

2012 REGULAR SESSION

Acts and Joint Resolutions

of the

GENERAL ASSEMBLY
OF THE STATE OF SOUTH CAROLINA

Admitted assets, multiple employer self-insured health plans, health maintenance organizations, provisions modified	1599
Allendale County, voting precincts revised.....	1592
Amusement rides, miniature train ride requirements	1588
Appearance bonds.....	1565
Appropriations Act of 2011 transfer of funds revised, retired teachers salaries for 2012-2013 school year.....	1632
Autopsies, death investigations	1586
Beaufort County scenic byways established	1566
Cherokee County, voting precincts revised.....	1589
Controlled substances, changes to schedules, substances commonly known as bath salts added to Schedule I controlled substances	1609
Cremation, authorization of provisions	1604
Department of Health and Environmental Control, authority over certain Savannah River matters suspended	1581
Department of Transportation, increase roadside vegetation management on highways	1596
Department of Transportation, increase roadside vegetation management on highways	1623
Drivers licenses and identification cards, veteran and hearing impaired status.....	1628
Equine liability immunity, inclusion of riding trails	1620
Fires, requirements and liability for conducting prescribed fires, South Carolina Smoke Management Guidelines defined	1607
Fish and game, herring restrictions and provisions	1519
Freshwater fishing and related provisions.....	1535
Freshwater fishing provisions, regulation, and protection.....	1523
Hampton County, voting precincts revised	1618
Honey defined, standards for labeling, processing, and packaging honey established.....	1569

(continued on inside cover)

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

STEPHEN T. DRAFFIN, Code Commissioner, P.O. Box 11489,
Columbia, S.C. 29211

Inspector General, office created, duties, and removal.....	1497
Internal Revenue Code updated	1583
Kershaw County, voting precincts revised.....	1638
Law Enforcement Training Council, eliminated from the Department of Public Safety.....	1570
Modular home, placement for residential use	1510
Observances, February designated as African American History Month.....	1591
Pendleton District Agricultural Museum, name designated	1578
Phosphorus, prohibited in household and commercial laundry detergent and dishwashing detergent	1571
Property, prohibition of transfer covenant fees	1506
Public service districts, expansion of membership of governing body.....	1626
Richland-Lexington County Airport commission, selection of commissioners revised	1567
Rural Infrastructure Authority, appointment of members and a director.....	1633
SLED, Blue Alert Program established.....	1579
Soil classifier licensure requirements and exemptions	1518
South Carolina Motor Club Act, definition revised.....	1585
“Special needs account customer” definition revised for purposes of the provision of utility services	1575
State energy standard updated, adoption of 2009 International Energy Conservation Code.....	1622
State House grounds, prohibit camping.....	1594
Taxation, enforced collection documents electronically filed	1596
Tega Cay, no board of commissioners of Public Works	1625
Tuition, reduced rates for active duty military personnel.....	1593
Vehicles, issuance of special permits to move	1509
Vehicles, license fees, permitted loads, towing vehicle provisions	1515
Wastewater utilities, procedures for significant spills.....	1512
Wineries, sale at retail prices, certain requirements deleted.....	1573
York County, bird sanctuaries, boundaries revised	1635

ACTS

AND

JOINT RESOLUTIONS

OF THE

General Assembly

OF THE

State of South Carolina

NIKKI R. HALEY, Governor; GLENN F. McCONNELL, Lieutenant Governor and ex officio President of the Senate; JOHN E. COURSON, President Pro Tempore of the Senate; ROBERT W. HARRELL JR., Speaker of the House of Representatives; JAMES H. LUCAS, Speaker Pro Tempore of the House of Representatives; JEFFREY S. GOSSETT, Clerk of the Senate; CHARLES F. REID, Clerk of the House of Representatives.

PART I

GENERAL AND PERMANENT LAWS

No. 105

(R112, S258)

AN ACT TO AMEND SECTION 1-3-240, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO REMOVAL OF OFFICERS BY THE GOVERNOR, SO AS TO PROVIDE THAT THE STATE INSPECTOR GENERAL MAY BE REMOVED BY THE GOVERNOR FOR MALFEASANCE, MISFEASANCE, INCOMPETENCY, ABSENTEEISM, CONFLICTS OF INTEREST, MISCONDUCT, PERSISTENT NEGLECT OF DUTY IN OFFICE, OR INCAPACITY; AND BY ADDING CHAPTER 6 TO TITLE 1 SO AS TO CREATE THE OFFICE OF THE STATE INSPECTOR GENERAL, TO PROVIDE THAT THE STATE INSPECTOR GENERAL IS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE, TO AUTHORIZE THE STATE INSPECTOR GENERAL TO ADDRESS FRAUD, WASTE, ABUSE, AND WRONGDOING WITHIN THE SOUTH CAROLINA EXECUTIVE GOVERNMENT AGENCIES, AND TO PROVIDE FOR THE POWERS, DUTIES, AND FUNCTIONS OF THE OFFICE.

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

Governor's authority to remove State Inspector General

SECTION 1. Section 1-3-240 of the 1976 Code, as last amended by Act 73 of 2009, is further amended to read:

“Section 1-3-240. (A) Any officer of the county or State, except:

- (1) an officer whose removal is provided for in Section 3 of Article XV of the State Constitution;
- (2) an officer guilty of the offense named in Section 8 of Article VI of the State Constitution; or
- (3) pursuant to subsection (B) of this section, an officer of the State appointed by the Governor, either with or without the advice and consent of the Senate; who is guilty of malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity must be subject to removal by the Governor upon any of the foregoing causes being made to appear to the satisfaction of the Governor. Before removing any such officer, the

Governor shall inform him in writing of the specific charges brought against him and give him an opportunity on reasonable notice to be heard.

(B) A person appointed to a state office by the Governor, either with or without the advice and consent of the Senate, other than those officers enumerated in subsection (C), may be removed from office by the Governor at his discretion by an Executive Order removing the officer.

(C)(1) Persons appointed to the following offices of the State may be removed by the Governor for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity:

- (a) Workers' Compensation Commission;
- (b) Department of Transportation Commission;
- (c) Ethics Commission;
- (d) Election Commission;
- (e) Professional and Occupational Licensing Boards;
- (f) Juvenile Parole Board;
- (g) Probation, Parole and Pardon Board;
- (h) Director of the Department of Public Safety;
- (i) Board of the Department of Health and Environmental Control, excepting the chairman;
- (j) Chief of State Law Enforcement Division;
- (k) South Carolina Lottery Commission;
- (l) Executive Director of the Office of Regulatory Staff;
- (m) Directors of the South Carolina Public Service Authority

appointed pursuant to Section 58-31-20. A director of the South Carolina Public Service Authority also may be removed for his breach of any duty arising under Section 58-31-55 or 58-31-56. The Governor must not request a director of the South Carolina Public Service Authority to resign unless cause for removal, as established by this subsection, exists. Removal of a director of the South Carolina Public Service Authority, except as is provided by this section or by Section 58-31-20(A), must be considered to be an irreparable injury for which no adequate remedy at law exists;

- (n) State Ports Authority; and
- (o) State Inspector General.

(2) Upon the expiration of an officeholder's term, the individual may continue to serve until a successor is appointed and qualifies."

Office of State Inspector General created

SECTION 2. Title 1 of the 1976 Code is amended by adding:

“CHAPTER 6

Office of the State Inspector General

Section 1-6-10. As used in this title:

(1) ‘Agency’ means an authority, board, branch, commission, committee, department, division, or other instrumentality of the executive department of state government, including administrative bodies. ‘Agency’ includes a body corporate and politic established as an instrumentality of the State. ‘Agency’ does not include:

- (a) the judicial department of state government;
- (b) quasijudicial bodies of state government;
- (c) the legislative department of state government; or
- (d) political subdivisions.

(2) ‘Business relationship’ means dealings of a person with an agency seeking, obtaining, establishing, maintaining, or implementing:

(a) a pecuniary interest in a contract or purchase with the agency;

or

(b) a license or permit requiring the exercise of judgment or discretion by the agency.

(3) ‘Employee’ means an individual who is employed by an agency on a full-time, part-time, temporary, intermittent, or hourly basis. ‘Employee’ includes an individual who contracts with an agency for personal services.

(4) ‘Person’ means:

(a) an individual, labor union and organization, joint apprenticeship committee, partnership, association, corporation, legal representative, mutual company, joint-stock company, trust, unincorporated organization, trustee, trustee in bankruptcy, receiver, or other legal or commercial entity located in part or in whole in the State or doing business in the State;

(b) the State and any agency or local subdivision of an agency; or

(c) a political subdivision.

(5) ‘Political subdivision’ includes a county, city, municipality, town, village, township, district, authority, special purpose district, school district, other local government entity, or other public corporation or entity whether organized and existing under charter or general law.

- (6) 'Special state appointee' means a person who is:
- (a) not a state officer or employee; and
 - (b) elected or appointed to an authority, a board, a commission, a committee, a council, a task force, or other body designated by name that:
 - (i) is authorized by statute or Executive Order; and
 - (ii) functions in a policy or an advisory role in the executive, including the administrative, department of state government, including a separate body corporate and politic.
- (7) 'State officer' means any of the following:
- (a) the Governor;
 - (b) the Lieutenant Governor;
 - (c) the Secretary of State;
 - (d) the State Comptroller General;
 - (e) the State Treasurer;
 - (f) the Attorney General;
 - (g) the Superintendent of Education;
 - (h) the Commissioner of Agriculture; or
 - (i) the Adjutant General.
- (8) 'Wrongdoing' means action by an agency which results in substantial abuse, misuse, destruction, or loss of substantial public funds or public resources. 'Wrongdoing' also includes an allegation that a public employee has intentionally violated federal or state statutory law or regulations or other political subdivision ordinances or regulations or a code of ethics, which violation is not merely technical or of a minimum nature.

