 Code Section 16‑523; 1957 (50) 23.

**SECTION 16‑17‑40.** Corporations or unincorporated associations convicted of barratry barred from doing business in State.

 Any corporation or unincorporated association found guilty of the crime of barratry shall be forever barred from doing any business or carrying on any activity within this State, and in the case of a corporation its charter or certificate of domestication shall be summarily revoked by the Secretary of State.

HISTORY: 1962 Code Section 16‑524; 1957 (50) 23.

**SECTION 16‑17‑50.** Article is cumulative.

 The provisions of this article are cumulative and shall not be construed as repealing any existing statute or the common law of this State with respect to the subject matter of any of the provisions hereof.

HISTORY: 1962 Code Section 16‑525; 1957 (50) 23.

ARTICLE 3

Desecration or Mutilation of Flags

**SECTION 16‑17‑210.** Definitions.

 The words "flag, standard, color or ensign," as used in Sections 16‑17‑220 and 16‑17‑230, shall include any flag, standard, color or ensign or any picture or representation made of any substance or represented on any substance and of any size, evidently purporting to be of the flag, standard, color or ensign of the United States, the Confederate States of America or this State, or a picture or representation upon which shall be shown the colors, the stars and the stripes, in any number or either thereof or by which the person seeing such picture or representation without deliberation may believe it to represent the flag, colors, standard or ensign of the United States, the Confederate States of America or this State.

HISTORY: 1962 Code Section 16‑533; 1952 Code Section 16‑533; 1942 Code Section 1274; 1932 Code Section 1274; Cr. C. '22 Section 169; 1916 (29) 925; 1958 (50) 1676.

**SECTION 16‑17‑220.** Desecration or mutilation of United States, Confederate or State flags.

 Any person who in any manner, for exhibition or display, shall (a) knowingly place or cause to be placed any word, inscription, figure, mark, picture, design, device, symbol, name, characters, drawing, notice or advertisement of any nature upon any flag, standard, color or ensign of the United States, the Confederate States of America or this State or upon a flag, standard, color or ensign purporting to be such, (b) knowingly display, exhibit or expose or cause to be exposed to public view any such flag, standard, color or ensign upon which shall have been printed, painted or otherwise placed or to which shall be attached, appended, affixed or annexed any word, inscription, figure, mark, picture, design, device, symbol, name, characters, drawing, photographs, notice or advertisement of any nature, (c) expose to public view, manufacture, sell, expose for sale, give away or have in possession for sale, to give away, or for use for any purpose, any article or substance, being an article of merchandise or a receptacle of merchandise or article or thing for camping or transporting merchandise upon which shall have been printed, painted, attached or otherwise placed a representation of any such flag, standard, color or ensign to advertise, call attention to, decorate, mark or distinguish the article or substance on which placed or (d) publicly mutilate, deface, defile, defy, jeer at, trample upon or cast contempt, either by word or act, upon any such flag, standard, color or ensign shall be guilty of a misdemeanor and shall be punished by a fine not exceeding one hundred dollars or by imprisonment for not more than thirty days, or both, in the discretion of the court, and shall also forfeit a penalty of fifty dollars for each offense, to be recovered with costs in a civil action or suit in any court having jurisdiction. Such action or suit may be brought by and in the name of any citizen of this State, and such penalty when collected, less the reasonable cost and expense of action or suit and recovery to be certified by the clerk of court of the county in which the offense is committed, shall be paid into the State Treasury. Two or more penalties may be sued for and recovered in the same action or suit.

HISTORY: 1962 Code Section 16‑532; 1952 Code Sections 16‑531, 16‑532; 1942 Code Sections 1273, 1274; 1932 Code Sections 1273, 1274; Cr. C. '22 Sections 168, 169; Cr. C. '12 Section 207; 1910 (26) 753; 1916 (29) 925; 1950 (46) 1881; 1958 (50) 1676.

**SECTION 16‑17‑230.** Presumption from possession.

 It is permissible to infer that possession by any person, other than a public officer as such, of any flag, standard, color, or ensign on which is anything made unlawful at any time by Section 16‑17‑220 or of any article, substance, or thing on which is anything made unlawful at any time by that section is in violation of that section.

HISTORY: 1962 Code Section 16‑534; 1952 Code Section 16‑534; 1942 Code Section 1274; 1932 Code Section 1274; Cr. C. '22 Section 169; 1916 (29) 925; 1922 (32) 858; 1987 Act No. 95 Section 8.

ARTICLE 5

Improper Use of Names

**SECTION 16‑17‑310.** Imitation of organizations' names, emblems and the like.

 No person, society or organization shall assume, use, adopt, become incorporated under or continue to use the name and style or emblems of any incorporated benevolent, fraternal, social, humane or charitable organization previously existing in this State or a name and style or emblem so nearly resembling the name and style of such incorporated organization as to be a colorable imitation thereof. When two or more of such societies, associations or corporations claim the right to the same name or to a name substantially similar as above provided, the organization which was first organized and used the name and first became incorporated under the laws of the United States or of any state of the Union, whether incorporated in this State or not, shall be entitled in this State to the prior and exclusive use of such name, and the rights of such societies, associations or corporations and of their individual members shall be fixed and determined accordingly.

 Any person who shall wear a badge, button or other emblem or shall use the name or claim to be a member of any benevolent, fraternal, social, humane or charitable organization which is entitled to the exclusive use of such name and emblems under this section, either in the identical form or in such near resemblance thereto as to be a colorable imitation of such emblems and name, unless entitled so to do under the laws, rules and regulations of such organization, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars or imprisonment in the State Penitentiary for not less than thirty days nor more than one year.

HISTORY: 1962 Code Section 16‑542; 1952 Code Section 16‑542; 1942 Code Section 1243; 1932 Code Section 1243; Cr. C. '22 Section 139; Cr. C. '12 Section 285; 1906 (25) 118; 1910 (26) 723, 779; 1925 (34) 20.

**SECTION 16‑17‑320.** Injunction to restrain improper use of name and emblems.

 Whenever there shall be an actual or threatened violation of the provisions of Section 16‑17‑310, the organization entitled to the exclusive use of the name in question, under the terms of said section, shall have the right to apply to the proper courts for an injunction to restrain the infringement of its name and the use of its emblems. If it shall be made to appear to the court that the defendants are in fact infringing or about to infringe upon the name and style of a previously existing incorporated benevolent, fraternal, social, humane or charitable organization in the manner prohibited in said section or that the defendant or defendants are wearing and using the badge, insignia or emblems of such organization, without the authority thereof in violation of said section, an injunction may be issued by the court under the principles of equity, without requiring proof that any person has been in fact misled or deceived by the infringement of such name or the use of such emblem.

HISTORY: 1962 Code Section 16‑543; 1952 Code Section 16‑543; 1942 Code Section 1243; 1932 Code Section 1243; Cr. C. '22 Section 139; Cr. C. '12 Section 285; 1906 (25) 118; 1910 (26) 723, 779; 1925 (34) 20.

ARTICLE 7

Miscellaneous Offenses

**SECTION 16‑17‑410.** Conspiracy.

 The common law crime known as "conspiracy" is defined as a combination between two or more persons for the purpose of accomplishing an unlawful object or lawful object by unlawful means.

 A person who commits the crime of conspiracy is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years.

 A person who is convicted of the crime of conspiracy must not be given a greater fine or sentence than he would receive if he carried out the unlawful act contemplated by the conspiracy and had been convicted of the unlawful act contemplated by the conspiracy or had he been convicted of the unlawful acts by which the conspiracy was to be carried out or effected.

HISTORY: 1962 Code Section 16‑550; 1957 (50) 58; 1993 Act No. 184, Section 35.

**SECTION 16‑17‑420.** School disturbances by nonstudents; penalties.

 (A) It is unlawful for a person who is not a student to wilfully interfere with, disrupt, or disturb the normal operations of a school or college in this State by:

 (1) entering upon school or college grounds or property without the permission of the principal or president in charge;

 (2) loitering upon or about school or college grounds or property, after notice is given to vacate the grounds or property and after having reasonable opportunity to vacate;

 (3) initiating a physical assault on, or fighting with, another person on school or college grounds or property;

 (4) being loud or boisterous on school or college grounds or property after instruction by school or college personnel to refrain from the conduct;

 (5) threatening physical harm to a student or a school or college employee while on school or college grounds or property; or

 (6) threatening the use of deadly force on school or college property or involving school or college grounds or property when the person has the present ability, or is reasonably believed to have the present ability, to carry out the threat.

 (B) For the purpose of this section, "person who is not a student" means a person who is not enrolled in, or who is suspended or expelled from, the school or college that the person interferes with, disrupts, or disturbs at the time the interference, disruption, or disturbance occurs.

 (C) Any person who violates a provision of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars or imprisoned for not more than one year, or both.

HISTORY: 1962 Code Section 16‑551; 1952 Code Section 16‑551; 1942 Code Section 1129; 1932 Code Section 1129; Cr. C. '22 Section 28; 1919 (31) 239; 1968 (55) 2308; 1972 (57) 2620; 2010 Act No. 273, Section 12, eff June 2, 2010; 2018 Act No. 182 (S.131), Section 1, eff May 17, 2018.

Validity

For the validity of the prior version of this section, see Kenny v. Wilson, 566 F. Supp.3d 447 (D.S.C. Oct. 8, 2021).

Effect of Amendment

2018 Act No. 182, Section 1, rewrote the section.

**SECTION 16‑17‑425.** Student threats.

 (A) It is unlawful for a student of a school or college in this State to make threats to take the life of or to inflict bodily harm upon another by using any form of communication whatsoever.

 (B) Nothing contained in this section may be construed to repeal, replace, or preclude application of any other criminal statute.

HISTORY: 2018 Act No. 182 (S.131), Section 2, eff May 17, 2018.

**SECTION 16‑17‑430.** Unlawful communication.

 (A) It is unlawful for a person to:

 (1) use in a telephonic communication or any other electronic means, any words or language of a profane, vulgar, lewd, lascivious, or an indecent nature, or to communicate or convey by telephonic or other electronic means an obscene, vulgar, indecent, profane, suggestive, or immoral message to another person;

 (2) threaten in a telephonic communication or any other electronic means an unlawful act with the intent to coerce, intimidate, or harass another person;

 (3) telephone or electronically contact another repeatedly, whether or not conversation ensues, for the purpose of annoying or harassing another person or his family;

 (4) make a telephone call and intentionally fail to hang up or disengage the connection for the purpose of interfering with the telephone service of another;

 (5) telephone or contact by electronic means another and make false statements concerning either the death or injury of a member of the family of the person who is telephoned or electronically contacted, with the intent to annoy, frighten, or terrify that person; or

 (6) knowingly permit a telephone under his control to be used for any purpose prohibited by this section.

 (B) A person who violates any provision of subsection (A) is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned not more than thirty days.

HISTORY: 1962 Code Section 16‑552.1; 1961 (52) 451; 1967 (55) 626; 1993 Act No. 184, Section 36; 2001 Act No. 81, Section 13.

**SECTION 16‑17‑440.** Venue for prosecution under Section 16‑17‑430.

 Venue for prosecution pursuant to the provisions of Section 16‑17‑430 shall be either in the county wherein the telephonic communications originated or the county where it was received.

HISTORY: 1962 Code Section 16‑552.2; 1961 (52) 451.

**SECTION 16‑17‑445.** Deleted.

HISTORY: Former Section, titled Regulation of unsolicited consumer telephone calls, had the following history: 1988 Act No. 656, Section 1; 2000 Act No. 408, Section 1; 2005 Act No. 128, Section 1, eff July 1, 2005. Deleted by 2018 Act No. 218, Section 2, eff May 18, 2018.

**SECTION 16‑17‑446.** Regulation of automatically dialed announcing device (ADAD).

 (A) "Adad" means an automatically dialed announcing device which delivers a recorded message without assistance by a live operator for the purpose of making an unsolicited consumer telephone call as defined in Section 16‑17‑445(A)(3). Adad calls include automatically announced calls of a political nature including, but not limited to, calls relating to political campaigns.

 (B) Adad calls are prohibited except:

 (1) in response to an express request of the person called;

 (2) when primarily connected with an existing debt or contract, payment or performance of which has not been completed at the time of the call;

 (3) in response to a person with whom the telephone solicitor has an existing business relationship or has had a previous business relationship.

 (C) Adad calls which are not prohibited under subsection (B):

 (1) are subject to Section 16‑17‑445(B)(1), (2), and (3);

 (2) shall disconnect immediately when the called party hangs up;

 (3) are prohibited after seven p.m. or before eight a.m.;

 (4) may not ring at hospitals, police stations, fire departments, nursing homes, hotels, or vacation rental units.

 (D) A person who violates this section, upon conviction, must be punished as provided in Section 16‑17‑445(F).

HISTORY: 1988 Act No. 656, Section 2; 1991 Act No. 89, Section 1.

Validity

For validity of this section, see Cahaly v. LaRosa, 25 F.Supp.3d 817 (D.S.C., 2014), 796 F.3d 399 (C.A.4 (S.C.)).

Editor's Note

Section 16‑17‑445 was deleted by 2018 Act No. 218, Section 2. See now, Chapter 21, Title 37.