Section 1-6-20. (A) There is hereby established the Office of the State Inspector General that consists of the State Inspector General, who is the director of the office, and a staff of deputy inspectors general, investigators, auditors, and clerical employees employed by the State Inspector General as necessary to carry out the duties of the State Inspector General and as are authorized by law. The State Inspector General shall fix the salaries of all staff subject to the funds authorized in the annual general appropriation act.

(B) The State Inspector General is responsible for investigating and addressing allegations of fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in agencies.

(C) The Governor shall appoint the State Inspector General with the advice and consent of the Senate for a term of four years. A Governor may reappoint the State Inspector General for additional terms. The

State Inspector General's compensation must not be reduced during the State Inspector General's uninterrupted continued tenure in office.

(D) The State Inspector General:

(1) may be removed from office only by the Governor as provided in Section 1-3-240(C);

(2) must be selected without regard to political affiliation and on the basis of integrity, capability for strong leadership, and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, investigation, or criminal justice administration or other closely related fields;

(3) is entitled to receive compensation set by the Governor and approved by the State Budget and Control Board.

(E) Upon request of the State Inspector General for information or assistance, all agencies are directed to fully cooperate with and furnish the State Inspector General with all documents, reports, answers, records, accounts, papers, and other necessary data and documentary information to perform the mission of the State Inspector General.

(F) Except for information declared confidential under this chapter, records of the Office of the State Inspector General are subject to public inspection under Chapter 4 of this title.

Section 1-6-30. The State Inspector General may:

(1) initiate, supervise, and coordinate investigations authorized by this chapter;

(2) recommend policies and carry out other activities designed to deter, detect, and eradicate fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in state government;

(3) receive complaints alleging a violation of a statute or rule relating to the purchase of goods or services by a current or former employee, state officer, special state appointee, or person who has a business relationship with an agency;

(4) receive complaints from any individual, including those employed by any agency, alleging fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in an agency;

(5) adopt rules and regulations for administering the Office of the State Inspector General;

(6) offer every employee, state officer, special state appointee, and person who has a business relationship with an agency training in the Rules of Conduct pursuant to Article 7, Chapter 13, Title 8 of the South Carolina Code of Laws;

(7) provide advice to an agency on developing, implementing, and enforcing policies and procedures to prevent or reduce the risk of fraudulent or wrongful acts within the agency;

(8) recommend legislation to the Governor and General Assembly to strengthen public integrity laws; and

(9) annually submit a report to the Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives detailing the State Inspector General's activities.

Section 1-6-40. (A) If the State Inspector General has reasonable cause to believe that fraud, waste, abuse, mismanagement, misconduct, or wrongdoing has occurred or is occurring, he must report the suspected conduct to:

(1) the Governor; and

(2) the head of the agency affected by the conduct or employing the person allegedly engaged in the suspected conduct.

(B) In addition to the reporting requirements in subsection (A), if the State Inspector General has reasonable cause to believe that a crime has occurred or is occurring, he must report the conduct to the appropriate state or federal law enforcement agencies and prosecuting authorities that have jurisdiction over the matter.

(C) In addition to fully cooperating with the State Inspector General's investigation, the head of the agency employing a person allegedly engaged in the suspected conduct is responsible for submitting a report to the State Inspector General describing any and all actions taken with the employee and within the agency to prevent the alleged conduct from occurring again.

Section 1-6-50. The State Inspector General has the following powers:

(A) As part of an investigation, the State Inspector General may:

(1) administer oaths;

(2) examine witnesses under oath;

(3) issue subpoenas and subpoenas duces tecum; and

(4) examine the records, reports, audits, reviews, papers, books, recommendations, contracts, correspondence, or any other documents maintained by an agency.

(B) The State Inspector General may apply to a circuit court for an order holding an individual in contempt of court if the individual refuses to give sworn testimony under a subpoena issued by the State Inspector General or otherwise disobeys a subpoena or subpoena duces tecum issued by the State Inspector General.

(C) For an investigation that results in a report, the State Inspector General must prepare a written report that remains confidential until it is issued as a final report. The State Inspector General is the authority who determines if an investigation requires a report. The State Inspector General, in his discretion, may give an agency advice or recommendations that remain confidential and are not issued as a report.

(D) If the Attorney General has elected not to file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained, the State Inspector General may file a civil action for the recovery of the funds pursuant to Section 1-6-70 of this chapter.

Section 1-6-60. If the State Inspector General investigates and determines that there is specific and credible evidence that a current or former employee, a current or former state officer, a current or former special state appointee, or a person who has or had a business relationship with an agency has violated the code of ethics, the State Inspector General may file a complaint with the Ethics Commission and represent the State in any proceeding before the Ethics Commission.

Section 1-6-70. (A) This section applies if the State Inspector General finds evidence of misfeasance, malfeasance, nonfeasance, misappropriation, fraud, or other misconduct that has resulted in a financial loss to the State or in an unlawful benefit to an individual in the conduct of state business.

(B) If the State Inspector General finds evidence described in subsection (A), the State Inspector General shall certify a report of the matter to the Attorney General and provide the Attorney General with any relevant documents, transcripts, written statements, or other evidence. Not later than one hundred eighty days after receipt of the report from the State Inspector General, the Attorney General must do one of the following:

(1) file a civil action, including an action upon a state officer's official bond, to secure for the State the recovery of funds misappropriated, diverted, missing, or unlawfully gained. Upon request of the Attorney General, the State Inspector General shall assist the Attorney General in the investigation, preparation, and prosecution of the civil action;

(2) inform the State Inspector General that the Attorney General does not intend to file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained. If the

Attorney General elects not to file a civil action, the Attorney General must return to the State Inspector General all documents, transcripts, written statements, or other evidence initially provided by the State Inspector General; or

(3) inform the State Inspector General that the Attorney General is diligently reviewing the matter and after further review may file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained. However, if more than three hundred sixty-five days have passed since the State Inspector General certified the report to the Attorney General, and the Attorney General has neither filed a civil action nor informed the State Inspector General that he does not intend to file a civil action, the Attorney General loses the authority to file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained and must return to the State Inspector General all documents, transcripts, written statements, or other evidence provided by the State Inspector General.

(C) The State Inspector General may file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained if the State Inspector General has found evidence described in subsection (A) and reported to the Attorney General pursuant to subsection (B) and:

(1) the Attorney General has elected pursuant to subsection (B)(2) not to file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained; or

(2) pursuant to subsection (B)(3), more than three hundred sixty-five days have passed since the State Inspector General certified the report to the Attorney General pursuant to subsection (B), and the Attorney General has not filed a civil action.

(D) If the State Inspector General has found evidence pursuant to subsection (A), the State Inspector General may institute forfeiture proceedings as allowed by law in a court having jurisdiction in a county where property derived from or realized through the misappropriation, diversion, disappearance, or unlawful gain of state funds is located, unless a prosecuting attorney has already instituted forfeiture proceedings against that property.

Section 1-6-80. (A) If the State Inspector General discovers evidence of criminal activity, the State Inspector General shall certify to the appropriate prosecuting attorney the following information:

(1) the identity of a person who may be involved in the criminal activity; and

(2) the criminal statute that the State Inspector General believes has been violated.

(B) In addition, the State Inspector General must provide the prosecuting attorney with any relevant documents, transcripts, written statements, or other evidence. If the prosecuting attorney decides to prosecute the crime described in the information certified to the prosecuting attorney, or any other related crimes, the State Inspector General must cooperate with the prosecuting attorney in the investigation and prosecution of the case. Upon request of the prosecuting attorney, the State Inspector General may participate on behalf of the State in a resulting criminal trial.

Section 1-6-90. The State Inspector General must establish a toll-free public telephone number for the purpose of receiving information concerning fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in an agency. The phone number must be prominently posted by all agencies, in clear view of all employees and the public, and in a conspicuous location on the agency's Internet website.

Section 1-6-100. (A) If an individual discloses information alleging fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in an agency in good faith to the State Inspector General, the individual's identity is confidential and must not be disclosed to anyone other than the Governor, the staff of the Office of the State Inspector General, or an authority to whom the investigation is subsequently referred or certified, unless:

(1) the State Inspector General makes a written determination that it is in the public interest to disclose the individual's identity; or

(2) the individual consents in writing to disclosure of the individual's identity.

(B) After an investigation is completed and a report is issued pursuant to Section 1-6-50(C), the investigative records of the State Inspector General are subject to public inspection pursuant to Chapter 4 of this title. However, if an individual's identity is confidential pursuant to subsection (A), the individual's identity or any information that reasonably might lead to the discovery of the individual's identity must not be disclosed, except as pursuant to subsection (A) or subsection (E).

(C) This subsection does not apply to a person who is a party to an action brought by the State Inspector General. Information received by the State Inspector General is not required to be produced in the course

of discovery, unless ordered by a court after a showing of particularized need and proof that the information requested cannot be obtained from another source.

(D) Except as provided in subsection (E), a person commits the misdemeanor of unlawful disclosure of confidential information if he knowingly or intentionally discloses:

(1) confidential information or records; or

(2) the identity of a person whose identity is confidential under subsection (A).

A person convicted pursuant to this subsection must be fined not more than one thousand dollars or imprisoned not more than one year. If the person convicted is an officer or employee of the State, he must be dismissed from office or employment and is ineligible to hold any public office in this State for a period of five years after the conviction.

(E) A person may disclose confidential information, records, or an individual's identity that is confidential pursuant to subsection (A) if the Governor authorizes the disclosure of this information in the public interest."

Time effective

SECTION 3. This act takes effect on January 1, 2012.

Ratified the 26th day of January, 2012.

Approved the 1st day of February, 2012.