**SECTION 16‑17‑450.** Refusal to relinquish party telephone line for emergency call.

 (1) Any person who shall wilfully refuse to relinquish immediately a party telephone line when informed that such line is needed for an emergency call to a fire department or police department or for medical aid or ambulance service shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars or imprisoned for not more than thirty days.

 (2) It shall constitute a defense to a prosecution under subsection (1) that the accused did not know of the emergency in question, or that the accused was using the party telephone line for an emergency call.

 (3) Any person who requests another to relinquish a telephone party line on the pretext that he must place an emergency call, knowing such pretext to be false, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars or imprisoned for not more than thirty days.

 (4) As used in this section

 The term "party line" shall mean a subscriber's line telephone circuit, consisting of two or more main telephone stations connected therewith, each station with a distinctive ring or telephone number.

 The term "emergency" shall mean a situation in which property or human life are in jeopardy and the prompt summoning of aid is essential.

HISTORY: 1962 Code Section 16‑552.3; 1967 (55) 624.

**SECTION 16‑17‑470.** Eavesdropping, peeping, voyeurism.

 (A) It is unlawful for a person to be an eavesdropper or a peeping tom on or about the premises of another or to go upon the premises of another for the purpose of becoming an eavesdropper or a peeping tom. The term "peeping tom", as used in this section, is defined as a person who peeps through windows, doors, or other like places, on or about the premises of another, for the purpose of spying upon or invading the privacy of the persons spied upon and any other conduct of a similar nature, that tends to invade the privacy of others. The term "peeping tom" also includes any person who employs the use of video or audio equipment for the purposes set forth in this section. A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than three years, or both.

 (B) A person commits the crime of voyeurism if, for the purpose of arousing or gratifying sexual desire of any person, he or she knowingly views, photographs, audio records, video records, produces, or creates a digital electronic file, or films another person, without that person's knowledge and consent, while the person is in a place where he or she would have a reasonable expectation of privacy. A person who violates the provisions of this subsection:

 (1) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than three years, or both; or

 (2) for a second or subsequent offense, is guilty of a felony and, upon conviction, must be fined not less than five hundred dollars or more than five thousand dollars or imprisoned not more than five years, or both.

 (C) A person commits the crime of aggravated voyeurism if he or she knowingly sells or distributes any photograph, audio recording, video recording, digital electronic file, or film of another person taken or made in violation of this section. A person who violates the provisions of this subsection is guilty of a felony and, upon conviction, must be fined not less than five hundred dollars or more than five thousand dollars or imprisoned not more than ten years, or both.

 (D) As used in this section:

 (1) "Place where a person would have a reasonable expectation of privacy" means:

 (a) a place where a reasonable person would believe that he or she could disrobe in privacy, without being concerned that his or her undressing was being photographed, filmed, or videotaped by another; or

 (b) a place where one would reasonably expect to be safe from hostile intrusion or surveillance.

 (2) "Surveillance" means secret observation of the activities of another person for the purpose of spying upon and invading the privacy of the person.

 (3) "View" means the intentional looking upon of another person for more than a brief period of time, in other than a casual or cursory manner, with the unaided eye or with a device designed or intended to improve visual acuity.

 (E) The provisions of subsection (A) do not apply to:

 (1) viewing, photographing, videotaping, or filming by personnel of the Department of Corrections or of a county, municipal, or local jail or detention center or correctional facility for security purposes or during investigation of alleged misconduct by a person in the custody of the Department of Corrections or a county, municipal, or local jail or detention center or correctional facility;

 (2) security surveillance for the purposes of decreasing or prosecuting theft, shoplifting, or other security surveillance measures in bona fide business establishments;

 (3) any official law enforcement activities conducted pursuant to Section 16‑17‑480;

 (4) private detectives and investigators conducting surveillance in the ordinary course of business; or

 (5) any bona fide news gathering activities.

 (F) In addition to any other punishment prescribed by this section or other provision of law, a person procuring photographs, audio recordings, video recordings, digital electronic files, or films in violation of this section shall immediately forfeit all items. These items must be destroyed when no longer required for evidentiary purposes.

HISTORY: 1962 Code Section 16‑554; 1952 Code Section 16‑554; 1942 Code Section 1192‑1; 1937 (40) 478; 1993 Act No. 184, Section 99; 2000 Act No; 363, Section 1; 2001 Act No. 81, Section 14.

**SECTION 16‑17‑480.** Section 16‑17‑470 not applicable to law officers.

 Nothing in Section 16‑17‑470 shall prevent duly constituted officers of the law from performing their official duties in ferreting out offenders or suspected offenders against violating the laws of this State or any municipality therein for the purpose of apprehending such suspected violator. But the provisions of this section shall not be construed as giving such officers any additional rights or powers upon private property but shall be construed as preserving only such powers as they had before.

HISTORY: 1962 Code Section 16‑555; 1952 Code Section 16‑555; 1942 Code Section 1192‑1; 1937 (40) 478.

**SECTION 16‑17‑490.** Contributing to delinquency of a minor.

 It shall be unlawful for any person over eighteen years of age to knowingly and wilfully encourage, aid or cause or to do any act which shall cause or influence a minor:

 (1) To violate any law or any municipal ordinance;

 (2) To become and be incorrigible or ungovernable or habitually disobedient and beyond the control of his or her parent, guardian, custodian or other lawful authority;

 (3) To become and be habitually truant;

 (4) To without just cause and without the consent of his or her parent, guardian or other custodian, repeatedly desert his or her home or place of abode;

 (5) To engage in any occupation which is in violation of law;

 (6) To associate with immoral or vicious persons;

 (7) To frequent any place the existence of which is in violation of law;

 (8) To habitually use obscene or profane language;

 (9) To beg or solicit alms in any public places under any pretense;

 (10) To so deport himself or herself as to wilfully injure or endanger his or her morals or health or the morals or health of others.

 Any person violating the provisions of this section shall upon conviction be fined not more than three thousand dollars or imprisoned for not more than three years, or both, in the discretion of the court.

 This section is intended to be cumulative and shall not be construed so as to defeat prosecutions under any other law which is applicable to unlawful acts embraced herein.

 The provisions of this section shall not apply to any school board of trustees promulgating rules and regulations as authorized by Section 59‑19‑90(3) which prescribe standards of conduct and behavior in the public schools of the district. Provided, however, that any such rule or regulation which contravenes any portion of the provisions of this section shall first require the consent of the parent or legal guardian of the minor or minors concerned.

HISTORY: 1962 Code Section 16‑555.1; 1957 (50) 572, 1971 (57) 848; 1976 Act No. 629.

**SECTION 16‑17‑495.** Custodial interference.

 (A)(1) When a court of competent jurisdiction in this State or another state has awarded custody of a child under the age of sixteen years or when custody of a child under the age of sixteen years is established pursuant to Section 63‑17‑20(B), it is unlawful for a person with the intent to violate the court order or Section 63‑17‑20(B) to take or transport, or cause to be taken or transported, the child from the legal custodian for the purpose of concealing the child, or circumventing or avoiding the custody order or statute.

 (2) When a pleading has been filed and served seeking a determination of custody of a child under the age of sixteen, it is unlawful for a person with the intent to circumvent or avoid the custody proceeding to take or transport, or cause to be taken or transported, the child for the purpose of concealing the child, or circumventing or avoiding the custody proceeding. It is permissible to infer that a person keeping a child outside the limits of this State for more than seventy‑two hours without notice to a legal custodian intended to violate this subsection.

 (B) A person who violates subsection (A)(1) or (2) is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both.

 (C) If a person who violates subsection (A)(1) or (2) returns the child to the legal custodian or to the jurisdiction of the court in which the custody petition was filed within three days of the violation, the person is guilty of a misdemeanor and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both.

 (D) Notwithstanding the provisions of this section, if the taking or transporting of a child in violation of subsections (A)(1) or (2), is by physical force or the threat of physical force, the person is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both.

 (E) A person who violates the provisions of this section may be required by the court to pay necessary travel and other reasonable expenses including, but not limited to, attorney's fees incurred by the party entitled to the custody or by a witness or law enforcement.

HISTORY: 1976 Act No. 592; 1990 Act No. 470, Section 1; 1995 Act No. 28, Section 1; 1997 Act No. 95, Section 4.

**SECTION 16‑17‑500.** Sale or purchase of tobacco products to minors; proof of age; location of vending machines; penalties; smoking cessation programs.

 (A) It is unlawful for an individual to sell, furnish, give, distribute, purchase for, or provide a tobacco product to a minor under the age of eighteen years.

 (B) It is unlawful to sell a tobacco product to an individual without a demand of proper proof of age. Failure to demand identification to verify an individual's age is not a defense to an action initiated pursuant to this subsection. Proof that is demanded, is shown, and reasonably is relied upon for the individual's proof of age is a defense to an action initiated pursuant to this subsection.

 (C) A person engaged in the sale of tobacco products made through the Internet or other remote sales methods shall perform an age verification through an independent, third‑party age verification service that compares information available from public records to the personal information entered by the individual during the ordering process that establishes the individual is eighteen years of age or older and shall use a method of mailing, shipping, or delivery that requires the signature of a person at least eighteen years of age before a tobacco product will be released to the purchaser, unless the Internet or other remote sales methods employ the following protections to ensure age verification:

 (1) the customer creates an online profile or account with personal information including, but not limited to, name, address, social security information, and a valid phone number, and that personal information is verified through publicly available records; or

 (2) the customer is required to upload a copy of his government‑issued identification in addition to a current photograph of the customer; and

 (3) delivery is made to the customer's name and address.

 (D) It is unlawful to sell a tobacco product through a vending machine.

 (E)(1) An individual who knowingly violates a provision of subsections (A), (B), (C), (D), or (J) in person, by agent, or in any other way is guilty of a misdemeanor and, upon conviction, must be:

 (a) for a first offense, fined not less than two hundred dollars and not more than three hundred dollars;

 (b) for a second and subsequent offense, fined not less than four hundred dollars and not more than five hundred dollars, imprisoned for not more than thirty days, or both.

 (2) In lieu of the fine, the court may require an individual, at the expense of the tobacco retailer or tobacco retail establishment, to successfully complete a Department of Alcohol and Other Drug Abuse Services approved merchant tobacco enforcement education program.

 (3) A tobacco retailer who knowingly violates or permits an employee to violate a provision of subsections (A), (B), (C), (D), or (J) in the tobacco retail establishment is subject to an administrative penalty as follows:

 (a) for a first violation, issued a warning;

 (b) for a second violation within a thirty‑six month period, fined not less than three hundred dollars;

 (c) for a third violation within a thirty‑six month period, fined not less than six hundred dollars;

 (d) for a fourth and subsequent violation within a thirty‑six month period, fined not less than one thousand two hundred dollars and the tobacco retailer is prohibited from selling or distributing tobacco products for a period of at least seven days and no greater than thirty days. For purposes of this subsection, a tobacco retailer that knowingly sells or distributes during the period that the tobacco retailer is prohibited from selling or distributing is subject to a fine of not more than two hundred dollars and is prohibited from selling or distributing tobacco products for an additional period of seven days; and

 (e) A tobacco retailer or tobacco retail establishment may request a contested case hearing for the fine or for the prohibition from selling or distributing tobacco products in front of the South Carolina Administrative Law Court, pursuant to the South Carolina Administrative Procedures Act, Section 1‑23‑310 et, seq.

 (4) In lieu of the fine and prohibition from selling or distributing tobacco products, the court may require the tobacco retailer or tobacco retail establishment's employees, at the expense of the tobacco retailer or tobacco retail establishment, to successfully complete a Department of Alcohol and Other Drug Services‑approved merchant tobacco enforcement education program.

 (5) Failure to require identification for the purpose of verifying a person's age is prima facie evidence of a violation of this section.

 (6) Local law enforcement and the State Law Enforcement Division may enforce subsections (A), (B), (C), (D), (E), or (J). The Department of Revenue must administer the provisions of subsection (E)(3) and the State Law Enforcement Division may enforce subsection (E)(3).

 (7) A violation of subsection (A), (B), (C), (D), or (J) is prima facie evidence of a violation of subsection (E)(3). The Department of Revenue is authorized to present evidence of a violation of subsection (A), (B), (C), (D), or (J) to establish the violation of subsection (E)(3). Evidence of compliance with a merchant tobacco enforcement education program is an affirmative defense to subsection (E)(3)(a) and (b).

 (F)(1)(a) A minor under the age of eighteen years must not present or offer proof of age that is false or fraudulent for the purpose of purchasing or possessing these products.

 (b) A minor under the age of eighteen years is prohibited from entering a tobacco retail establishment that has as its primary purpose the sale of tobacco products, unless the minor is actively supervised and accompanied by an adult.

 (c) The provisions of this subsection do not apply to a minor under the age of eighteen who is recruited and authorized by a law enforcement agency to test an establishment's compliance with laws relating to the unlawful transfer of tobacco products. The testing must be conducted under the direct supervision of a law enforcement agency, and the law enforcement agency must have the consent of a parent or legal guardian of the minor.

 (2) A minor who knowingly misrepresents his age to purchase or attempt to purchase a tobacco product commits a noncriminal offense and is subject to a civil fine of twenty‑five dollars.

 (3) In lieu of the civil fine, the court may require a minor to successfully complete a Department of Health and Environmental Control‑approved smoking cessation or tobacco prevention program, a South Carolina Department of Alcohol and other Drug Abuse Services tobacco prevention program, or to perform not more than five hours of community service for a charitable institution.

 (4) A violation of this subsection is not a criminal or delinquent offense and no criminal or delinquent record may be maintained. A minor may not be taken into custody, arrested, placed in jail or in any other secure facility, committed to the custody of the Department of Juvenile Justice, or found to be in contempt of court for a violation of this subsection or for the failure to pay a fine, successfully complete a smoking cessation or tobacco prevention program, or perform community service.

 (5) A violation of this subsection is not grounds for denying, suspending, or revoking an individual's participation in a state college or university financial assistance program including, but not limited to, a Life Scholarship, a Palmetto Fellows Scholarship, or a need‑based grant.

 (6) The uniform traffic ticket, established pursuant to Section 56‑7‑10, may be used by law enforcement officers for a violation of this subsection, including civil penalties and warnings. A violation of subsection (F) does not constitute a criminal offense. A law enforcement officer issuing a uniform traffic ticket pursuant to this subsection must immediately seize the tobacco product.

 (G) This section does not apply to the possession of a tobacco product by a minor working within the course and scope of his duties as an employee or participating within the course and scope of an authorized inspection or compliance check.

 (H) Jurisdiction to hear a violation of this section is vested exclusively in the municipal court and the magistrates court. A hearing pursuant to subsection (F) must be placed on the municipal or magistrates court's appropriate docket for traffic violations, and not on the court's docket for civil matters. For the purposes of contesting a tobacco retailer being fined or prohibited from selling or distributing tobacco products under subsection (E)(3), the jurisdiction is vested in the South Carolina Administrative Law Court.

 (I) A retail establishment must train all tobacco retail sales employees regarding the unlawful distribution of tobacco products to minors.

 (J)(1) A tobacco retail establishment that has as its primary purpose the sale of tobacco products must prohibit minors under the age of eighteen years from entering the tobacco retail establishment, unless the minor is actively supervised and accompanied by an adult, and shall determine whether a person is at least eighteen years by requiring proper proof of age in accordance with subsection (B), prior to the sale of a tobacco product.

 (2) A tobacco retail establishment described in item (1) must conspicuously post on all entrances to the establishment the following:

 (a) a sign in boldface type that states "NOTICE: It is unlawful for a person under eighteen years of age to enter this store, unless the minor is actively supervised and accompanied by an adult. Age will be verified prior to sale.";

 (b) a sign printed in letters and numbers at least one‑half inch high that displays a toll free number for assistance to callers in quitting smoking, as determined by the Department of Health and Environmental Control.

 (3) For purposes of this section, whether a tobacco retail establishment has as its primary purpose the sale of tobacco products must be based on the totality of the circumstances. Facts that must be considered, but not be limited to, are the tobacco retail establishment's business filings, business name and signage, marketing and other advertisements, and the percentage of revenue and inventory directly related to the sale of tobacco products.

 (K) Notwithstanding any other provision of law, a violation of this section does not violate the terms and conditions of an establishment's beer and wine permit and is not grounds for revocation or suspension of a beer and wine permit.

HISTORY: 1962 Code Section 16‑556; 1952 Code Section 16‑556; 1942 Code Section 1465; 1932 Code Section 1465; Cr. C. '22 Section 410; Cr. C. '12 Section 420; Cr. C. '02 Section 320; R. S. 267; 1889 (20) 321; 1996 Act No. 445, Section 3; 2006 Act No. 231, Section 2, eff six months after approval (approved February 21, 2006); 2013 Act No. 35, Section 1, eff June 7, 2013; 2019 Act No. 25 (H.3420), Sections 1, 6, eff April 26, 2019; 2023 Act No. 38 (H.3681), Section 5, eff August 14, 2023.

Editor's Note

2006 Act No. 231, Section 1, provides as follows:

"This act may be cited as the 'Youth Access to Tobacco Prevention Act of 2006'. "

2023 Act No. 38, Sections 1, 3 to 4, and 13, provide as follows:

"SECTION 1. This act may be cited as the 'Omnibus Tobacco Enforcement Act of 2023'."

"SECTION 3. Laws, ordinances, or rules enacted by political subdivisions of this State prior to December 31, 2020, pertaining to ingredients, flavors, or licensing, related to the sale of cigarettes, electronic smoking devices, e‑liquid, vapor products, tobacco products, or any other products containing nicotine that can be ingested into the body by chewing, smoking, absorbing, dissolving, inhaling, or by any means, and municipal code amendments to said laws, ordinances, or rules, are exempt from the preemption imposed by this act. Nothing in this act shall be construed to interfere with a political subdivision's authority to determine its own public‑use policies relating to any of the products referenced in this act.

"SECTION 4. Nothing in this act shall be construed to interfere with a political subdivision's authority under Chapter 29, Title 6, including, without limitation, with respect to land use regulation, land development regulation, zoning, or permitting."

"SECTION 13. This act takes effect ninety days after approval by the Governor except SECTION 2, SECTION 3, and SECTION 4 which take effect upon approval by the Governor."

Effect of Amendment

2019 Act No. 25, Section 1, amended (C), strengthening age verification requirements for the internet sale of tobacco and alternative nicotine products; rewrote (E)(1); amended (F)(1), prohibiting minors from entering retail establishments that primarily sell tobacco or alternative nicotine products, with exceptions; inserted (J) requiring tobacco retail establishments to prohibit minors from entering the establishment, and redesignated former (J) as (K).

2019 Act No. 25, Section 6, in (E), added (3), relating to prima facie evidence of a violation.

2023 Act No. 38, Section 5, rewrote the section.

**SECTION 16‑17‑501.** Definitions.

 As used in this section and Sections 16‑17‑500, 16‑17‑502, 16‑17‑503, 16‑17‑504, and 16‑17‑506:

 (1) "Distribute" means to sell, furnish, give, provide, or attempt to do so, whether gratuitously or for any type of compensation, tobacco products, including tobacco product samples, cigarette paper, or a substitute for them, to the ultimate consumer.

 (2) "Distribution" means the act of selling, furnishing, giving, providing, or attempting to do so, whether gratuitously or for any type of compensation, tobacco products, including tobacco product samples, cigarette paper, or a substitute for them, to the ultimate consumer.

 (3) "Electronic smoking device" means any device that may be used to deliver any aerosolized or vaporized substance, including e‑liquid, to the person inhaling from the device including, but not limited to, an e‑cigarette, e‑cigar, e‑pipe, vape pen, or e‑hookah. "Electronic smoking device" includes any component, part, or accessory of the device, and also includes any substance intended to be aerosolized or vaporized during the use of the device whether or not the substance includes nicotine. "Electronic smoking device" does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

 (4) "E‑liquid" means a substance that:

 (a) may or may not contain nicotine;

 (b) is intended to be vaporized and inhaled using an electronic smoking device; and

 (c) is a legal substance under the laws of this State and the laws of the United States.

 "E‑liquid" does not include cannabis or CBD as defined under the laws of this State and the laws of the United States unless it also contains nicotine.

 (5) "Proof of age" means a driver's license or identification card issued by this State or any other state or a United States Armed Services identification card.

 (6) "Sample" means a tobacco product distributed to members of the general public at no cost for the purpose of promoting the products.

 (7) "Sampling" means the distribution of samples to members of the general public in a public place.

 (8) "Tobacco product" means:

 (a) any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus;

 (b) any electronic smoking device as defined in this section and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or

 (c) any component, part, or accessory of subitem (a) or subitem (b), whether or not any of these contains tobacco or nicotine including, but not limited to, filters, rolling papers, blunt or hemp wraps, and pipes. Tobacco product does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

 (9) "Tobacco retail establishment" means any place of business where tobacco products are available for sale to the general public. The term includes, but is not limited to, grocery stores, tobacco product shops, kiosks, convenience stores, gasoline service stations, bars, and restaurants.

 (10) "Tobacco retailer" means any person, partnership, joint venture, society, club, trustee, trust association, organization, or corporation who owns, operates, or manages any tobacco retail establishment. Tobacco retailer does not mean the nonmanagement employees of any tobacco retail establishment.

HISTORY: 1996 Act No. 445, Section 2; 2006 Act No. 231, Section 3, eff six months after approval (approved February 21, 2006); 2013 Act No. 35, Section 2, eff June 7, 2013; 2019 Act No. 25 (H.3420), Sections 2.A to 2.D, eff April 26, 2019; 2023 Act No. 38 (H.3681), Section 6, eff August 14, 2023.

Editor's Note

2023 Act No. 38, Sections 1, 3 to 4, and 13, provide as follows:

"SECTION 1. This act may be cited as the 'Omnibus Tobacco Enforcement Act of 2023'."

"SECTION 3. Laws, ordinances, or rules enacted by political subdivisions of this State prior to December 31, 2020, pertaining to ingredients, flavors, or licensing, related to the sale of cigarettes, electronic smoking devices, e‑liquid, vapor products, tobacco products, or any other products containing nicotine that can be ingested into the body by chewing, smoking, absorbing, dissolving, inhaling, or by any means, and municipal code amendments to said laws, ordinances, or rules, are exempt from the preemption imposed by this act. Nothing in this act shall be construed to interfere with a political subdivision's authority to determine its own public‑use policies relating to any of the products referenced in this act.

"SECTION 4. Nothing in this act shall be construed to interfere with a political subdivision's authority under Chapter 29, Title 6, including, without limitation, with respect to land use regulation, land development regulation, zoning, or permitting."

"SECTION 13. This act takes effect ninety days after approval by the Governor except SECTION 2, SECTION 3, and SECTION 4 which take effect upon approval by the Governor."

Effect of Amendment

2019 Act No. 25, Section 2.A, in the undesignated paragraph, inserted "16‑17‑500,".

2019 Act No. 25, Section 2.B, in (6), in the first sentence, substituted "any vaping product, whether or not it includes nicotine, including electronic smoking devices," for "a product, including electronic cigarettes, that consists of or contains nicotine".

2019 Act No. 25, Section 2.C, rewrote (7), which had related to the definition of "electronic cigarette".

2019 Act No. 25, Section 2.D, added (8) and (9), relating to the definitions of "e‑liquid" and "vapor product".

2023 Act No. 38, Section 6, rewrote the section.

**SECTION 16‑17‑502.** Distribution of tobacco product samples.

 (A) It is unlawful for a person to distribute a tobacco product sample to a person under the age of eighteen years.

 (B) A person engaged in sampling shall demand proof of age from a prospective recipient if an ordinary person would conclude on the basis of appearance that the prospective recipient may be under the age of eighteen years.

 (C) A person violating this section is subject to the penalties set forth in Section 16‑17‑500(E).

 (D) A tobacco retail establishment violating this section is subject to administrative penalties as provided in Section 16‑17‑500(E)(3).

HISTORY: 1996 Act No. 445, Section 2; 2013 Act No. 35, Section 3, eff June 7, 2013; 2023 Act No. 38 (H.3681), Section 7, eff August 14, 2023.

Editor's Note

2023 Act No. 38, Sections 1, 3 to 4, and 13, provide as follows:

"SECTION 1. This act may be cited as the 'Omnibus Tobacco Enforcement Act of 2023'."

"SECTION 3. Laws, ordinances, or rules enacted by political subdivisions of this State prior to December 31, 2020, pertaining to ingredients, flavors, or licensing, related to the sale of cigarettes, electronic smoking devices, e‑liquid, vapor products, tobacco products, or any other products containing nicotine that can be ingested into the body by chewing, smoking, absorbing, dissolving, inhaling, or by any means, and municipal code amendments to said laws, ordinances, or rules, are exempt from the preemption imposed by this act. Nothing in this act shall be construed to interfere with a political subdivision's authority to determine its own public‑use policies relating to any of the products referenced in this act.

"SECTION 4. Nothing in this act shall be construed to interfere with a political subdivision's authority under Chapter 29, Title 6, including, without limitation, with respect to land use regulation, land development regulation, zoning, or permitting."

"SECTION 13. This act takes effect ninety days after approval by the Governor except SECTION 2, SECTION 3, and SECTION 4 which take effect upon approval by the Governor."

Effect of Amendment

2023 Act No. 38, Section 7, in (A), deleted "or an alternative nicotine product" following "tobacco product"; rewrote (C); and added (D).

**SECTION 16‑17‑503.** Enforcement; reporting requirements.

 (A) The State Law Enforcement Division may conduct unannounced compliance checks for violations of Sections 16‑17‑500, 16‑17‑502, and 16‑17‑506. A person under the age of eighteen may be recruited and authorized by the State Law Enforcement Division to test the tobacco retail establishment's compliance with Sections 16‑17‑500, 16‑17 502, and 16‑17‑506. The testing must be under direct supervision of a law enforcement agency and with the consent of the person's parent or guardian. The State Law Enforcement Division must notify the Department of Revenue of violations under Section 16‑17‑500(E)(3). The results of compliance checks resulting in a tobacco retailer being prohibited from selling or distributing tobacco products must be published by the Department of Revenue annually and made available to the public upon request. Penalties collected pursuant to Sections 16‑17‑500, 16‑17‑502 and 16‑17‑506 must be used to offset the costs of enforcement.