No. 106

(R113, H3095)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 27-1-70 SO AS TO PROHIBIT REAL PROPERTY TRANSFER FEE COVENANTS, AND TO PROVIDE RELATED DEFINITIONS AND POLICY FINDINGS.

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

Real property transfer fee covenant prohibited, definitions and policy

SECTION 1. Chapter 1, Title 27 of the 1976 Code is amended by adding:

“Section 27-1-70. (A) As used in this section:

(1) ‘Association’ means a nonprofit, mandatory membership organization comprised of owners of homes, condominiums, cooperatives, manufactured homes, or any interest in real property, created pursuant to a declaration, covenant, or other applicable law.

(2) ‘Transfer’ means the sale, gift, grant, conveyance, assignment, inheritance, or other transfer of an interest in real property located in this State.

(3) ‘Transfer fee’ means a fee or charge imposed by a transfer fee covenant, but does not include any tax, assessment, fee, or charge imposed by a governmental authority pursuant to applicable laws, ordinances, or regulations.

(4) ‘Transfer fee covenant’ means a provision in a document, whether recorded or not and however denominated, which purports to run with the land or bind current owners or successors in title to specified real property located in this State, and which obligates a transferee or transferor of all or part of the property to pay a fee or charge to a third person upon transfer of an interest in all or part of the property, or in consideration for permitting this transfer. A ‘transfer fee covenant’ does not include:

(a) a provision of a purchase contract, option, mortgage, security agreement, real property listing agreement, or other agreement which obligates one party to the agreement to pay the other, as full or partial consideration for the agreement or for a waiver of rights under the agreement, an amount determined by the agreement, if that amount:

(i) is payable on a one-time basis only upon the next transfer of an interest in the specified real property and, once paid, does not bind successors in title to the property;

(ii) constitutes a loan assumption or similar fee charged by a lender holding a lien on the property;

(iii) constitutes a fee or commission paid to a licensed real estate broker for brokerage services rendered in connection with the transfer of the property for which the fee or commission is paid; or

(iv) is the actual cost to copy governing documents of a community association and is charged by the association to a transferee or transferor for governing documents delivered to a real estate closing,

provided cost is not passed through to a third party other than the agent of the association;

(b) any provision in a deed, memorandum, or other document recorded for the purpose of providing record notice of an agreement described in subsection (A)(4)(a);

(c) a provision of a document requiring payment of a fee or charge to an association to be used exclusively for purposes authorized in the document if no portion of the fee is required to be passed through to a third party designated or identifiable by description in the document or another document referenced in it;

(d) a provision of a document requiring payment of a fee or charge to an organization described in Section 501(c)(3), 501(c)(4), or 501(c)(7) of the Internal Revenue Code, to be used exclusively to support cultural, educational, charitable, recreational, environmental, conservation, social, or other similar activities benefiting the real property affected by the provision or the community of which the property is a part; or

(e) any fee, charge, assessment, or other amount payable in connection with a 'conservation easement' as defined in Section 27-8-80 in the Conservation Easement Act, or a preservation easement as described in Sections 170 (h)(4)(B) and (C) of the Internal Revenue Code of 1986, as amended, whether the conservation easement or preservation easement is donated or purchased, or part donated and part purchased; whether paid contemporaneously with the recording of the conservation easement or the preservation easement or at some future date during its term and existence; and whether paid by the original grantor or any successor or assign in the legal chain of title to the real property subject to the conservation easement or preservation easement.

(B) The General Assembly finds:

(1) the public policy of this State favors the transferability of interests in real property free from unreasonable restraints on alienation and covenants or servitudes that do not touch and concern the property; and

(2) a transfer fee covenant violates this public policy by impairing the marketability of title to the affected real property and constitutes an unreasonable restraint on alienation, regardless of the duration of the covenant or the amount of the transfer fee set forth in the covenant.

(C) A transfer fee covenant recorded after the effective date of this section, or a lien to the extent that it purports to secure the payment of a transfer fee, is not binding on or enforceable against the affected real

property or any subsequent owner, purchaser, or mortgagee of an interest in the property.

(D) In order for a transfer fee covenant recorded before the effective date of this section to be valid and enforceable, a separate document that complies with the following requirements of this subsection must be filed in each county in which the real property subject to the transfer fee covenant is located within one hundred eighty days of the effective date of this section.

(1) The title of the document must be 'Notice of Transfer Fee Covenant' in at least fourteen-point boldface type.

(2) The document must list the amount or basis by which the transfer fee covenant is calculated.

(3) The actual dollar-cost examples for a home priced at two hundred fifty thousand dollars, five hundred thousand dollars, and seven hundred fifty thousand dollars must be included in the document.

(4) The document must contain the date or circumstances under which the transfer fee covenant expires, if any.

(5) The document must contain instructions and contact information concerning the payment of the fee required by the transfer fee covenant.”

Time effective

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

Ratified the 26th day of January, 2012.

Approved the 1st day of February, 2012.

No. 107

(R114, H3122)

AN ACT TO AMEND SECTION 56-3-180, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEPARTMENT OF MOTOR VEHICLES ISSUANCE OF SPECIAL PERMITS TO MOVE VEHICLES DURING AN EMERGENCY, SO AS TO DELETE THE TERM “MOVE” AND REPLACE IT WITH THE TERM “OPERATE”, TO DELETE THE PROVISION THAT RESTRICTS THE ISSUANCE OF THE

PERMITS TO EMERGENCY SITUATIONS, TO REMOVE THE RESTRICTION PLACED ON THE NUMBER OF PERMITS THAT MAY BE ISSUED FOR A VEHICLE, AND TO REVISE THE INFORMATION THAT MUST BE SPECIFIED ON THE PERMIT.

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

Special permits to move a vehicle

SECTION 1. Section 56-3-180 of the 1976 Code is amended to read:

“Section 56-3-180. The department may issue in writing special permits to operate vehicles otherwise required to be registered and licensed under this chapter when the vehicles do not display the required current license plate or plates or registration cards. A special permit issued pursuant to this section, shall specify the date on which the permit expires, and must be carried at all times on the vehicle authorized to be operated.”

Time effective

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

Ratified the 26th day of January, 2012.

Approved the 1st day of February, 2012.

No. 108

(R115, H3301)

AN ACT TO AMEND SECTION 23-43-85, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO STANDARDS FOR PLACEMENT OF MODULAR HOMES, SO AS TO PROVIDE CIRCUMSTANCES IN WHICH A MODULAR HOME USED AS A DISPLAY MODEL MAY BE PLACED FOR ITS FIRST RESIDENTIAL USE.

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

Placement of model modular home for first residential use permitted

SECTION 1. Section 23-43-85 of the 1976 Code is amended to read:

“Section 23-43-85. (A) A single-family modular home manufactured after January 1, 2005, must meet the following standards to be certified for placement in this State:

(1) Roof pitch. For homes with a single predominant roofline, the pitch of the roof must be at least five feet rise for every twelve feet of run;

(2) Eave projections. The eave projections of the roof must be at least ten inches, not including a gutter around the perimeter of the home unless the roof pitch is at least seven feet rise for every twelve feet of run;

(3) Exterior wall. The height of the exterior wall must be at least seven feet six inches for the first story;

(4) Siding and roofing materials. The materials and texture of the exterior materials must be compatible in composition, appearance, and durability to the exterior materials commonly used in standard residential construction.

(B) A single-family modular home placed in the State after January 1, 2005, must meet the foundation requirements provided by the State in this subsection:

(1) A perimeter wall located under the exterior walls of the home, whether load-bearing or nonload-bearing, must be constructed of brick, masonry, or other permanent material commonly used in standard residential construction, consistent with surrounding residential structures, and in accordance with the International Residential Code as adopted by the South Carolina Department of Labor, Licensing and Regulation. All modular manufacturers shall submit with the plan set for each building to the department's Modular Buildings Program a minimum foundation design.

(2) A home located in a coastal or flood plain area may require piling or other special foundation designs. These foundations must be designed by a registered professional engineer or architect and are subject to review and approval by the local jurisdiction and not by the Modular Buildings Program. A perimeter wall constructed of brick, masonry, or other materials to enclose the foundation of the home may be a requirement of the design.

(C) An appeal for a variance from a certification standard or a foundation requirement described in this section may be taken in the same manner as provided in Section 23-43-120.

(D) A single-family modular home used as a display model may be placed for its first residential use in this State if:

(1) it bears a valid modular home label issued pursuant to this chapter;

(2) it meets the appropriate wind and seismic requirements in effect when the label was issued;

(3) it has not been altered from its original design;

(4) it was manufactured within five years before the placement for first residential use; and

(5) the seller provides the purchaser with written notice that the home meets the appropriate code requirements in effect at the time of manufacture, and may or may not meet the code requirements in effect at the time of placement for residential use.”

Time effective

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

Ratified the 26th day of January, 2012.

Approved the 1st day of February, 2012.

No. 109

(R116, H3617)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 48-1-95 SO AS TO PROVIDE THAT A WASTEWATER UTILITY MUST NOTIFY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL WITHIN TWENTY-FOUR HOURS OF A SIGNIFICANT SPILL; TO PROVIDE THAT IF A UTILITY HAS HAD MORE THAN TWO SIGNIFICANT SPILLS PER ONE HUNDRED MILES OF ITS SEWAGE COLLECTION SYSTEM WITHIN THE YEAR UP TO AND INCLUDING THE DATE OF THIS SIGNIFICANT SPILL, THE DEPARTMENT SHALL ORDER THE UTILITY TO COMPLETE A

COMPREHENSIVE REVIEW OF ITS SYSTEM OR IF THE UTILITY HAS A CAPACITY, MANAGEMENT, OPERATIONS, AND MAINTENANCE PLAN, TO ORDER THE UTILITY TO UPDATE THIS PLAN; AND TO REQUIRE THE UTILITY TO PROVIDE PUBLIC NOTICE OF A SIGNIFICANT SPILL.

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

Wastewater utilities, procedures for significant spills

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

“Section 48-1-95. (A) As used in this section:

(1) ‘Action plan’ or ‘plan’ means a schedule for implementing and completing repairs, upgrades, and improvements needed to minimize future repetitive significant spills of untreated or partially treated domestic sewage.

(2) ‘Capacity, Management, Operation, and Maintenance or ‘CMOM’ plan’ means a comprehensive, dynamic framework for wastewater utilities to identify and incorporate widely accepted wastewater industry practices to:

- (a) better manage, operate, and maintain collection systems;
- (b) investigate capacity constrained areas of the collection system; and
- (c) respond to sanitary sewer overflow events.

(3) ‘Comprehensive review’ or ‘review’ means a complete technical assessment of the components and operation of a sewage system or its treatment works that are contributing to, or may be contributing to, repetitive significant spills of untreated or partially treated domestic sewage.

(4) ‘Department’ means the Department of Health and Environmental Control.

(5) ‘Significant spill’ means a net discharge from a wastewater utility of at least five thousand gallons of untreated or partially treated domestic sewage that could cause a serious adverse impact on the environment or public health. ‘Significant spill’ does not include spills caused by a natural disaster, direct act of a third party, or other act of God.

(6) ‘Wastewater utility’ or ‘utility’ means the operator or owner of a sewage collection system or its treatment works providing sewer service to the public. ‘Wastewater utility’ does not include

manufacturers, electric utilities, agricultural operations, and wastewater treatment systems located on property owned by the federal government.

(B) Utilities must verbally notify the department of any significant spill within twenty-four hours and by written submission within five days.

(C) Upon receiving notice of a significant spill from a wastewater utility, the department must determine whether the responsible wastewater utility has had more than two significant spills per one hundred miles of its sewage collection system, in the aggregate and excluding private service laterals, during the twelve-month period up to and including the date of the significant spill.

(D)(1) If the wastewater utility has had more than two significant spills per one hundred miles of its aggregate collection system miles during a twelve-month period, the department shall issue an order directing the utility to complete a comprehensive review of the sewage system and treatment works facility identified pursuant to subsection (C), or if the wastewater utility has a Capacity, Management, Operations, and Maintenance plan in place directing the utility to update this plan, the order must include, but is not limited to:

(a) the submission of the findings of the comprehensive review or CMOM update; and

(b) the required implementation of any plans to minimize the recurrence of such significant spills.

(2) The comprehensive review, pursuant to item (1), must be performed by a licensed South Carolina professional engineer.

(3) Unless the department's order is being appealed, the comprehensive review or CMOM update must be initiated by the wastewater utility's owner within two months of receiving an order from the department or, in the case of an appeal, within two months from the date the order becomes final and nonappealable.

(E) The department shall require that all wastewater utilities provide public notice of any significant spill of five thousand gallons or more within twenty-four hours of the discovery. Where the responsible wastewater utility does not provide this notice, in addition to any enforcement response, the department shall provide public notice of the significant spill.

(F) Nothing in this section contravenes the department's ability to undertake enforcement action under the Pollution Control Act, Chapter 1, Title 48, or any other state or federal law."

Time effective

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

Ratified the 26th day of January, 2012.

Approved the 1st day of February, 2012.

No. 110

(R117, H3731)

AN ACT TO AMEND SECTION 56-27-30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TERM AND COST OF A PROFESSIONAL HOUSEMOVING LICENSE, SO AS TO REVISE THE ANNUAL RENEWAL FEE; AND TO AMEND SECTION 57-3-130, AS AMENDED, RELATING TO THE DEPARTMENT OF TRANSPORTATION'S SPECIAL PERMITS THAT AUTHORIZE A PERSON TO OPERATE OR MOVE A VEHICLE THAT EXCEEDS A CERTAIN SIZE, SO AS TO PROVIDE THAT THE DEPARTMENT MAY DETERMINE THE MAXIMUM SPEEDS AT WHICH PERMITTED LOADS MAY OPERATE, TO PROVIDE THAT FOR A LOAD TRAVELING UNDER POLICE ESCORT, THE ESCORT OFFICER MAY EXERCISE DISCRETION WHEN TEMPORARILY MOVING OUT OF THE TRAVELED WAY, AND TO PROVIDE AN ADDITIONAL IMPACT FEE FOR LOADS THAT EXCEED FIVE HUNDRED THOUSAND POUNDS.

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

Professional moving license

SECTION 1. Section 56-27-30 of the 1976 Code is amended to read:

“Section 56-27-30. A license issued under the provisions of this chapter is effective for a period of one year from the date of issuance and is renewable on an annual basis. The annual and renewal fee for the license is contained in Section 57-3-130. All persons issued

licenses under the provisions of this chapter are required to carry the license on their persons at all times when engaged in the profession of housemoving on the roads and highways of this State.”

Special permits to operate or move certain vehicles

SECTION 2. Section 57-3-130(A) and (B) of the 1976 Code, as last amended by Act 353 of 2008, is further amended to read:

“(A) Subject to the conditions prescribed in subsection (B), the Department of Transportation, in its discretion upon application in writing and good cause being shown that it is in the public interest, may issue special permits authorizing the applicants to operate or move vehicles or combinations of vehicles of a size and weight of vehicle or load exceeding the maximum specified in Article 33, Chapter 5, Title 56 or otherwise not in conformity with the article upon a state highway. The application for the permit specifically must describe the vehicle and load to be operated or moved and the particular highways for which a permit to operate is requested. A permit must be carried in the vehicle or combination of vehicles to which it refers and must be open to inspection by a police officer or an authorized agent of the authority granting the permit. No person may violate the terms or conditions of the special permit. Fees collected pursuant to this section must be placed in the state highway fund and used for defraying the cost of issuing and administering the permits and for other highway purposes. The department may charge the following rates for oversize or overweight permits and licenses:

Single Trip	\$30.00
Excessive Width Over 16 feet	\$35.00
Excessive Width Over 18 feet	\$40.00
Excessive Width Over 20 feet	\$45.00
Excessive Width Over 22 feet	\$50.00
Multiple Trip (Annual)	\$ 100.00
Housemoving License (Annual)	\$ 100.00
Superload Application (Non-Refundable)	\$ 100.00
Superload Engineer Analysis Over 130,000 pounds	\$ 100.00
Superload Engineer Analysis Over 200,000 pounds	\$ 200.00
Superload Engineer Analysis Over 300,000 pounds	\$ 350.00
Superload Impact Fee for Loads Over 130,000 pounds	\$3.00/1,000 pounds
Administration Fee for Prorating Active Annual Permits	\$10.00

Administration Fee for Road Machinery Permits \$10.00

Additional Megaload Impact Fee for Loads
Over 500,000 pounds \$0.05/1000 lbs/mile

(B)(1) The Department of Transportation may exercise its discretion in issuing permits for the movement of all types of vehicles which exceed the legal size and weight limits, if the:

- (a) load carried on the vehicle cannot be disassembled readily;
- (b) movements are made so as not to damage the highways nor

unduly interfere with highway traffic.

(2) The Department of Transportation may limit or prescribe the conditions of operation of the vehicles provided for in item (1) and may require insurance or other security it considers necessary.

(3) The following are general provisions applicable to all oversize and overweight loads:

(a) The granting of a permit does not constitute a waiver of the license requirements imposed by South Carolina, does not waive the liability or responsibility of the applicant which might accrue for property damage, including damage to the highways, or for personal injuries, and does not exempt the applicant from compliance with the ordinances, rules, and regulations of a municipality.

(b) Before granting a permit, the Department of Transportation, at its discretion, may require the vehicle owner or operator to furnish a certificate showing the amount of public liability and property damage insurance carried.

(c) All vehicles shall meet the requirements of all applicable laws and regulations.

(d) Overwidth loads or mobile homes must be moved over sections of highways selected by the Department of Transportation.

(e) The Department of Transportation may determine the maximum speeds at which permitted loads are to operate.

(f) The driver shall remove the towing vehicle along with the load or mobile home from the traveled way to allow closely following traffic, five vehicles maximum, to pass and proceed. For any load traveling under police escort, this must be done at the discretion of the escort officer.

(4) Applications for overweight and oversize permits must be submitted on forms provided by the Department of Transportation and must include all the necessary information required. Each application must be accompanied by the permit fee before it may be issued. The permit fee accompanying an application that is rejected must be returned to the person or company named within the application.

(5) Special oversize and overweight trip permits for movement of vehicles or combinations of vehicles with individual loads on them in excess of the maximum sizes and weights allowed must receive special consideration by and have prior approval of the Department of Transportation before any part of the move to be undertaken. For loads exceeding five hundred thousand pounds, there is an additional megaload impact fee assessed on the entire gross vehicle weight on a pounds per mile basis as provided in the permits and licenses rates table contained in subsection (A).

(6) The State reserves the right to recall or not issue permits in accordance with the limitations provided in this section if there is an abuse of the permit or the permit would cause an unnecessary amount of disruption in the normal traffic flow.”

Time effective

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

Ratified the 26th day of January, 2012.

Approved the 1st day of February, 2012.

No. 111

(R118, H3744)

AN ACT TO AMEND SECTION 40-65-40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EXEMPTIONS FROM PROVISIONS CONCERNING SOIL CLASSIFIERS, SO AS TO REVISE THE EXEMPTIONS.

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

Licensure of soil classifiers, exemptions from licensure

SECTION 1. Section 40-65-40 of the 1976 Code, as last amended by Act 249 of 2010, is further amended to read:

“Section 40-65-40. This chapter must not be construed to prevent or affect:

(1) Persons engaged solely in teaching soil science or engaged solely in soil science research.