 (B) The Director of the South Carolina Department of Alcohol and Other Drug Abuse Services shall conduct random, unannounced inspections at locations where tobacco products are sold and at locations that have notified the Department of Revenue under Section 12‑36‑511 that the tobacco retailer sells or distributes tobacco products. A person under the age of twenty‑one may be recruited and authorized by a law enforcement agency on behalf of the Department of Alcohol and Other Drug Abuse Services to test a tobacco retail establishment's compliance with federal laws relating to the unlawful sale of tobacco to minors for the purposes of federal reporting requirements. The Director of South Carolina Department of Alcohol and Other Drug Abuse Services shall provide for the preparation of and submission annually to the Secretary of the United States Department of Health and Human Services the report required by Section 1926 of the federal Public Health Service Act (42 U.S.C. 300x‑26) and otherwise is responsible for ensuring the state's compliance with that provision of federal law and implementing regulations promulgated by the United States Department of Health and Human Services.

HISTORY: 1996 Act No. 445; 2013 Act No. 35, Section 4, eff June 7, 2013; 2023 Act No. 38 (H.3681), Section 8, eff August 14, 2023.

Editor's Note

2023 Act No. 38, Sections 1, 3 to 4, and 13, provide as follows:

"SECTION 1. This act may be cited as the 'Omnibus Tobacco Enforcement Act of 2023'."

"SECTION 3. Laws, ordinances, or rules enacted by political subdivisions of this State prior to December 31, 2020, pertaining to ingredients, flavors, or licensing, related to the sale of cigarettes, electronic smoking devices, e‑liquid, vapor products, tobacco products, or any other products containing nicotine that can be ingested into the body by chewing, smoking, absorbing, dissolving, inhaling, or by any means, and municipal code amendments to said laws, ordinances, or rules, are exempt from the preemption imposed by this act. Nothing in this act shall be construed to interfere with a political subdivision's authority to determine its own public‑use policies relating to any of the products referenced in this act.

"SECTION 4. Nothing in this act shall be construed to interfere with a political subdivision's authority under Chapter 29, Title 6, including, without limitation, with respect to land use regulation, land development regulation, zoning, or permitting."

"SECTION 13. This act takes effect ninety days after approval by the Governor except SECTION 2, SECTION 3, and SECTION 4 which take effect upon approval by the Governor."

Effect of Amendment

2023 Act No. 38, Section 8, rewrote the section.

**SECTION 16‑17‑504.** Implementation; local laws.

 (A) Sections 16‑17‑500, 16‑17‑502, 16‑17‑503, and 16‑17‑506 must be enforced to ensure the eligibility for and receipt of federal funds or grants the State receives or may receive relating to the sections. Any laws, ordinances, or rules enacted pertaining to tobacco products may not supersede state law or regulation. Nothing in this section affects the right of any person having ownership or otherwise controlling private property to allow or prohibit the use of tobacco products on the property.

 (B) Smoking ordinances in effect before the effective date of this act are exempt from the requirements of subsection (A).

HISTORY: 1996 Act No. 445, Section 2; 2013 Act No. 35, Section 5, eff June 7, 2013; 2023 Act No. 38 (H.3681), Section 9, eff August 14, 2023.

Editor's Note

2023 Act No. 38, Sections 1, 3 to 4, and 13, provide as follows:

"SECTION 1. This act may be cited as the 'Omnibus Tobacco Enforcement Act of 2023'."

"SECTION 3. Laws, ordinances, or rules enacted by political subdivisions of this State prior to December 31, 2020, pertaining to ingredients, flavors, or licensing, related to the sale of cigarettes, electronic smoking devices, e‑liquid, vapor products, tobacco products, or any other products containing nicotine that can be ingested into the body by chewing, smoking, absorbing, dissolving, inhaling, or by any means, and municipal code amendments to said laws, ordinances, or rules, are exempt from the preemption imposed by this act. Nothing in this act shall be construed to interfere with a political subdivision's authority to determine its own public‑use policies relating to any of the products referenced in this act.

"SECTION 4. Nothing in this act shall be construed to interfere with a political subdivision's authority under Chapter 29, Title 6, including, without limitation, with respect to land use regulation, land development regulation, zoning, or permitting."

"SECTION 13. This act takes effect ninety days after approval by the Governor except SECTION 2, SECTION 3, and SECTION 4 which take effect upon approval by the Governor."

Effect of Amendment

2023 Act No. 38, Section 9, in (A), in the first sentence, substituted "16‑17‑503, and 16‑17‑506 must be" for "and 16‑17‑503 must be implemented in an equitable and uniform manner throughout the State and", and in the second and third sentences, deleted "or alternative nicotine products" following "tobacco products".

**SECTION 16‑17‑505.** Cigarette packages violating certain federal laws; illegal sale or distribution; penalties; seizure.

 (1) For purposes of this section, "package" means a pack, carton, or container of any kind in which cigarettes are offered for sale, sold, or otherwise distributed, or intended for distribution to consumers.

 (2) It is unlawful to sell, hold for sale, or distribute a package of cigarettes if:

 (a) the package differs in any respect with the requirements of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1331, for the placement of labels, warnings, or any other information upon a package of cigarettes that is to be sold within the United States;

 (b) the package is labeled "For Export Only", "U.S. Tax Exempt", "For Use Outside U.S.", or similar wording indicating that the manufacturer did not intend that the product be sold in the United States;

 (c) the package, or a package containing individually stamped packages, has been altered by adding or deleting the wording, labels, or warnings described in (a) or (b) of this subsection;

 (d) the package has been imported into the United States after January 1, 2000, in violation of 26 U.S.C. 5754; or

 (e) the package in any way violates federal trademark or copyright laws.

 (3) A person who knowingly sells, holds for sale, or distributes cigarette packages in violation of subsection (2) is guilty of a misdemeanor and, upon conviction, shall be imprisoned for not more than three years or fined not more than one thousand dollars, or both.

 (4) In addition to the other penalties provided by law, law enforcement may seize and destroy or sell to the manufacturer, for export only, any packages described in subsection (2).

HISTORY: 1999 Act No. 92, Section 1.

**SECTION 16‑17‑506.** Sale of e‑liquid containers; restrictions.

 (A) For purposes of this section, "container" means a bottle or other container of any kind that contains e‑liquid and is offered for sale, sold, or otherwise distributed, or intended for distribution to consumers, but that does not include a cartridge that is prefilled and sealed by the manufacturer and not intended to be opened by the customer.

 (B) It is unlawful to sell, hold for sale, or distribute a container of e‑liquid unless:

 (1) the container satisfies the requirements of 21 C.F.R. 1143.3, if applicable, for the placement of labels, warnings, or any other information upon a package of e‑liquid that is to be sold within the United States;

 (2) the container complies with child‑resistant effectiveness standards under 16 C.F.R. 1700.15(b)(1) when tested in accordance with the requirements of 16 C.F.R. 1700.20; and

 (3) the container complies with federal trademark or copyright laws.

 (C) A person who knowingly sells, holds for sale, or distributes e‑liquid containers in violation of subsection (B) is guilty of a misdemeanor and, upon conviction, must be imprisoned for not more than three years or fined not more than one thousand dollars, or both.

 (D) In addition to the other penalties provided by law, law enforcement may seize and destroy or sell to the manufacturer, for export only, any containers in violation of this section.

 (E) Any tobacco retailer or tobacco retail establishment that permits an employee to violate or knowingly violates subsection (B) is subject to the penalties in Section 16‑17‑500(E)(3).

HISTORY: 2019 Act No. 25 (H.3420), Section 5, eff April 26, 2019; 2023 Act No. 38 (H.3681), Section 10, eff August 14, 2023.

Editor's Note

2023 Act No. 38, Sections 1, 3 to 4, and 13, provide as follows:

"SECTION 1. This act may be cited as the 'Omnibus Tobacco Enforcement Act of 2023'."

"SECTION 3. Laws, ordinances, or rules enacted by political subdivisions of this State prior to December 31, 2020, pertaining to ingredients, flavors, or licensing, related to the sale of cigarettes, electronic smoking devices, e‑liquid, vapor products, tobacco products, or any other products containing nicotine that can be ingested into the body by chewing, smoking, absorbing, dissolving, inhaling, or by any means, and municipal code amendments to said laws, ordinances, or rules, are exempt from the preemption imposed by this act. Nothing in this act shall be construed to interfere with a political subdivision's authority to determine its own public‑use policies relating to any of the products referenced in this act.

"SECTION 4. Nothing in this act shall be construed to interfere with a political subdivision's authority under Chapter 29, Title 6, including, without limitation, with respect to land use regulation, land development regulation, zoning, or permitting."

"SECTION 13. This act takes effect ninety days after approval by the Governor except SECTION 2, SECTION 3, and SECTION 4 which take effect upon approval by the Governor."

Effect of Amendment

2023 Act No. 38, Section 10, redesignated (1) to (4) as (A) to (D), respectively; in (B), redesignated (a) to (c) as (1) to (3); in (C), substituted "subsection (B)" for "subsection (2)" and "must be imprisoned" for "shall be imprisoned"; and added (E).

**SECTION 16‑17‑510.** Enticing enrolled child from attendance in school.

 It is unlawful for a person to encourage, entice, or conspire to encourage or entice a child enrolled in any public or private elementary or secondary school of this State from attendance in the school or school program or transport or provide transportation in aid to encourage or entice a child from attendance in any public or private elementary or secondary school or school program.

 A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than two years, or both. Notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, and 22‑3‑550, a first or second offense must be tried exclusively in magistrate's court. Third and subsequent offenses must be tried in the court of general sessions.

HISTORY: 1962 Code Section 16‑556.1; 1969 (56) 320; 1993 Act No. 184, Section 185; 1998 Act No. 352, Section 1.

**SECTION 16‑17‑520.** Disturbance of religious worship.

 Any person who shall (a) wilfully and maliciously disturb or interrupt any meeting, society, assembly or congregation convened for the purpose of religious worship, (b) enter such meeting while in a state of intoxication or (c) use or sell spirituous liquors, or use blasphemous, profane or obscene language at or near the place of meeting shall be guilty of a misdemeanor and shall, on conviction, be sentenced to pay a fine of not less than twenty nor more than one hundred dollars, or be imprisoned for a term not exceeding one year or less than thirty days, either or both, at the discretion of the court.

HISTORY: 1962 Code Section 16‑557; 1952 Code Section 16‑557; 1942 Code Section 1736; 1932 Code Section 1736; Cr. C. '22 Section 718; Cr. C. '12 Section 703; Cr. C. '02 Section 505; G. S. 1635; R. S. 390; 1873 (15) 352; 1894 (21) 824; 1897 (22) 409.

**SECTION 16‑17‑525.** Wilfully, knowingly or maliciously disturbing funeral service; penalties.

 (A) It is unlawful for a person to wilfully, knowingly, or maliciously disturb or interrupt a funeral service. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, shall be fined not more than five hundred dollars or imprisoned not more than thirty days. This subsection applies to a wilful, knowing, or malicious disturbance or interruption within:

 (1) one thousand feet of the funeral service; and

 (2) a time period of one‑half hour before the funeral service until one‑ half hour after the funeral service.

 (B) It is unlawful for a person to undertake an activity at a public or privately owned cemetery, other than the decorous participation in a funeral service or visitation of a burial space, without the prior written approval of the public or private owner. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned not more than thirty days.

 (C) For purposes of this section, "funeral service" means any ceremony, procession, or memorial held in connection with the memorialization, burial, cremation, or other disposition of a deceased person's body.

HISTORY: 2006 Act No. 391, Section 1, eff June 14, 2006.

**SECTION 16‑17‑530.** Public disorderly conduct; conditional discharge for first‑time offenders.

 (A) A person who is: (1) found on any highway or at any public place or public gathering in a grossly intoxicated condition or otherwise conducts himself in a disorderly or boisterous manner; (2) uses obscene or profane language on any highway or at any public place or gathering or in hearing distance of any schoolhouse or church; or (3) while under the influence or feigning to be under the influence of intoxicating liquor, without just cause or excuse, discharges any gun, pistol, or other firearm while upon or within fifty yards of any public road or highway, except upon his own premises, is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or be imprisoned for not more than thirty days. However, conditional discharge may be granted by the court in accordance with the provisions of this section upon approval by the circuit solicitor.

 (B) When a person who has not previously been convicted of an offense pursuant to this section or any similar offense under any state or federal statute relating to drunk or disorderly conduct pleads guilty to or is found guilty of a violation of this section, the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions as it requires, including the requirement that the person cooperate in a treatment and rehabilitation program of a state‑supported facility, if available. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal pursuant to this section is without court adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. However, a nonpublic record must be forwarded to and retained by the South Carolina Law Enforcement Division solely for the purpose of use by the courts in determining whether or not a person has committed a subsequent offense pursuant to this section. Discharge and dismissal pursuant to this section may occur only once with respect to any person.

 (C) Upon the dismissal of the person and discharge of the proceedings against him pursuant to subsection (B), the person may apply to the court for an order to expunge from all official records (other than the nonpublic records to be retained as provided in subsection (B)) all recordation relating to his arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. If the court determines, after a hearing, that the person was dismissed and the proceedings against him discharged, it shall enter the order. The effect of the order is to restore the person, in the contemplation of the law, to the status he occupied before the arrest or indictment or information. No person as to whom the order has been entered may be held pursuant to another provision of law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge the arrest, or indictment or information, or trial in response to an inquiry made of him for any purpose.