(2) Officers and employees of the United States, the State, and units of local government who practice soil science solely in the capacity of their office or employment.

(3) Officers and employees of companies engaged in the practice of soil science, when the officers and employees practice soil science solely in the capacity of their employment and who do not offer their services to the public for hire.

(4) The work of an employee or subordinate of a person holding a Professional Soil Classifier license under this chapter provided this work does not include final soil classifying decisions and is done under the supervision of and verified by a person holding a Professional Soil Classifier license.

(5) A professional wetlands specialist who applies soil science to make wetland delineations or determinations.

(6) A person who conducts soil sampling solely for the purpose of determining plant nutrient and lime application rates for gardening and for agricultural, horticultural, silvicultural, or related purposes.

(7) A person who practices another licensed trade or profession within the scope of that license.”

Time effective

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

Ratified the 26th day of January, 2012.

Approved the 1st day of February, 2012.

No. 112

(R119, H3873)

AN ACT TO AMEND SECTION 50-5-1507, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ZONES, SEASONS, TIMES, CATCH AND SIZE LIMITS, METHODS, AND EQUIPMENT FOR TAKING HERRING, SO AS TO REVISE THE SEASONS, TIMES, AND SIZE AND TAKE LIMITS FOR HERRING, AND THE METHODS AND

**EQUIPMENT WHICH APPLY AND TO PROVIDE FOR THE
AREAS IN WHICH CERTAIN OF THESE PROVISIONS
APPLY.**

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

Herring restrictions and provisions

SECTION 1. Section 50-5-1507 of the 1976 Code is amended to read:

“Section 50-5-1507. In addition to other provisions of law, the following provisions govern seasons, times, methods, equipment, size limits, and take limits in commercial fishing for herring in the waters of this State:

(a) Black River, Little Pee Dee River, Lynches River, Sampit River, and the Waccamaw River from its northern ocean outlet at Little River to Winyah Bay, and Winyah Bay:

Season: No open season.

(b) Great Pee Dee River:

(1) Season: February 15 through April 15;

(2) Times: 7:00 a.m. Wednesday to 7:00 p.m. Saturday, local time;

(3) Methods and equipment: Any lawful method and equipment;

(4) Size and take limits: No limits.

(c) Santee River below Wilson Dam including the Rediversion Canal below St. Stephen Dam, North Santee River and Bay, South Santee River, and all tributaries and distributaries as follows:

(i) Santee River below the cable and buoys marking the seaward boundary of the Wilson Dam Sanctuary designated by the department seaward to Wilson Dam Boat Landing:

(1) Season: February 15 through April 30, for herring only;

(2) Times: Sunrise Monday to sunset Thursday, as locally published;

(3) Methods and equipment: Cast net and seine net. A seine may not exceed one hundred yards in total length. The mesh of the seine must not be less than one-half inch square. All fish except those used for live bait must be containerized in one bushel units before landing;

(4) Size and take limits: Ten U.S. bushels each boat each day including lawful incidental catch; harvest must not be transferred between boats; and an additional boat must not be used to increase a person's daily take.

(ii) Rediversion Canal:

(1) Season: March 1 through April 30;
(2) Times: 7:00 p.m. to 12:00 p.m. EST, or 8:00 p.m. to 12:00 p.m. DST;

(3) Methods and equipment: Circular drop nets with a maximum six-foot diameter, lift nets, and cast nets allowed; other equipment prohibited; nets must be operated by hand; trawling prohibited; culling prohibited; all fish, except those used for live bait, must be containerized in units of one hundred pounds maximum weight before landing; all fishing is prohibited within one hundred feet of the fish lift exit channel at St. Stephen Powerhouse, except with hook and line from March 1 through April 15;

(4) Size and take limits: Ten U.S. bushels each boat each day including lawful incidental catch; harvest must not be transferred between boats; and an additional boat must not be used to increase a person's daily take.

(iii) Santee River seaward of Wilson Boat Landing:

Season: No open season.

(d) Charleston Harbor System including Wando River and Cooper River seaward to the U.S. Highway 17 bridges, Charleston Harbor, Ashley River, and all tributaries and distributaries as follows:

(i) Tailrace Canal from CSX Railroad Bridge to the Jefferies Power Plant Sanctuary line:

(1) Season: March 1 through April 30;
(2) Times: Sunrise as locally published to 10:00 p.m.;

(3) Methods and equipment: Circular drop nets with a maximum six-foot diameter, lift nets, and cast nets allowed; other equipment prohibited; nets must be operated by hand; trawling prohibited; culling prohibited; all fish, except those used for live bait, must be containerized in units of one hundred pounds maximum weight before landing;

(4) Size and take limits: Ten U.S. bushels each boat each day; harvest must not be transferred between boats and an additional boat must not be used to increase a person's daily take.

(ii) Cooper River from CSX Railroad to U.S. Highway 17 bridges:

Season: No open season.

(iii) Charleston Harbor system excluding Tailrace Canal and Cooper River seaward to U.S. Highway 17 bridges:

(1) Season: February 15 through April 15;
(2) Times: No restrictions;

(3) Methods and equipment: Any lawful method and equipment;

(4) Size and take limits: No limits.

(e) Lake Moultrie, Lake Marion, Diversion Canal, Intake Canal of Rediversion Canal, and all tributaries and distributaries as follows:

(1) Season: No closed season;

(2) Times: No restrictions;

(3) Methods and equipment: Cast net, lift net, and hook and line;

(4) Size and take limits: Two hundred fifty pounds each boat each day combined catch of shad and herring and other lawful incidental catch.

(f) Lake Jocassee and all tributaries and distributaries as follows:

(1) Season: No closed season;

(2) Times: No restrictions;

(3) Methods and equipment: Hook and line;

(4) Size and take limits: No limits.

(g) Lake Keowee and all tributaries and distributaries as follows:

(1) Season: No closed season;

(2) Times: No restrictions;

(3) Methods and equipment: Cast net and hook and line;

(4) Size and take limits: No limits.

(h) Lake Hartwell and all tributaries and distributaries as follows:

(1) Season: No closed season;

(2) Times: No restrictions;

(3) Methods and equipment: Cast net and hook and line;

(4) Size and take limits: No limits.

(i) Lake Richard B. Russell and all tributaries and distributaries as follows:

(1) Season: No closed season;

(2) Times: No restrictions;

(3) Methods and equipment: Cast net and hook and line;

(4) Size and take limits: No limits.

(j) Lake J. Strom Thurmond and all tributaries and distributaries as follows:

(1) Season: No closed season;

(2) Times: No restrictions;

(3) Methods and equipment: Cast net and hook and line;

(4) Size and take limits: No limits.

(k) Savannah River and all tributaries and distributaries as follows:

Seaward of the Augusta Diversion Dam

Season: No open season.

(l) Lake Secession, Stevens Creek Reservoir, and all tributaries and distributaries as follows:

- (1) Season: No closed season;
- (2) Times: No restrictions;
- (3) Methods and equipment: Cast net and hook and line;
- (4) Size and take limits: No limits.

(m) Lake Greenwood, Lake Murray, Saluda River between Buzzards Roost (Lake Greenwood Dam) and S.C. Highway 121, and all tributaries and distributaries as follows:

- (1) Season: No closed season;
- (2) Times: No restrictions;
- (3) Methods and equipment: Cast net and hook and line;
- (4) Size and take limits: No limits.

(n) Catawba River impoundments, including Lake Wylie and Lake Wateree, and all tributaries and distributaries as follows:

- (1) Season: No closed season;
- (2) Times: No restrictions;
- (3) Methods and equipment: Cast net and hook and line;
- (4) Size and take limits: No limits.

(o) Lake Monticello and all tributaries and distributaries as follows:

- (1) Season: No closed season;
- (2) Times: No restrictions;
- (3) Methods and equipment: Cast net and hook and line;
- (4) Size and take limits: No limits.”

Time effective

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

Ratified the 26th day of January, 2012.

Approved the 1st day of February, 2012.

No. 113

(R120, H3864)

**AN ACT TO AMEND ARTICLE 1, CHAPTER 13, TITLE 50,
CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING
TO RESTRICTIONS ON FISHING GENERALLY, SO AS TO**

REVISE THE PROVISIONS OF THE ARTICLE TO GOVERN CERTAIN FISHING ACTIVITIES IN THE FRESHWATERS OF THIS STATE AND TO PROVIDE PENALTIES FOR SPECIFIC VIOLATIONS; BY ADDING ARTICLE 2 TO CHAPTER 13, TITLE 50 SO AS TO PROVIDE FOR CERTAIN REGULATION OF AND THE PROTECTION FOR FRESHWATER GAME FISH; BY ADDING SECTION 50-13-1995 SO AS TO PROVIDE THAT THE DEPARTMENT OF NATURAL RESOURCES MAY PERMIT THE FEDERAL GOVERNMENT TO CONDUCT FISH AND SCIENTIFIC INVESTIGATIONS IN THE WATERS OF THIS STATE IN CONNECTION WITH HATCHERY OPERATIONS OR MANAGEMENT OF THOSE SPECIES UNDER FEDERAL JURISDICTION; AND TO REPEAL SECTIONS 50-13-610 RELATING TO LAWFUL TAKING OF FISH IN GAME ZONE NO. 1; 50-13-620 RELATING TO PENALTIES APPLICABLE TO FISHING VIOLATIONS IN GAME ZONE NO. 1; 50-13-680 RELATING TO PERMITS REQUIRED FOR TAKING FISH IN CERTAIN PONDS IN MARLBORO COUNTY; 50-13-690 RELATING TO THE USE OF NETS OR OTHER DEVICES TO TAKE NONGAME FISH FROM PRIVATE PONDS IN CHESTERFIELD COUNTY; 50-13-730 RELATING TO THE USE OF NETS TO TAKE NONGAME FISH IN THE FRESHWATERS OF THIS STATE; AND 50-13-2010 RELATING TO THE SHELLEY LAKE FISH SANCTUARY IN MARION COUNTY.