 (D) Before a person may be discharged and the proceedings dismissed pursuant to this section, the person must pay a fee to the summary court of one hundred fifty dollars. No portion of the fee may be waived, reduced, or suspended, except in cases of indigency. If the court determines that a person is indigent, the court may partially or totally waive, reduce, or suspend the fee. The revenue collected pursuant to this subsection must be retained by the jurisdiction that heard or processed the case and paid to the State Treasurer within thirty days of receipt. The State Treasurer shall transmit these funds to the Prosecution Coordination Commission which shall then apportion these funds among the sixteen judicial circuits on a per capita basis equal to the population in that circuit compared to the population of the State as a whole based on the most recent official United States census. The funds must be used for drug treatment court programs only. The amounts generated by this subsection are in addition to any amounts presently being provided for drug treatment court programs and may not be used to supplant funding already allocated for these services. The State Treasurer may request the State Auditor to examine the financial records of a jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer pursuant to this subsection. The State Auditor is further authorized to conduct these examinations and the local jurisdiction is required to participate in and cooperate fully with the examination.

HISTORY: 1962 Code Section 16‑558; 1952 Code Section 16‑558; 1949 (46) 466; 1968 (55) 2842; 1969 (56) 153; 2019 Act No. 90 (H.3601), Section 1, eff June 25, 2019.

Validity

For the validity of the prior version of this section, see Kenny v. Wilson, 566 F. Supp.3d 447 (D.S.C. Oct. 8, 2021).

Effect of Amendment

2019 Act No. 90, Section 1, rewrote the section, providing procedures for conditional discharge for first‑time offenders.

**SECTION 16‑17‑540.** Bribery with respect to agents, servants or employees.

 Any:

 (1) Person who corruptly gives, offers or promises to an agent, employee or servant any gift or gratuity whatever, with intent to influence his action in relation to his principal's, employer's or master's business;

 (2) Agent, employee or servant who corruptly requests or accepts a gift or gratuity or a promise to make a gift or to do an act beneficial to himself under an agreement or with an understanding that he shall act in any particular manner in relation to his principal's, employer's or master's business;

 (3) Agent, employee or servant who, being authorized to procure materials, supplies or other articles, either by purchase or contract for his principal, employer or master, receives, directly or indirectly, for himself or for another, a commission, discount or bonus from the person who makes such sale or contract or furnishes such materials, supplies or other articles or from a person who renders such service or labor; and

 (4) Person who gives or offers such an agent, employee or servant such commission, discount or bonus;

 Shall be punished by a fine of not more than five hundred dollars or by such fine and by imprisonment for not more than one year.

HISTORY: 1962 Code Section 16‑570; 1952 Code Section 16‑570; 1942 Code Section 1236; 1932 Code Section 1236; Cr. C. '22 Section 132; Cr. C. '12 Section 277; 1905 (24) 942.

**SECTION 16‑17‑550.** Bribery of athletes and athletic officials.

 (1) Unlawful to bribe athletes or athletic officials or to accept such bribes. —It shall be unlawful to bribe or offer to bribe any player, manager, coach, referee, umpire or any other participant or official of any athletic contest with intent to influence the play, action, conduct, or decision of any such person or for any such person to accept or agree to accept such bribe or offer for the purpose of losing, trying to lose or trying to limit the margin of victory or defeat in any athletic contest or to aid or abet or assist in any manner whatsoever in any such bribe.

 (2) Section to be cumulative to other laws. —This section shall not be construed as repealing or modifying any other provisions of law but shall be cumulative to such other provisions of law.

 (3) Penalties. —Any person violating the provisions of this section shall be guilty of a felony and upon conviction shall be fined not more than ten thousand dollars or be imprisoned for not more than ten years or both in the discretion of the court.

HISTORY: 1962 Code Section 16‑570.1; 1962 (52) 1732.

**SECTION 16‑17‑560.** Assault or intimidation on account of political opinions or exercise of civil rights.

 It is unlawful for a person to assault or intimidate a citizen, discharge a citizen from employment or occupation, or eject a citizen from a rented house, land, or other property because of political opinions or the exercise of political rights and privileges guaranteed to every citizen by the Constitution and laws of the United States or by the Constitution and laws of this State.

 A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than two years, or both.

HISTORY: 1962 Code Section 16‑559; 1952 Code Section 16‑559; 1950 (46) 2059; 1993 Act No. 184, Section 186.

**SECTION 16‑17‑570.** Interference with fire and police alarm boxes; giving false alarms.

 Any person who shall wilfully, maliciously or mischievously interfere with, cut or injure any pole, wire, insulator or alarm box, give a false alarm from such box or by use of a telephone or break the glass in such box of any fire or police alarm system in this State or any of the appliances or apparatus connected therewith shall be guilty of a misdemeanor and, upon conviction, shall be sentenced to hard labor in the State Penitentiary or on the chain gang in a county having a chain gang for a term of not less than sixty days or the payment of a fine of not more than two hundred dollars.

HISTORY: 1962 Code Section 16‑560; 1952 Code Section 16‑560; 1942 Code Section 1164; 1932 Code Section 1164; Cr. C. '22 Section 57; Cr. C. '12 Section 194; Cr. C. '02 Section 156; R. S. 152; 1888 (20) 8; 1904 (24) 382; 1931 (37) 37; 1980 Act No. 468.

**SECTION 16‑17‑580.** Removing State line marks.

 Any person who shall deface, disturb or remove any granite post or marking, whether wood, stone or metal, duly placed by competent authority on the State line of this State shall be deemed guilty of a misdemeanor and, on conviction, shall be fined not less than one hundred dollars or imprisoned not less than six months.

HISTORY: 1962 Code Section 16‑561; 1952 Code Section 16‑561; 1942 Code Section 1251; 1932 Code Section 1251; Cr. C. '22 Section 145; Cr. C. '12 Section 291; 1906 (25) 63.

**SECTION 16‑17‑600.** Destruction or desecration of human remains or repositories; liability of crematory operators; penalties.

 (A) It is unlawful for a person wilfully and knowingly, and without proper legal authority to:

 (1) destroy or damage the remains of a deceased human being;

 (2) remove a portion of the remains of a deceased human being from a burial ground where human skeletal remains are buried, a grave, crypt, vault, mausoleum, Native American burial ground or burial mound, or other repository; or

 (3) desecrate human remains.

 A person violating the provisions of subsection (A) is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not less than one year nor more than ten years, or both.

 A crematory operator is neither civilly nor criminally liable for cremating a body which (1) has been incorrectly identified by the funeral director, coroner, medical examiner, or person authorized by law to bring the deceased to the crematory; or (2) the funeral director has obtained invalid authorization to cremate. This immunity does not apply to a crematory operator who knew or should have known that the body was incorrectly identified.

 (B) It is unlawful for a person wilfully and knowingly, and without proper legal authority to:

 (1) obliterate, vandalize, or desecrate a burial ground where human skeletal remains are buried, a grave, graveyard, tomb, mausoleum, Native American burial ground or burial mound, or other repository of human remains;

 (2) deface, vandalize, injure, or remove a gravestone or other memorial monument or marker commemorating a deceased person or group of persons, whether located within or outside of a recognized cemetery, Native American burial ground or burial mound, memorial park, or battlefield; or

 (3) obliterate, vandalize, or desecrate a park, Native American burial ground or burial mound, or other area clearly designated to preserve and perpetuate the memory of a deceased person or group of persons.

 A person violating the provisions of subsection (B) is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than five thousand dollars, or both.

 (C)(1) It is unlawful for a person wilfully and knowingly to steal anything of value located upon or around a repository for human remains or within a human graveyard, cemetery, Native American burial ground or burial mound, or memorial park, or for a person wilfully, knowingly, and without proper legal authority to destroy, tear down, or injure any fencing, plants, trees, shrubs, or flowers located upon or around a repository for human remains, or within a human graveyard, cemetery, Native American burial ground or burial mound, or memorial park.

 (2) A person violating the provisions of item (1) is guilty of:

 (a) a felony and, upon conviction, if the theft of, destruction to, injury to, or loss of property is valued at four hundred dollars or more, must be fined not more than five thousand dollars or imprisoned not more than five years, or both, and must be required to perform not more than five hundred hours of community service;

 (b) a misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the theft of, destruction to, injury to, or loss of property is valued at less than four hundred dollars. Upon conviction, a person must be fined not more than one thousand dollars, or imprisoned not more than thirty days, or both, and must be required to perform not more than two hundred fifty hours of community service.

 (D) A person who owns or has an interest in caring for the property, in the case of private lands, or the State, in the case of state lands, may bring a civil action for a violation of this section to recover damages, and the cost of restoration and repair of the property, plus attorney's fees and court costs.

HISTORY: 1962 Code Section 16‑563; 1952 Code Section 16‑563; 1942 Code Section 1266; 1932 Code Section 1266; Cr. C. '22 Section 161; Cr. C. '12 Section 246; Cr. C. '02 Section 230; 1899 (23) 98; 1938 (40) 1576; 1989 Act No. 74, Section 1; 1993 Act No. 184, Section 37; 1998 Act No. 307, Section 1; 2004 Act No. 229, Section 1, eff May 11, 2004; 2010 Act No. 273, Section 16.W, eff June 2, 2010; 2010 Act No. 255, Section 2, eff June 11, 2010.

**SECTION 16‑17‑610.** Soliciting emigrants without licenses.

 No person other than the South Carolina Department of Employment and Workforce shall carry on the business of emigrant agent in this State without having first obtained a license therefor from the State Treasurer and the county treasurer of each county in which he solicits emigrants. The term "emigrant agent," as used in this section, shall be construed to mean any person engaged in hiring laborers or soliciting emigrants in this State to be employed beyond the limits of the State. Any person shall be entitled to State and county licenses, which shall be good for one year, upon payment into the State Treasury for the use of the State of five hundred dollars for each county in which he operates or solicits emigrants for each year so engaged and upon payment into the county treasury of each county in which he operates or solicits emigrants, for the use of each such county, of two thousand dollars for each year so engaged. Any person other than the South Carolina Department of Employment and Workforce doing business as an emigrant agent without having first obtained each such license shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than five hundred dollars in case of failure to obtain a State license and one thousand dollars in case of failure to obtain a county license and not more than five thousand dollars in either such case or may be imprisoned in the county jail or, in case of failure to obtain a county license, upon the public works not less than four months or confined in the State Prison, at hard labor, not exceeding two years for each and every offense, within the discretion of the court.

HISTORY: 1962 Code Section 16‑564; 1952 Code Section 16‑564; 1942 Code Sections 1377, 1378; 1932 Code Sections 1377, 1378; Cr. C. '22 Sections 308, 309; Cr. C. '12 Sections 895, 896; Cr. C. '02 Section 608; R. S. 488; 1891 (20) 1084; 1893 (21) 429; 1898 (22) 812; 1907 (25) 543; 1949 (46) 415, 417; 1954 (48) 1415.

**SECTION 16‑17‑620.** Exemption of solicitors of farm laborers to work in adjacent states.

 The provisions of Section 16‑17‑610 shall not be applicable to any person soliciting or hiring laborers in this State to be employed in agricultural work in any state bordering on this State when such adjacent state places no limitation on the solicitation or employment of farm labor by South Carolina employers.

HISTORY: 1962 Code Section 16‑564.1; 1954 (48) 1415.

**SECTION 16‑17‑630.** Exemption of solicitors of household or domestic employees.

 Notwithstanding the provisions of Section 16‑17‑610 it shall be lawful for any person to solicit without a license household or domestic employees for out‑of‑State employment.

HISTORY: 1962 Code Section 16‑564.2; 1958 (50) 1928.

**SECTION 16‑17‑640.** Blackmail.

 Any person who verbally or by printing or writing or by electronic communications:

 (1) accuses another of a crime or offense;

 (2) exposes or publishes any of another's personal or business acts, infirmities, or failings; or

 (3) compels any person to do any act, or to refrain from doing any lawful act, against his will;

with intent to extort money or any other thing of value from any person, or attempts or threatens to do any of such acts, with the intent to extort money or any other thing of value, shall be guilty of blackmail and, upon conviction, shall be fined not more than five thousand dollars or imprisoned for not more than ten years, or both, in the discretion of the court.

HISTORY: 1962 Code Section 16‑566.1; 1957 (50) 191; 2001 Act No. 81, Section 15.

**SECTION 16‑17‑650.** Cockfighting.

 (A) A person who engages in or is present at cockfighting or game fowl fighting or illegal game fowl testing is guilty of a:

 (1) misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year for a first offense; or

 (2) misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned not more than three years for a second or subsequent offense.

 (B) For purposes of this section, "illegal game fowl testing" means allowing game fowl to engage in physical combat:

 (1) with or without spurs or other artificial items while in the presence of more than five spectators;

 (2) under any circumstances while employing spurs or other artificial items or with the injection or application of a stimulant substance; or

 (3) for purposes of or in the presence of wagering or gambling.

 (C) A person who violates the provisions of subsection (A)(1) must be tried exclusively in summary court.

 (D) A person who violates the provisions of subsection (A)(2) is subject to the forfeiture of monies, negotiable instruments, and securities specifically gained or used to engage in or further a violation of this section pursuant to Section 16‑27‑55.

 (E) All game fowl breeders and game fowl breeder testing facilities must comply with the Department of Health and Environmental Control and the State Veterinarian's regulations, policies, and procedures regarding avian influenza preparedness and testing. In the event of an avian influenza outbreak in South Carolina, all game fowl breeders and game fowl breeder testing facilities must allow the Department of Health and Environmental Control and the State Veterinarian to conduct avian influenza testing of all game fowl.

HISTORY: 1962 Code Section 16‑567; 1952 Code Section 16‑567; 1942 Code Section 1445; 1932 Code Section 1445; Cr. C. '22 Section 386; Cr. C. '12 Section 393; Cr. C. '02 Section 298; R. S. 257; 1887 (19) 801; 1917 (30) 47; 2006 Act No. 345, Section 1, eff June 12, 2006.

**SECTION 16‑17‑660.** Using dry wells for sewerage in towns of 500 or over.

 It shall be a misdemeanor for any person to keep, maintain or use a dry well or other wells or privy vaults into which sewerage matter is discharged or received in any city, town or village having a population of not less than five hundred, whether incorporated or unincorporated, when such city, town or village has no public general supply of water for personal and domestic uses. Any person who now has or maintains any such well for the discharge or reception of sewerage matter shall, upon fifteen days' notice from any magistrate that complaint thereof has been made, close up such well and discontinue its use entirely. Any person found guilty of violating this section shall be fined not exceeding one hundred dollars or imprisoned for not exceeding thirty days.

HISTORY: 1962 Code Section 16‑568; 1952 Code Section 16‑568; 1942 Code Section 1488; 1932 Code Section 1488; Cr. C. '22 Section 432; Cr. C. '12 Section 442; 1908 (25) 1117; 1910 (26) 630.

**SECTION 16‑17‑670.** Record kept by dealers in crossties.

 Any person within this State dealing in crossties shall keep a book of record which shall be open to the public and in which shall be legibly written the name of the party or parties from whom crossties are purchased, the number of crossties purchased and the lands or premises from which such crossties are cut or harvested. Any person violating the terms of this section shall be subject to a fine of twenty‑five dollars for each offense.

HISTORY: 1962 Code Section 16‑571; 1952 Code Section 16‑571; 1942 Code Section 1350; 1932 Code Section 1350; Cr. C. '22 Section 238; 1918 (30) 701.

**SECTION 16‑17‑680.** Secondary metals recycler permit to purchase nonferrous metals; permit to transport and sell nonferrous metals; violations; penalties; catalytic converters; records; notice; preemption.

 (A) For purposes of this section:

 (1) "Coil" means a copper, aluminum, or aluminum‑copper condensing coil or evaporation coil. The term includes, but is not limited to, coil from a commercial or residential heating or air‑conditioning system. The term does not include coil from a window air‑conditioning system, if the coil is contained within the system, or coil from an automobile condenser.

 (2) "Fixed site" means a site occupied by a secondary metals recycler as the owner of the site or as a lessee of the site under a lease or other rental agreement providing for occupation of the site by a secondary metals recycler for a total duration of not less than three hundred sixty‑four days.

 (3) "Nonferrous metals" means metals not containing significant quantities of iron or steel, including, but not limited to, copper wire, cooper clad steel wire, copper pipe, copper bars, copper sheeting, aluminum other than aluminum cans, a product that is a mixture of aluminum and copper, catalytic converters, lead‑acid batteries, steel propane gas tanks, and stainless steel beer kegs or containers.

 (4) "Secondary metals recycler" means a person or entity who is engaged, from a fixed site or otherwise, in the business of paying compensation for nonferrous metals that have served their original economic purpose, whether or not the person is engaged in the business of performing the manufacturing process by which nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value.

 (B)(1) A secondary metals recycler shall obtain a permit to purchase nonferrous metals. A secondary metals recycler's employee is not required to obtain a separate permit to purchase nonferrous metals provided that the employee is acting within the scope and duties of their employment with the secondary metals recycler. A secondary metals recycler's employee who intends to purchase nonferrous metals on behalf of the secondary metals recycler at a location other than a fixed site shall have a copy of the secondary metals recycler's permit readily available for inspection.

 (2) If a secondary metals recycler intends to purchase nonferrous metals at a fixed site or fixed sites, the secondary metals recycler shall obtain a permit from the sheriff of the county in which each of the secondary metals recycler's fixed sites are located. The sheriff may issue the permit to the secondary metals recycler, if the secondary metals recycler:

 (a) has a fixed site or fixed sites located in the sheriff's county;

 (b) has not been convicted of a violation of Section 16‑11‑523 or this section; and

 (c) declares on an application provided by the sheriff that the secondary metals recycler is informed of and will comply with the provisions of this section.

 (3) If a secondary metals recycler intends to purchase nonferrous metals at a location other than a fixed site, the secondary metals recycler shall obtain a permit from the sheriff of each county in which the secondary metals recycler intends to purchase nonferrous metals. The sheriff may issue the permit to the secondary metals recycler if the secondary metals recycler:

 (a) can sufficiently demonstrate to the sheriff the secondary metals recycler's ability to comply with the provisions of this section;

 (b) has not been convicted of a violation of Section 16‑11‑523 or this section; and

 (c) declares on an application provided by the sheriff that the secondary metals recycler is informed of and will comply with the provisions of this section.

 (4) The South Carolina Law Enforcement Division shall develop the application and permit in consultation with the state's sheriffs and representatives from the secondary metals recyclers' industry.

 (5) A sheriff may investigate a secondary metals recycler's background prior to issuing a permit for purposes of determining if the secondary metals recycler qualifies to be issued a permit.

 (6) A sheriff may charge and retain a two hundred dollar fee for each permit.

 (7) A sheriff shall keep a record of all permits issued containing, at a minimum, the date of issuance, and the name and address of the secondary metals recycler.

 (8) A permit is valid for twenty‑four months.

 (9) A permit may be denied, suspended, or revoked at any time if a sheriff discovers that the information on an application is inaccurate, a secondary metals recycler does not comply with the requirements of this section, or a secondary metals recycler is convicted of a violation of Section 16‑11‑523 or this section.

 (10) A sheriff shall issue permits during regular business hours.

 (C)(1) A person or entity who wants to transport or sell nonferrous metals to a secondary metals recycler shall obtain a permit to transport and sell the nonferrous metals. An entity's employee is not required to obtain a separate permit to transport or sell nonferrous metals provided that the employee is acting within the scope and duties of their employment with the entity. An entity's employee who intends to transport and sell nonferrous metals on behalf of an entity shall have a copy of the entity's permit readily available for inspection.

 (2) If a person is a resident of South Carolina or an entity is located in South Carolina, the person or entity shall obtain a permit from the sheriff of the county in which the person resides or has a secondary residence or in which the entity is located or has a secondary business. The sheriff may issue the permit to the person or entity if the:

 (a) person resides or has a secondary residence or the entity is located or has a secondary business in the sheriff's county;

 (b) person or entity has not been convicted of a violation of Section 16‑11‑523 or this section; and

 (c) person or entity declares on an application provided by the sheriff that the person or entity is informed of and will comply with the provisions of this section.

 (3) If a person is not a resident of South Carolina or an entity is not located in South Carolina, the person or entity shall obtain a permit from any sheriff of any county. The sheriff may issue the permit to the person or entity if the:

 (a) person is not a resident of South Carolina or the entity is not located in South Carolina;

 (b) person or entity has not been convicted of a violation of Section 16‑11‑523 or this section; and

 (c) person or entity declares on an application provided by the sheriff that the person or entity is informed of and will comply with the provisions of this section.

 (4) The South Carolina Law Enforcement Division shall develop the application and permit in consultation with the state's sheriffs and representatives of the secondary metals recyclers' industry.

 (5) A sheriff may investigate a person or entity's background prior to issuing a permit for purposes of determining if the person or entity qualifies to be issued a permit.

 (6) A sheriff may not charge a fee for a permit. A sheriff may charge a ten dollar fee to replace a permit that has been lost or destroyed. If the original permit is later found by the person or entity, the person or entity must turn the original permit into the sheriff or destroy the original permit.

 (7) A sheriff shall keep a record of all permits issued containing, at a minimum, the date of issuance, the name and address of the person or entity, a photocopy of the person's identification or of the employee's identification, and the person's photograph or the entity's employee's photograph.

 (8) A permit is valid statewide and expires on the person's birth date on the second calendar year after the calendar year in which the permit is issued, or, if the permittee is an entity, the permit expires on the date of issuance on the second calendar year after the calendar year in which the permit is issued.

 (9) A permit may be denied, suspended, or revoked at any time if a sheriff discovers that the information on an application is inaccurate, a person or entity does not comply with the requirements of this section, or a person or entity is convicted of a violation of Section 16‑11‑523 or this section.

 (10)(a) It is unlawful for a person or entity to obtain a permit to transport and sell nonferrous metals for the purpose of transporting or selling stolen nonferrous metals.

 (b) A person who violates a provision of this subitem is guilty of a felony, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both. The person or entity's permit must be revoked.

 (11) A sheriff shall issue permits during regular business hours.

 (D)(1) It is unlawful to purchase nonferrous metals in any amount for the purpose of recycling the nonferrous metals from a seller unless the purchaser is a secondary metals recycler who has a valid permit to purchase nonferrous metals issued pursuant to subsection (B) and the seller has a valid permit to transport and sell nonferrous metals issued pursuant to subsection (C). A secondary metals recycler may hold a seller's nonferrous metals while the seller obtains a permit to transport and sell nonferrous metals pursuant to subsection (C).

 (2) A secondary metals recycler shall maintain a record containing, at a minimum, the date of purchase, the name and address of the seller, a photocopy of the seller's identification, a photocopy of the seller's permit to transport and sell nonferrous metals, if applicable, the license plate number of the seller's motor vehicle, if available, the seller's photograph, the weight and size or other description of the nonferrous metals purchased, the amount paid for the nonferrous metals, and a signed statement from the seller stating that the seller is the rightful owner or is entitled to sell the nonferrous metals being sold. If the secondary metals recycler has the seller's photograph on file, the secondary metals recycler may reference the photograph on file without making a photograph for each transaction; however, the secondary metals recycler shall update the seller's photograph on an annual basis. A secondary metals recycler may use a video of the seller in lieu of a photograph provided the secondary metals recycler maintains the video for at least one hundred twenty days. A secondary metals recycler may maintain a record in an electronic database provided that the information is legible and can be accessed by law enforcement upon request.

 (3) All nonferrous metals that are purchased by and are in the possession of a secondary metals recycler and all records required to be kept by this section must be maintained and kept open for inspection by law enforcement officials or local and state governmental agencies during regular business hours. The records must be maintained for one year from the date of purchase.

 (4) A secondary metals recycler shall not enter into a cash transaction in payment for the purchase of copper, catalytic converters, or beer kegs, which totals twenty‑five dollars or more. Payment for the purchase of copper, catalytic converters, or beer kegs, which totals twenty‑five dollars or more must be made by check alone issued and made payable to the seller. A secondary metals recycler shall neither cash a check issued pursuant to this item nor use an automated teller machine (ATM) or other cash card system in lieu of a check. A secondary metals recycler shall not enter into more than one cash transaction per day per seller in payment for the purchase of copper, catalytic converters, or beer kegs.

 (5) A secondary metals recycler shall prominently display a twenty‑inch by thirty‑inch sign in the secondary metals recycler's fixed site that states: "NO NONFERROUS METALS, INCLUDING COPPER, MAY BE PURCHASED BY A SECONDARY METALS RECYCLER FROM A SELLER UNLESS THE SELLER IS A HOLDER OF A RETAIL LICENSE, AN AUTHORIZED WHOLESALER, A CONTRACTOR LICENSED PURSUANT TO ARTICLE 1, CHAPTER 11, TITLE 40, CODE OF LAWS OF SOUTH CAROLINA, 1976, A GAS, ELECTRIC, COMMUNICATIONS, WATER, PLUMBING, ELECTRICAL, OR CLIMATE CONDITIONING SERVICE PROVIDER, OR THE SELLER PRESENTS THE SELLER'S VALID PERMIT TO TRANSPORT AND SELL NONFERROUS METALS ISSUED PURSUANT TO SECTION 16‑17‑680, CODE OF LAWS OF SOUTH CAROLINA, 1976."

 (6) A purchaser who violates a provision of this subsection:

 (a) for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days;

 (b) for a second offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than four hundred dollars nor more than five hundred dollars or imprisoned not more than one year, or both; and

 (c) for a third offense or subsequent offense, is guilty of a misdemeanor, and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than three years, or both. For an offense to be considered a third or subsequent offense, only those offenses that occurred within a period of ten years, including and immediately preceding the date of the last offense, shall constitute a prior offense within the meaning of this subsection.

 If the purchaser obtained a permit to purchase nonferrous metals pursuant to subsection (B), the permit must be revoked.

 (E)(1)(a) It is unlawful to sell nonferrous metals in any amount to a secondary metals recycler unless the secondary metals recycler has a valid permit to purchase nonferrous metals issued pursuant to subsection (B) and the seller has a valid permit to transport and sell nonferrous metals issued pursuant to subsection (C).