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

Freshwater fishing, general restrictions

SECTION 1. Article 1, Chapter 13, Title 50 of the 1976 Code is amended to read:

“Article 1

General Restrictions on Freshwater Fishing

Section 50-13-10. The following definitions apply in this chapter as applicable:

(A) Equipment definitions:

(1) ‘Archery equipment’ means a bow and arrow, long bow, recurve bow, compound bow, or crossbow.

(2) 'Artificial lure' means manufactured or handmade flies, spinners, plugs, spoons, and reproductions of live animals, which are made completely of natural or colored wood, cork, feathers, hair, rubber, metal, plastic, tinsel, styrofoam, sponge, or string, or any combination of these materials, in imitation of or as substitute for natural bait. Lures or fish eggs enhanced with scents or salts are not artificial lures. Artificially produced organic baits are not artificial lures.

(3) 'Cast net' means a nonbaited circular webbing having a weighted peripheral line that is thrown by hand and retrieved by a central line connected to radiating tuck lines attached to the peripheral line.

(4) 'Crayfish trap' means a device constructed of coated wire with the opening of the throat or flues not exceeding two and one-quarter inches with a minimum mesh size of one-quarter inch bar mesh.

(5) 'Creel' means anything used to hold or keep fish while afloat or afield.

(6) 'Device' means an appliance or equipment or combination designed or used for taking or attempting to take fish.

(7) 'Eel pot' means an enclosed structure used to take eels only and which conforms to the following specifications:

(a) no larger than twenty-four inches by forty-eight inches; and

(b) must be constructed of wire so that:

(i) the mesh size is no smaller than one-half by one-half inch, except for the throat or muzzle and the end opposite the throat or muzzle of cylindrical pots; and

(ii) a throat opening not to exceed two inches measured in any direction.

(8) 'Elver fyke net' means a net with wings not exceeding ten feet in length and fourteen feet in depth; the distance from throat to cod end does not exceed twenty feet. The maximum bar mesh for any part of the net does not exceed one-eighth inch square.

(9) 'Game fishing device' means a hook and line, pole or artificial pole, or rod and reel.

(10) 'Gig' means a device consisting of a staff with a sharp point or points designed for thrusting and used to take fish by hand; to take fish by hand by use of a spear, prong, or similar device.

(11) 'Gill net' means a net designed to hang vertically and capture fish by entanglement usually of the head, gill covers, or preopercles.

(12) 'Hoop net' means a device in which fish are taken in an enclosed structure which conforms to the following specifications: the maximum size of hoop nets must be sixteen feet in length by five and one-half feet in diameter. Hoop nets must be made of a textile netting (no wire) of a mesh size not less than one inch square nor greater than two inches square enclosing a series of round hoops with two or more muzzle openings which must be made of a netting material. One side of the hoop must be flat to hold the nets in place.

(13) 'Jug fishing' means fishing by use of a single hook and line attached to a floating device other than a flotation marker for trotlines, traps, or other devices.

(14) 'Minnow seine' means a seine of a size not greater than four feet in depth by twenty feet in length with a mesh size of not more than one-fourth inch square mesh.

(15) 'Minnow trap' means a cylindrical device not longer than twenty-four inches and no more than thirty inches in circumference or a rectangular device not larger than twenty-four inches long, eight inches high, and nine inches wide. The mesh must be no smaller than one-quarter inch bar mesh. The throat opening of the funnel of the trap may not exceed one inch in diameter.

(16) 'Net' means an open work fabric or fiber woven or knotted at regular intervals; to catch or ensnare.

(17) 'Pump net' means a manually operated dip-type net with webbing hung from rigid cross members that form an 'X' which are attached to a pole. The pole utilizes a fulcrum to raise and lower the net. The 'X' cross members may not exceed twenty feet. The net must be no smaller than one inch stretched mesh.

(18) 'Seine' means a net having a stretch mesh of not less than one inch and not more than one and one-half inches which do not exceed seventy-five feet in length or six feet in depth.

(19) 'Set hook' means a single hook and line set in or along any of the waters of this State used to catch fish while attached to bushes, limbs, vines, undergrowth, or other parts of vegetation, set poles, pegs, sticks, or similar structures. 'Set hooks' include all similar hook and line devices by whatever name called.

(20) 'Skimbow net' means a hand operated dip net constructed of wood with wire or textile netting with a mesh size not greater than one and one-half inches square hung within a frame formed by a length of wood looped and attached to itself to form a bow. The bow may not exceed fourteen feet in any direction

(21) 'Single-hook artificial lure' means an artificial lure with a single point. A multiple number of single-hook lures (such as dropper flies) fished in a series is considered a single-hook artificial lure.

(22) 'Spear' means a device for thrusting or throwing consisting of a long staff with a sharpened point or to which a sharp head is fixed.

(23) 'Trap' means a device in which fish are taken in an enclosed structure which conforms to the following specifications and includes fish traps, baskets, and like devices:

(a) a trap must be made of:

(i) wire or textile material and be cylindrical in shape not more than six feet in length and not more than three feet in diameter or width;

(ii) the mesh size must not be smaller than one inch by one inch and there must be only one application of exterior wire to the trap; and

(iii) the muzzle must have one of the following designs:

(1) a trap door on the second muzzle or catch muzzle which remains in a closed position and which only opens for the entry of fish into the trap; the trap door must be constructed of the same material as the trap; or

(2) construction of a netting so that the opening of the small end of the second muzzle or catch muzzle is held in the shape of a slit and the trap configuration constructed such that as the trap rests on the bottom the slit must be oriented horizontally with the greatest vertical opening being no greater than one inch; or

(b) a trap must be made of:

(i) wood strips or slats and be cylindrical or rectangular in shape. The length may not exceed six feet and the width or diameter may not exceed two feet;

(ii) the throat opening of the catch muzzle in a resting position may not exceed three inches measured in any direction; and

(iii) the sides, top, and rear of the trap must have a minimum of one inch openings between the slats;

(c) eel pots, minnow traps, and crayfish traps are not included in this definition.

(24) 'Trotline' means a device consisting of a horizontal common line with two or more hooks suspended from it.

(25) 'Yoyo' means a device to which 'set hooks' are attached which is activated by spring-like devices.

(B) Miscellaneous definitions:

(1) 'Bait fish' means a fish allowed to be used as bait in the freshwaters including: Asian clams (*Corbicula* spp.), crayfish, eels,

herring, shad, and fathead minnows (*Pimephales promelas*), golden shiners (*Notemigonus crysoleucas*), and goldfish, including 'black salties' (*Carassius auratus*).

(2) 'Commercial purpose' means:

(a) being engaged in selling fish; or

(b) taking or attempting to take fish in order to derive income or other consideration; or

(c) fishing more devices than allowed for recreation.

(3) 'Day' means the twenty-four hour period from one-half hour before official sunrise of one day to one-half hour before official sunrise the following day.

(4) 'Freshwaters' or 'freshwaters of this State' means all waters of this State from the saltwater/freshwater dividing line inland to the jurisdictional limits of this State and those naturally occurring freshwaters seaward of the saltwater/freshwater line, but does not include private lakes or ponds which are entirely segregated from other freshwaters.

(5) 'Fish' means finfish and shellfish, including mollusks and crustaceans.

(6) 'Fishing' means all activity and effort involved in taking or attempting to take fish.

(7) 'Hand grabbing' (noodling) means taking nongame fish by hand without the aid of hook, snare, or artificial breathing device. A stick, pole, rod, or PVC pipe must be used to dislodge the fish.

(8) 'Land' means take and retain possession while afloat or take and bring ashore.

(9) 'Limit' means the number or size of fish one person lawfully may possess in any one day while afloat or afield.

(10) 'Night' means one-half hour after official sunset of one day to one-half hour before official sunrise the following day.

(11) 'Possess' or 'possession' means to take and retain.

(12) 'Striker' means a person other than a licensed freshwater commercial fisherman, who under immediate supervision assists a licensed commercial freshwater fisherman, but does not use separate nongame fishing devices from the vessel engaged in commercial fishing. A striker is not required to have a commercial freshwater fishing license.

(13) 'Snagging' means pulling a device equipped with one or more hooks through the water in an attempt to impale fish. 'Snagging' does not include using lures or baited hooks designed to catch fish in or about the mouth.

(14) 'Take' means to catch, capture, gather, wound, kill, harvest, or remove, but does not include a catch and immediate release.

(15) 'Total length' means the length of a fish laid flat and measured from the closed mouth (snout) to the tip of the tail fin when pinched together. It is a straight line measure, not over the curvature of the body.

(16) 'Unattended' means the device operator is not in the immediate vicinity.

(C) Species definitions:

(1) 'Black bass' means largemouth (*Micropterus salmoides*), smallmouth (*Micropterus dolomieu*), redeye (*Micropterus coosae*), and spotted bass (*Micropterus punctulatus*).

(2) 'Hybrid bass' means those fish produced by crossing striped bass (*Morone saxatilis*) with white bass (*Morone chrysops*).

(3) 'Striped bass' or 'rockfish' means the species *Morone saxatilis*.

(4) 'Trout' means rainbow, brook, brown, or other species of cold-water trout of the family Salmonidae.

Section 50-13-20. This chapter governs the freshwaters of this State.

Section 50-13-30. Unless otherwise provided, a person convicted of a violation of this chapter is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty-five dollars nor more than five hundred dollars or imprisoned for up to thirty days, or both. The magistrates court retains jurisdiction of offenses in this chapter.