 (b) A seller who violates a provision of this subitem:

 (i) for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than one year, or both;

 (ii) for a second offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than five hundred dollars or imprisoned not more than three years, or both; and

 (iii) for a third or subsequent offense, is guilty of a felony, and, upon conviction, must be fined not less than one thousand dollars or imprisoned not more than five years, or both.

 If the seller obtained a permit to transport and sell nonferrous metals pursuant to subsection (C), the permit must be revoked.

 (2)(a) It is unlawful to purchase or otherwise acquire nonferrous metals in any amount from a seller who does not have a valid permit to transport and sell nonferrous metals issued pursuant to subsection (C) with the intent to resell the nonferrous metals in any amount to a secondary metals recycler using the purchaser's valid permit to transport and sell nonferrous metals issued pursuant to subsection (C).

 (b) A purchaser who violates a provision of this subitem is guilty of a felony, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both. The purchaser's permit must be revoked.

 (F)(1) When a law enforcement officer has reasonable cause to believe that any item of nonferrous metal in the possession of a secondary metals recycler has been stolen, the law enforcement officer may issue a hold notice to the secondary metals recycler. The hold notice must be in writing, be delivered to the secondary metals recycler, specifically identify those items of nonferrous metal that are believed to have been stolen and that are subject to the notice, and inform the secondary metals recycler of the information contained in this subsection. Upon receipt of the notice, the secondary metals recycler must not process or remove the items of nonferrous metal identified in the notice, or any portion thereof, from the secondary metal recycler's fixed site for fifteen calendar days after receipt of the notice unless released prior to the fifteen‑day period by the law enforcement officer.

 (2) No later than the expiration of the fifteen‑day period, a law enforcement officer may issue a second hold notice to the secondary metals recycler, which shall be an extended hold notice. The extended hold notice must be in writing, be delivered to the secondary metals recycler, specifically identify those items of nonferrous metal that are believed to have been stolen and that are subject to the extended hold notice, and inform the secondary metals recycler of the information contained in this subsection. Upon receipt of the extended hold notice, the secondary metals recycler must not process or remove the items of nonferrous metal identified in the notice, or any portion thereof, from the secondary metals recycler's fixed site for thirty calendar days after receipt of the extended hold notice unless released prior to the thirty‑day period by the law enforcement officer.

 (3) At the expiration of the hold period or, if extended, at the expiration of the extended hold period, the hold is automatically released and the secondary metals recycler may dispose of the nonferrous metals unless other disposition has been ordered by a court of competent jurisdiction.

 (4) A secondary metals recycler who violates a provision of this subsection:

 (a) for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days;

 (b) for a second offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than four hundred dollars nor more than five hundred dollars or imprisoned not more than one year, or both; and

 (c) for a third or subsequent offense, is guilty of a misdemeanor, and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than three years, or both. For an offense to be considered a third or subsequent offense, only those offenses that occurred within a period of ten years, including and immediately preceding the date of the last offense shall constitute a prior offense within the meaning of this subsection.

 The secondary metals recycler's permit to purchase nonferrous metals issued pursuant to subsection (B) must be revoked.

 (G)(1) It is unlawful to transport nonferrous metals in a vehicle or have nonferrous metals in a person's possession.

 (2) Subsection (G)(1) does not apply if:

 (a) the person can present a valid permit to transport and sell nonferrous metals issued pursuant to subsection (C); or

 (b) the person can present a valid bill of sale for the nonferrous metals.

 (3) If a law enforcement officer determines that one or more of the exceptions listed in subsection (G)(2) applies, or the law enforcement officer determines that the nonferrous metals are not stolen goods and are in the rightful possession of the person, the law enforcement officer shall not issue a citation for a violation of this subsection.

 (4) A person who violates a provision of subsection (G)(1):

 (a) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days;

 (b) for a second offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than one year, or both; and

 (c) for a third or subsequent offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than three years, or both. For an offense to be considered a third or subsequent offense, only those offenses that occurred within a period of ten years, including and immediately preceding the date of the last offense, shall constitute a prior offense within the meaning of this subsection.

 (5) If a person transports nonferrous metals that the person knows are stolen in a vehicle or has in the person's possession nonferrous metals that the person knows are stolen, is operating a vehicle used in the ordinary course of business to transport nonferrous metals that the person knows are stolen, presents a valid or falsified permit to transport and sell nonferrous metals that the person knows are stolen, or presents a valid or falsified bill of sale for nonferrous metals that the person knows to be stolen, the person is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both. If the person obtained a permit to transport and sell nonferrous metals pursuant to subsection (C), the permit must be revoked.

 (H) For purposes of this section, the only acceptable identification is a valid:

 (1) South Carolina driver's license issued by the Department of Motor Vehicles;

 (2) South Carolina identification card issued by the Department of Motor Vehicles;

 (3) driver's license from another state that contains the licensee's picture on the face of the license; or

 (4) military identification card.

 (I)(1) A secondary metals recycler shall not purchase or otherwise acquire:

 (a) an iron or steel manhole cover;

 (b) an iron or steel drainage grate; or

 (c) a coil, unless the seller is an exempted entity pursuant to subsection (J)(1)(e) or the seller presents a bill of sale from a company licensed pursuant to Chapter 11, Title 40 indicating that the seller acquired the coil as the result of a unit replacement or repair. The bill of sale is sufficient proof of ownership and serves the same purpose as a permit to transport and sell nonferrous metals. A person who presents a falsified bill of sale is guilty of a misdemeanor and, upon conviction, must be fined in the discretion of the court or imprisoned not more three years, or both.

 (2)(a) It is unlawful for any individual or entity other than a permitted secondary metals recycler to purchase, or to attempt to purchase, a used, detached catalytic converter or any nonferrous part of a catalytic converter.

 (b) Except as otherwise provided in item (3)(a)(iii)(aa), (bb), and (cc) for those businesses delineated in item (3)(a)(ii), it is unlawful for any individual or entity to possess, obtain or otherwise acquire, transport, or sell a used, detached catalytic converter or any nonferrous part of a catalytic converter without a permit and without providing the following documentation to law enforcement and/or a permitted secondary metals recycler:

 (i) the name of the person or company that removed the catalytic converter;

 (ii) the name of the person for whom the work was completed;

 (iii) the make and model of the vehicle from which the catalytic converter was removed;

 (iv) the vehicle identification number of the vehicle from which the catalytic converter was removed;

 (v) the part number or other identifying number of the catalytic converter that was removed; and

 (vi) the certificate of title or certificate of registration showing the seller's ownership interest in the vehicle.

 (c) It is unlawful for a seller of a used, detached catalytic converter or any nonferrous part of a catalytic converter to provide any false, fraudulent, altered or counterfeit information or documentation as required by this subsection.

 (d) An individual or entity who violates any provision of subsection (I)(2), for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both; or for a second offense, is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both.

 (e) Each unlawfully obtained, possessed, or transported used, detached catalytic converter is a separate violation that subjects the individual or entity to a separate charge. Upon conviction, the court may order the individual or entity to pay restitution for the value of the repair and replacement of the catalytic converter or the individual or entity may be held liable as otherwise provided by law. A person in possession of a used, detached catalytic converter without identifying documentation is presumed to be in possession of contraband subject to forfeiture as otherwise provided by law.

 (f) For purposes of this section, a used, detached catalytic converter does not include a catalytic converter that has been tested, certified, and labeled for reuse in accordance with applicable U.S. Environmental Protection Agency Clean Air Act regulations, as may from time to time be amended.

 (3)(a) It is unlawful for a secondary metals recycler to purchase a used, detached catalytic converter or any nonferrous part of a used catalytic converter unless the secondary metals recycler has a permit from the local sheriff's office, the sale occurs at the secondary metals recycler's fixed site or the sale occurs at the seller's fixed site but only if the seller is a licensed automotive repair service, a licensed demolisher, as defined in Section 56‑5‑5810, a licensed secondary metals recycler, or a licensed motor vehicle dealer and the purchase is made by a permitted secondary metals recycler who maintains a fixed site within the State, and the following requirements are followed:

 (i) the catalytic converter or nonferrous part was purchased as part of a vehicle; or

 (ii) the catalytic converter or nonferrous part was purchased from a secondary metals recycler, new or used motor vehicle dealer, automotive repair service, motor vehicle manufacturer, vehicle demolisher, or distributor of catalytic converters and a copy of the seller's valid business license is received and maintained by the purchaser at the time of the transaction; or

 (iii) the business selling the catalytic converter or nonferrous part provides a record or receipt showing:

 (aa) the repair order number, when applicable;

 (bb) the date of repair or the date on which the catalytic converter was removed from a vehicle, including the identity of the individual or entity that removed the catalytic converter, when applicable; and

 (cc) the vehicle identification number of the vehicle from which the catalytic converter was removed; or

 (iv) the individual selling the catalytic converter or nonferrous part provides the secondary metals recycler with the following information for the motor vehicle that the catalytic converter was taken from to include all of the following:

 (aa) the name of the person or company that removed the catalytic converter;

 (bb) the name of the person for whom the work was completed;

 (cc) the make and model of the vehicle from which the catalytic converter was removed;

 (dd) the vehicle identification number of the vehicle from which the catalytic converter was removed;

 (ee) the part number or other identifying number of the catalytic converter that was removed; and

 (ff) the certificate of title or certificate of registration showing the seller's ownership interest in the vehicle.

 Nothing in this item prevents an out‑of‑state secondary metals recycler who maintains a fixed site and who complies with all other provisions of this chapter from obtaining, purchasing, or otherwise acquiring a used, detached catalytic converter or any nonferrous part of a used catalytic converter.

 (b) Before each purchase or acquisition of a used, detached catalytic converter, the secondary metals recycler, including an agent, employee, or representative of the secondary metals recycler, must:

 (i) verify, with the applicable documentation that the person transferring or selling the used, detached catalytic converter acquired it legally and has the right to transfer or sell it; and

 (ii) retain a record of the applicable verification and other information required pursuant to subsection (D)(2) and note in their records any obvious marking on the used, detached catalytic converter such as paint, labels, or engravings that would aid in the identification of the catalytic converter.

 (c) A seller of used, detached catalytic converters or any nonferrous metal part of such is subject to the provisions of subsection (C) regarding the permitting of a person or entity to transport and sell nonferrous metals except for an automotive repair service who, in lieu of a permit, may produce a record or receipt showing:

 (i) the repair order number, when applicable;

 (ii) the date of repair or the date on which the catalytic converter was removed from a vehicle, including the identity of the individual or entity that removed the catalytic converter, when applicable; and

 (iii) the vehicle identification number of the vehicle from which the catalytic converter was removed.

 (d) It is unlawful for a secondary metals recycler to fail to collect or retain all required documentation from a seller of a used, detached catalytic converter or any nonferrous part of a catalytic converter as required by this subsection. A secondary metals recycler who obtains all documentation as required by this subsection is exempt from prosecution under this subsection unless they knew or had reason to believe that the documentation provided was false, fraudulent, altered or counterfeit, or knew or had reason to believe that the used, detached catalytic converter or any nonferrous part of a catalytic converter was stolen.

 (e) A licensed secondary metals recycler, who is exempt from the provisions of subsection (I)(2), but who violates a provision of subsection (I)(3):

 (i) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days;

 (ii) for a second offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than one year, or both; and

 (iii) for a third or subsequent offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than three years, or both.

 (iv) Each unlawfully obtained or possessed used, detached catalytic converter or part of a used catalytic converter is a separate violation and subjects the secondary metals recycler to a separate charge for each. Any unlawfully possessed used, detached catalytic converter is subject to forfeiture as otherwise provided for by law. Upon conviction, the court may order the secondary metals recycler to pay restitution for the value of the repair and replacement of the catalytic converter or the secondary metals recycler may be held liable as otherwise provided for by law.

 (J)(1) Except as provided in item (2), the provisions of this section do not apply to:

 (a) the purchase or sale of aluminum cans;

 (b) a transaction between a secondary metals recycler and another secondary metals recycler;

 (c) a governmental entity;

 (d) a manufacturing or industrial vendor that generates or sells regulated metals in the ordinary course of its business;

 (e) a seller who is a holder of a retail license, an authorized wholesaler, an automobile demolisher as defined in Section 56‑5‑5810(d), a contractor licensed pursuant to Chapter 11, Title 40, a real estate broker or property manager licensed pursuant to Chapter 57, Title 40, a residential home builder licensed pursuant to Chapter 59, Title 40, a demolition contractor, a provider of gas service, electric service, communications service, water service, plumbing service, electrical service, climate conditioning service, appliance repair service, automotive repair service, or electronics repair service; or

 (f) a seller that is an organization, a corporation, or an association registered with the State as a charitable organization or a nonprofit corporation.

 (2) An exempted entity listed in item (1) is subject to the provisions of subsection (C)(10), subsection (G)(5), and subsection (I).

 A secondary metals recycler shall maintain a record of transactions involving exempted entities listed in item (1) pursuant to subsection (D) and is subject to the penalty provisions of subsection (D)(6). Any item of nonferrous metals acquired from an exempted entity listed in item (1) is subject to a hold notice pursuant to subsection (F).

 (K) This section preempts local ordinances and regulations governing the purchase, sale, or transportation of nonferrous metals in any amount, except to the extent that such ordinances pertain to zoning or business license fees. Political subdivisions of the State may not enact ordinances or regulations more restrictive than those contained in this section.