Section 50-13-40. Fishing in the freshwaters constitutes consent to inspection of creels at any time by a law enforcement officer.

Section 50-13-50. (A) The possession or use on the freshwaters of this State of any device or gear designed or used to take fish not authorized by this chapter is unlawful.

(B) Taking species not authorized by this chapter is unlawful.

(C) Taking by any method not authorized by this chapter is unlawful.

(D) It is unlawful to leave a game fishing device unattended. A game fishing device left unattended is contraband.

(E) It is unlawful to use, place, set, or fish a device so as to constitute a hazard to boating or public safety.

(F) It is unlawful to anchor a seine and leave it unattended.

Section 50-13-60. (A) It is unlawful for a person to possess more than the legal limit of fish in any one day on the freshwaters of this State.

(B) It is unlawful to possess any fish not of legal size.

(C) It is unlawful to possess any game fish without head and tail fin intact and, where a length limit is imposed on any species, it is unlawful to possess that species without head and tail fin intact.

(D) A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than fifty dollars nor more than five hundred dollars or imprisoned for up to thirty days, or both. Each fish illegally possessed is a separate offense.

Section 50-13-70. Except as otherwise provided, there is no closed season for taking fish, however, when because of natural or other conditions fish are vulnerable to predation or are in distress and in the professional judgment of the department need temporary protection or in order to protect the public safety, the department may declare a closed season for taking any species until the condition has abated but the closed season may not be longer than ninety days. The department shall give notice of the closure by the most expeditious means. It is unlawful to take or possess the affected species during the closed season.

Section 50-13-80. (A) It is unlawful to take fish by snagging within one thousand feet downstream of a hydroelectric facility. Nothing in this section prohibits the use of lures or baited hooks.

(B) It is unlawful to take trout by snagging.”

Freshwater game fish

SECTION 2. Chapter 13, Title 50 of the 1976 Code is amended to by adding:

“Article 2

Protection of Freshwater Game Fish

Section 50-13-200. It is unlawful to take freshwater game fish except by game fish devices. A fisherman may use only four game fishing devices. A fisherman fishing from a boat may use an unlimited

number of game fishing devices if all persons in the boat older than sixteen years have valid fishing licenses.

Section 50-13-210. (A) Except as otherwise provided, the daily possession limit for game fish is an aggregate of forty of which:

- (1) not more than five may be largemouth, redeye (coosae), or smallmouth bass or their hybrids or any combination;
- (2) not more than fifteen may be spotted bass;
- (3) not more than ten may be hybrid bass or striped bass or a combination;
- (4) not more than ten may be white bass;
- (5) not more than eight may be walleye or sauger or a combination;
- (6) not more than five may be trout, except on Lake Jocassee not more than three trout may be taken;
- (7) not more than twenty may be crappie;
- (8) not more than fifteen may be redbreast; and
- (9) not more than thirty may be other freshwater game fish species not listed in this section.

(B) On Lakes Hartwell, Keowee, Russell, (including the Lake Hartwell tail water), Thurmond, Tugaloo, Yonah, the Chattooga and Savannah Rivers and Stevens Creek Reservoir the daily possession limit for black bass is an aggregate of ten.

Section 50-13-220. It is unlawful to possess crappie less than eight inches in total length.

Section 50-13-230. (A) In the following freshwater bodies: the Ashepoo River; Ashley River; Back River in Jasper County and the Back River in Berkeley County; Black River; Black Mingo Creek; Bull Creek and Little Bull Creek; Combahee River; Cooper River system; Coosawhatchie River; Cuckholds Creek; Edisto River; Horseshoe Creek; Lumber River; Lynches River; Great Pee Dee and Little Pee Dee Rivers; Pocotaligo River in Beaufort, Jasper, and Hampton Counties; Salkehatchie and Little Salkehatchie Rivers; Sampit River; Santee River system except the lower reach of the Saluda River; Tulifinny River; Thoroughfare Creek; and Waccamaw River from June first to September thirtieth, it is unlawful to take, attempt to take, or to possess striped bass. Striped bass taken must be returned immediately to the waters from where it came.

(B) On the lower reach of the Saluda River from June first to September thirtieth, it is unlawful to take or possess striped bass.

Striped bass taken must be returned immediately to the waters from where it came.

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

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

(E) On Lake Murray and the middle reach of the Saluda River it is unlawful to possess more than five striped bass a day. From June first through September thirtieth, it is unlawful to take, attempt to take, or possess more than five striped bass a day.

(F) On Lake Murray and the middle reach of the Saluda River from October first through May thirty-first, it is unlawful to possess a striped bass less than twenty-one inches in total length. From June first to September thirtieth there is no minimum length.

(G) On Lakes Hartwell and Thurmond it is unlawful to possess more than ten striped bass or hybrid bass or a combination of those a day and only three may be over twenty-six inches in total length.

(H) On Lake Richard B. Russell and the Lake Hartwell tail water it is unlawful to possess more than two striped bass or hybrid bass or a combination of those a day, and only one may be over thirty-four inches total length.

(I) On the lower reach of the Savannah River it is unlawful to possess more than two striped bass, hybrid bass, white bass, or a

combination of these. Any of these fish taken from the lower reach of the Savannah River must be at least twenty-seven inches in total length.

(J) It is unlawful to land striped bass unless the head and tail fin are intact.

(K) The department shall establish the daily possession and size limits for striped bass on all other waters of this State, provided, limits must not be set by emergency regulation.

(L) The department shall make a study of the striped bass fishery on the Santee and Cooper River systems and make recommendations on any needed modifications of this section before January, 2015.

Section 50-13-240. (A) It is unlawful to possess largemouth bass on Lakes Blalock, Greenwood, Jocassee, Marion, Monticello, Moultrie, Murray, Secession, Wateree, Wylie, and the middle reach of the Saluda River and the upper reach of the Santee River less than fourteen inches in total length.

(B) It is unlawful to possess largemouth bass on Lakes Hartwell, Keowee, Russell (including the Lake Hartwell tail water), Robinson (Greenville County), Thurmond, Tugaloo, Yonah, Stevens Creek Reservoir, the Chattooga, and Savannah Rivers less than twelve inches in total length.

Section 50-13-250. It is unlawful to possess smallmouth bass less than twelve inches in total length.

Section 50-13-260. (A) In order to establish a 'catch and release' fishery for trout it is unlawful to possess, take, and retain trout from November first of each year through May fourteenth of the following year inclusive on the following waters:

(1) that portion of the Chattooga River beginning at S.C. State Highway 28 upstream to its confluence with Reed Creek (Rabun County, GA);

(2) that portion of Cheohee Creek that runs through the Piedmont Forestry Center;

(3) Devils Fork Creek; Howard Creek from its confluence with Corbin Creek upstream to its confluence with Limberpole Creek; and Corbin Creek upstream from its confluence with Howard Creek to S.C. State Highway S-37-130 (Whitewater Road) in Oconee County;

(4) Chauga River from S.C. State Highway S-37-290 (Cassidy Bridge Road) upstream to its confluence with Bone Camp Creek in Oconee County; and

(5) Eastatoe River from the backwaters of Lake Keowee upstream to S.C. State Highway S-39-143 (Roy Jones Road) in Pickens County.

(B) Trout taken must be released immediately.

Section 50-13-270. (A) From November first through May fourteenth inclusive, it is unlawful to use or possess any lure or bait except single hook artificial lures in the following waters;

(1) that portion of the Chattooga River beginning at S.C. State Highway 28 upstream to its confluence with Reed Creek (Rabun County, GA);

(2) that portion of Cheohee Creek that runs through the Piedmont Forestry Center;

(3) Devils Fork Creek; Howard Creek from its confluence with Corbin Creek upstream to its confluence with Limberpole Creek; and Corbin Creek upstream from its confluence with Howard Creek to S.C. State Highway S-37-130 (Whitewater Road) in Oconee County;

(4) Chauga River from S.C. State Highway S-37-290 (Cassidy Bridge Road) upstream to its confluence with Bone Camp Creek in Oconee County; and

(5) Eastatoe River from the backwaters of Lake Keowee upstream to S.C. State Highway S-39-143 (Roy Jones Road) in Pickens County.

(B) It is unlawful to use or possess any lure or bait except artificial lures in the following waters:

(1) Whitewater River;

(2) Matthews Creek from Asbury Drive Bridge at Asbury Methodist Camp upstream including all tributaries and headwaters;

(3) Middle Saluda River from the foot bridge at Jones Gap Natural Area Office upstream to U.S. Highway 176 in Greenville County; and

(4) Eastatoe River on Eastatoe Heritage Preserve in Pickens County.

(C) It is unlawful to use or possess corn, cheese, fish eggs, or imitations of them on Lake Jocassee.

Section 50-13-271. On Lake Jocassee it is unlawful to possess more than three trout. It is unlawful to possess trout less than fifteen inches in total length or possess more than one trout greater than twenty inches in total length. Provided, from June first through September thirtieth, there is no length limit but it is unlawful to take, attempt to take, or possess more than three trout.

Section 50-13-272. The department may promulgate regulations for the protection and management of the trout fishery.”

Fish culture and scientific investigations

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

“Section 50-13-1995. The department may permit the federal government to conduct fish culture and scientific investigations in the waters of this State in connection with hatchery operations or management of those species under federal jurisdiction.”

Repeal

SECTION 4. Sections 50-13-610, 50-13-620, 50-13-680, 50-13-690, 50-13-730, and 50-13-2010 of the 1976 Code are repealed.

Time effective

SECTION 5. Upon approval by the Governor, this act takes effect July 1, 2012.

Ratified the 26th day of January, 2012.

Approved the 1st day of February, 2012.