HISTORY: 1962 Code Section 16‑571.1; 1967 (55) 371; 1974 (58) 2627; 1975 (59) 207; 1993 Act No. 105, Section 1; 1996 Act No. 459, Section 29; 2007 Act No. 97, Section 1, eff June 14, 2007; 2008 Act No. 260, Section 1, eff June 4, 2008; 2009 Act No. 26, Section 2, eff June 2, 2009; 2011 Act No. 68, Section 2, eff August 17, 2011; 2012 Act No. 242, Section 2, eff December 15, 2012; 2014 Act No. 190 (S.561), Section 1, 2, 3, 4, eff June 2, 2014; 2021 Act No. 80 (H.3991), Section 1, eff May 18, 2021.

Editor's Note

2012 Act No. 242, Section 13, provides as follows:

"Subsection (H) of Section 56‑5‑5670 of the 1976 Code as contained in SECTION 8 and subsection (H) of Section 56‑5‑5945 of the 1976 Code as contained in SECTION 9 take effect upon approval by the Governor. All other provisions of this act take effect one hundred eighty days after approval by the Governor."

Effect of Amendment

2021 Act No. 80, Section 1, in (G), in (1), deleted "in a vehicle on the highways of this State" following "person's possession", made nonsubstantive changes in (4), and in (5), in the first sentence, deleted "in a vehicle on the highways of this State" following "person's possession" and made a nonsubstantive change; in (I), inserted the (1) designator, redesignated former (1) to (3) as (a) to (c), and added (2) and (3); and in (J), in (1)(e), deleted "core recycling service," following "climate conditioning service,", and in (2), substituted ", subsection (G)(5), and subsection (I)" for "and subsection (G)(5)".

**SECTION 16‑17‑690.** Fortunetelling for purpose of promoting another business.

 It shall be unlawful to engage in the business, trade or profession of fortunetelling, palmistry, phrenology, clairvoyance or the prediction of future events by cards or other means or to offer to tell fortunes or predict future events by palmistry, astrology, clairvoyance, cards or other means as an inducement to promote some other business, trade or profession. Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not less than twenty‑five dollars nor more than one hundred dollars or imprisonment for not less than fifteen nor more than thirty days.

HISTORY: 1962 Code Section 16‑572; 1952 Code Section 16‑572; 1945 (44) 60.

**SECTION 16‑17‑700.** Tattooing.

 It is unlawful for a person to tattoo any part of the body of another person unless the tattoo artist meets the requirements of Chapter 34 of Title 44. However, it is not unlawful for a licensed physician or surgeon to tattoo part of the body of a person of any age if in the physician's or surgeon's medical opinion it is necessary or appropriate; and it is not unlawful for a physician to delegate tattooing procedures to an employee in accordance with Section 40‑47‑60, subject to the regulations of the State Board of Medical Examiners.

 A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined up to two thousand five hundred dollars or imprisoned not more than one year, or both.

HISTORY: 1962 Code Section 16‑574; 1966 (54) 2331; 1986 Act No. 395; 1993 Act No. 184, Section 187; 2004 Act No. 250, Section 2, eff June 17, 2004.

Code Commissioner's Note

Section 40‑47‑60 was deleted by 2006 Act No. 365, Section 1. See now, Section 40‑47‑30.

**SECTION 16‑17‑710.** Resale of ticket to event; price restriction; exceptions; penalties.

 (A) A person or entity who offers for resale or resells a ticket for admission to an event must request or receive no more than one dollar above the price charged by the original ticket seller.

 (B) This section does not apply to an open market event ticket offered for resale through an internet website or at a permitted physical location when the person or entity reselling the ticket guarantees to the ticket buyer a full refund of the amount paid for the ticket if:

 (1) the event is cancelled, except that ticket delivery and processing charges are not required to be refunded if disclosed in the guarantee;

 (2) the buyer is denied admission to the event, unless the denial is due to the act or omission of the buyer; or

 (3) the ticket is not delivered to the buyer and the failure results in the buyer's inability to use the ticket to attend the event.

 (C) For purposes of this section, the term "open market event ticket" means a ticket to an event other than an event sponsored by or taking place at a venue owned by an institution of higher education. An institution of higher education may designate a ticket as an open market event ticket if the institution approves the resale of the ticket prior to the initial sale or delivery of the ticket and issues a public statement or notice authorizing the resale of the ticket.

 (D) For purposes of this section, the term "permitted physical location" is a physical geographic location that is either:

 (1) on property not owned by the owner of the venue of the ticketed event or on public property even if the property is the venue of the ticketed event subject to reasonable restrictions or conditions imposed by the owner to protect the safety and welfare of attendees of the ticketed event; or

 (2) on private property owned by the owner of the venue of the ticketed event if the owner expressly authorizes in writing such resales to occur on the property. The owner may provide specific locations on the property for resales to occur and provide for any conditions for resales on the property.

 (E) A person or entity 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 not more than thirty days.

 (F) The resale or offer for resale of each ticket constitutes a separate offense.

HISTORY: 1962 Code Section 16‑575; 1968 (55) 2692; 1977 Act No. 64; 2006 Act No. 367, Section 2, eff June 9, 2006.

**SECTION 16‑17‑720.** Impersonating law enforcement officer.

 It shall be unlawful for any person other than a duly authorized law enforcement officer to represent to any person that he is a law enforcement officer and, acting upon such representation, to arrest or detain any person, search any building or automobile or in any way impersonate a law enforcement officer or act in accordance with the authority commonly given to such officers. Nothing in this section shall be construed to prohibit a private citizen from making a citizen's arrest in accordance with the laws of this State.

 Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not more than five hundred dollars or imprisoned for not more than one year.

HISTORY: 1962 Code Section 16‑576; 1969 (56) 157.

**SECTION 16‑17‑722.** Filing of false police reports; knowledge; offense; penalties.

 (A) It is unlawful for a person to knowingly file a false police report.

 (B) A person who violates subsection (A) by falsely reporting a felony is guilty of a felony and upon conviction must be imprisoned for not more than five years or fined not more than one thousand dollars, or both.

 (C) A person who violates subsection (A) by falsely reporting a misdemeanor is guilty of a misdemeanor and must be imprisoned not more than thirty days or fined not more than five hundred dollars, or both.

 (D) In imposing a sentence under this section, the judge may require the offender to pay restitution to the investigating agency to offset costs incurred in investigating the false police report.

HISTORY: 1998 Act No. 349, Section 1.

**SECTION 16‑17‑725.** Making false complaint to law enforcement officer; giving false information to rescue squad or fire department; misrepresenting identity to law enforcement officer during traffic stop or to avoid arrest or criminal charge.

 (A) It is unlawful for a person to knowingly make a false complaint to a law enforcement officer concerning the alleged commission of a crime by another, or for a person to knowingly give false information to a rescue squad or fire department concerning the alleged occurrence of a health emergency or fire.

 (B) It is unlawful for a person to misrepresent his identification to a law enforcement officer during a traffic stop or for the purpose of avoiding arrest or criminal charges.

 (C) A person who violates the provisions of 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.

HISTORY: 1985 Act No. 87; 2008 Act No. 191, Section 1, eff April 2, 2008.

**SECTION 16‑17‑730.** Charges for political advertisements in newspapers.

 No newspaper in this State shall charge more for a political advertisement than the local prevailing rate for a commercial advertisement and payment for such advertisement shall be under the same terms and conditions as payment for a commercial advertisement. Any newspaper violating the provisions of this section shall, upon conviction, be fined not more than one hundred dollars for each violation.

HISTORY: 1977 Act No. 146 Section 4.

**SECTION 16‑17‑735.** Persons impersonating officials or law enforcement officers; persons falsely asserting authority of law; offenses; punishment.

 (A) It is unlawful for a person to impersonate a state or local official or employee or a law enforcement officer in connection with a sham legal process. A person acting or purporting to act in an official capacity or taking advantage of such actual or purported capacity commits a misdemeanor if, knowing that his conduct is illegal, he:

 (1) subjects another to arrest, detention, search, seizure, mistreatment, dispossession, assessment, lien, or other infringement of personal or property rights; or

 (2) denies or impedes another in the exercise or enjoyment of any right, privilege, power, or immunity.

 A person violating the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand five hundred dollars or imprisoned not more than one year, or both.

 (B) It is unlawful for a person falsely to assert authority of state law in connection with a sham legal process. A person violating the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand five hundred dollars or imprisoned not more than one year, or both.

 (C) It is unlawful for a person to act without authority under state law as a Supreme Court Justice, a court of appeals judge, a circuit court judge, a master‑in‑equity, a family court judge, a probate court judge, a magistrate, a clerk of court or register of deeds, a commissioned notary public, or other authorized official in determining a controversy, adjudicating the rights or interests of others, or signing a document as though authorized by state law. A person violating the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand five hundred dollars or imprisoned not more than one year, or both.

 (D) It is unlawful for a person falsely to assert authority of law, in an attempt to intimidate or hinder a state or local official or employee or law enforcement officer in the discharge of official duties, by means of threats, harassment, physical abuse, or use of a sham legal process. A person violating this subsection is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not less than one year and not more than three years, or both.

 (E) For purposes of this section:

 (1) "Law enforcement officer" is as defined in Section 16‑9‑310.

 (2) "State or local official or employee" means an appointed or elected official or an employee of a state agency, board, commission, department, in a branch of state government, institution of higher education, other school district, political subdivision, or other unit of government of this State.

 (3) "Sham legal process" means the issuance, display, delivery, distribution, reliance on as lawful authority, or other use of an instrument that is not lawfully issued, whether or not the instrument is produced for inspection or actually exists, which purports to:

 (a) be a summons, subpoena, judgment, lien, arrest warrant, search warrant, or other order of a court of this State, a law enforcement officer, or a legislative, executive, or administrative agency established by state law;

 (b) assert jurisdiction or authority over or determine or adjudicate the legal or equitable status, rights, duties, powers, or privileges of a person or property; or

 (c) require or authorize the search, seizure, indictment, arrest, trial, or sentencing of a person or property.

 (4) "Lawfully issued" means adopted, issued, or rendered in accordance with the applicable statutes, rules, regulations, and ordinances of the United States, a state, an agency, or a political subdivision of a state.

HISTORY: 1998 Act No. 385, Section 1.

**SECTION 16‑17‑740.** Sale or possession of "cigarette load"; penalty.

 It is unlawful for any person to sell or possess a novelty device commonly known as a "cigarette load" which may cause a cigarette or cigar to blow up or explode after being lit.

 Any person violating the provisions of this section is guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed two hundred dollars or by a term of imprisonment not to exceed thirty days.

HISTORY: 1983 Act No. 19.

**SECTION 16‑17‑750.** Failure to carry certificate of alien registration or alien registration receipt care; penalty.

 (A) It is unlawful for a person eighteen years of age or older to fail to carry in the person's personal possession any certificate of alien registration or alien registration receipt card issued to the person pursuant to 8 U.S.C. Section 1304 while the person is in this State.

 (B) A person who violates 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, or both.

HISTORY: 2011 Act No. 69, Section 5, eff January 1, 2012.

Validity

For validity of this section, see U.S. v. South Carolina, 840 F.Supp.2d 898 (D.S.C. December 22, 2011).

**SECTION 16‑17‑760.** Knowing and false representation with intent of securing tangible benefit; penalty.

 (A) This act may be cited as the "South Carolina Military Service Integrity and Preservation Act".

 (B) A person who, with the intent of securing a tangible benefit, knowingly and falsely represents himself through a written or oral communication, including a resume, to have:

 (1) served in the Armed Forces of the United States, 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; or

 (2) been awarded a Congressional Medal of Honor, a Distinguished‑Service Cross, a Navy Cross, an Air Force Cross, a Silver Star, a Purple Heart, a Combat Infantryman's Badge, a Combat Action Badge, a Combat Medical Badge, a Combat Action Ribbon, or a Combat Action Medal as authorized by Congress or pursuant to federal law for the Armed Forces of the United States, is guilty of a misdemeanor, and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than one year, or both.

 (C) For purposes of this section, "tangible benefit" includes:

 (1) a benefit relating to military service provided by the federal government or a state or local government;

 (2) employment or personal advancement;

 (3) financial remuneration;

 (4) an effect on the outcome of a criminal or civil court proceeding; or

 (5) an effect on an election which is presumed if the representation is made by a candidate for public office.

HISTORY: 2014 Act No. 175 (H.4259), Section 1, eff May 16, 2014.

**SECTION 16‑17‑770.** Impersonating a lawyer; penalties.

 (A) It is unlawful for a person other than a lawyer, who is licensed to practice law in this State or in another state or jurisdiction in the United States and not disbarred or suspended from the practice of law in any state or jurisdiction, to represent to any person that he is a lawyer for the purpose of soliciting business, obtaining anything of value, or providing legal advice or assistance. A person who violates the provisions of this section:

 (1) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year, or both;

 (2) for a second offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand five hundred dollars or imprisoned for not more than three years, or both; and

 (3) for a third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

 (B) The provisions of this section do not alter the provisions of Chapter 5, Title 40, regulating the practice of law.

HISTORY: 2017 Act No. 64 (H.3215), Section 1, eff May 19, 2017.