No. 114

(R121, H3865)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50-1-160 SO AS TO PERMIT THE DEPARTMENT TO RELEASE A SEIZED VEHICLE, BOAT, MOTOR, OR FISHING DEVICE UNDER CERTAIN CONDITIONS; TO AMEND ARTICLE 3, CHAPTER 13, TITLE 50, RELATING TO USE OF SEINES, TRAPS, AND LIKE DEVICES, SO AS TO REVISE AND FURTHER PROVIDE FOR THE MANNER IN WHICH AND CONDITIONS UNDER

WHICH THESE DEVICES MAY BE USED AND TO PROVIDE PENALTIES FOR VIOLATIONS; BY ADDING ARTICLE 5 TO CHAPTER 13, TITLE 50 SO AS TO PROVIDE FOR CERTAIN UNLAWFUL FRESHWATER ACTIONS AND TO PROVIDE PENALTIES FOR VIOLATIONS; TO AMEND ARTICLE 6, CHAPTER 13, TITLE 50, RELATING TO THE PROTECTION OF NONGAME FISH, SO AS TO FURTHER PROVIDE FOR THE USE OF NONGAME FISHING DEVICES AND THE TAKING OF NONGAME FISH IN THE FRESHWATERS OF THIS STATE, AND TO PROVIDE PENALTIES FOR CERTAIN VIOLATIONS AND FOR SPECIFIED EXCEPTIONS TO THESE PROVISIONS; TO AMEND ARTICLE 11, CHAPTER 13, TITLE 50, RELATING TO THE SALE AND TRAFFICKING IN FISH, SO AS TO REVISE CERTAIN PROVISIONS IN THE ARTICLE PERTAINING TO PROHIBITED PRACTICES IN REGARD TO THE SALE OR TRAFFICKING IN FISH AND ADD OTHER PROVISIONS WITH PENALTIES FOR VIOLATIONS; TO AMEND ARTICLE 13, CHAPTER 13, TITLE 50, RELATING TO FISH HATCHERIES AND SANCTUARIES AND PROPAGATION, SO AS TO REVISE AND FURTHER PROVIDE FOR ACTIONS THE DEPARTMENT MAY TAKE IN REGARD TO FISH HATCHERIES, SANCTUARIES, AND THE PROPAGATION OF FISH AND TO PROVIDE PENALTIES FOR CERTAIN VIOLATIONS; TO AMEND ARTICLE 13, CHAPTER 19, TITLE 50, RELATING TO THE HORRY COUNTY FISH AND GAME COMMISSION, SO AS TO DELETE THE PROVISIONS OF THE ARTICLE AND INSTEAD PROVIDE FOR THE PERMITTED USE OF NONGAME DEVICES ON THE LITTLE PEE DEE RIVER FOR A PERIOD OF THREE YEARS; AND TO REPEAL SECTIONS 50-13-1450 RELATING TO PRIMA FACIE EVIDENCE OF USING EXPLOSIVES TO TAKE FISH, 50-13-385 RELATING TO MINIMUM SIZE FOR LARGE MOUTH BASS IN LAKE WYLIE, 50-13-390 RELATING TO DAILY LIMIT ON ARKANSAS BLUE CATFISH, AND 50-13-400 RELATING TO LAKE MURRAY CRAPPIE CREEL AND SIZE LIMITS.

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

Release of seized property

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

“Section 50-1-160. (A) Notwithstanding another provision of law, the department may release a vehicle, boat, motor, or fishing device seized from a person charged with a violation of this chapter to an innocent owner or lien holder of the property.

(B) Notwithstanding another provision of law, if an innocent owner or lienholder fails to recover property within thirty days from the date of the notice of release then the department may maintain or dispose of the property.

(C) Before seized property is released to an innocent owner or lienholder, he shall provide the department with proof of ownership or a lienholder interest in the property.”

Use of and seasons for certain devices

SECTION 2. Article 3, Chapter 13, Title 50 of the 1976 Code is amended to read:

“Article 3

Use of Nets, Seines, Traps, and Like Devices

Section 50-13-310. A game fish taken by net or other nongame fishing device, must be returned immediately to the water from whence it came. A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than fifty dollars nor more than two hundred dollars or imprisoned for not more than thirty days. Any equipment used in committing the offense must be seized and disposed of as provided by law.

Section 50-13-315. (A) A trap must not be:

- (1) placed within six hundred feet of a public boat launching area;
- (2) set so as to leave any part of the trap exposed at low water;
- (3) unattended for more than three days.

(B) The department may inspect traps for compliance with this section at anytime. If the department finds any trap in violation of this

chapter or contains only dead catch or excessive dead catch, the trap is contraband and must be seized and disposed of according to law.

Section 50-13-320. (A) A trap or eel pot may be suspended above the bottom of the body of water in which they are used at a depth that does not create a hazard to watercraft.

(B) There is no restriction on the type of bait permissible in a trap or eel pot, except that game fish or any part of a game fish must not be used for bait.

(C) There is no closed season for fishing with a trap or eel pot in the freshwaters of this State in which the use of a trap or eel pot is permitted except temporary closure by the department.

(D) A trap or eel pot must not be placed within one hundred feet of the mouth of a tributary stream and a trap or eel pot must not be placed anywhere in the Diversion Canal connecting Lakes Marion and Moultrie nor placed within two hundred yards of a manmade structure in Lakes Marion and Moultrie.

(E) A crab pot or trap of like design must not be used in the freshwaters of this State unless permitted by regulation.

(F) All crayfish traps must be identified with the name and department customer identification number of the user. These traps only may be used in those bodies of water permitted under this chapter. A commercial fisherman may fish up to fifty crayfish traps. A recreational fisherman may fish up to five crayfish traps.

(G) All minnow traps must be identified with the name and department customer identification number of the user. A minnow trap may be fished with a recreational license only with a limit of five for each person and must not be fished for commercial purposes.

Section 50-13-325. (A) The season for taking nongame fish other than American shad and herring in the freshwaters of this State with a gill net is from November first to March first inclusive. A gill net may be used or possessed in the freshwaters in which their use is authorized on Wednesdays, Thursdays, Fridays, and Saturdays only. A gill net used in the freshwaters must have a mesh size not less than four and one-half inches stretch mesh. A gill net measuring more than one hundred yards in length must not be used in the freshwaters and a gill net, cable, line or other device used for support of a gill net may not extend more than halfway across any stream or body of water. A gill net may be placed in the freshwaters on a first come first served basis but a gill net must not be placed within two hundred yards of another

gill net. Use or possession of a gill net at any place or time other than those prescribed in this subsection is unlawful.

(B) Nongame fish taken in shad nets lawfully fished during the open season for taking shad may be kept. A sturgeon caught must be returned immediately to the waters from where it was taken.

Section 50-13-330. A hoop net may be used or possessed in the freshwaters where its use is authorized by this chapter. A hoop net must rest on the bottom of the body of water in which it is used and must not be suspended above the bottom. A hoop net must not be used within one hundred feet of the mouth of any tributary. Use or possession of a hoop net at any place or time other than those prescribed is unlawful.

Section 50-13-335. A pump net may be fished from the bank or a shore based structure only and only for recreation. A skimbrow net may be fished from a boat but only for recreation. These devices may be used only in those waters where authorized in this chapter.

Section 50-13-340. It is unlawful to use or have in possession a minnow seine in the freshwaters of this State from ten o'clock p.m. to official sunrise.”

Unlawful freshwater actions

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

“Article 5

Unlawful Freshwater Actions

Section 50-13-510. It is unlawful to take freshwater mussels (Bivalvia) without a permit from the department. A person violating this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred nor more than five hundred dollars. Provided, Asian clams (*Corbicula* spp.) may be taken without permit.

Section 50-13-520. Except as allowed by the department, it is unlawful to take saltwater crabs in the freshwaters of this State.”

Freshwater nongame fishing devices, taking of nongame fish

SECTION 4. Article 6, Chapter 13, Title 50 of the 1976 Code is amended to read:

“Article 6

Protection of Nongame Fish

Section 50-13-610. The provisions of this article apply to the use of nongame fishing devices and the taking of nongame fish in the freshwaters of this State except herring and American shad.

Section 50-13-615. The following are the only lawful nongame fishing devices and methods that may be used for taking nongame fish in the freshwaters of this State and only in those waters in which these devices and methods are authorized:

- (1) archery equipment;
- (2) cast net;
- (3) crayfish trap;
- (4) eel pot;
- (5) elver fyke net;
- (6) gig;
- (7) gill net;
- (8) hand grabbing;
- (9) hoop net;
- (10) jug fishing device;
- (11) minnow seine;
- (12) minnow trap;
- (13) pump net;
- (14) seine;
- (15) set hook;
- (16) skimbrow net;
- (17) spear;
- (18) trap;
- (19) trotline.

Section 50-13-620. (A) A trotline, trap, eel pot, gill net, and hoop net must be marked with a floating marker not less than a capacity of one quart and not more than a capacity of one gallon and must be made of solid, buoyant material that does not sink if punctured or cracked. A floating marker must be constructed of plastic, PVC spongex, plastic

foam, or cork. A hollow buoy or float, including plastic, metal, or glass bottles or jugs, must not be used, except that a manufactured buoy or float specifically designed for use with nongame fishing devices may be hollow if constructed of heavy duty plastic material and approved by the department. A floating marker used the first through the fifteenth inclusive of each month must be colored white only; for the remainder of the month markers must be yellow only and, except for a trotline, there must not be any other color marker attached to the device. The owner's name and department customer identification number must be legible on each of the white or yellow floating markers. Both commercial and recreational fishermen shall comply with provisions of this title pertaining to the marking and use of a nongame fishing device. A trotline must be marked on both ends. A commercial trotline must be marked at intervals of every fifty hooks. A recreational trotline must be marked at intervals of every twenty-five hooks. An end marker must conform to the white and yellow marking scheme. Each interval float must be 'International Orange' in color.

(B) A tag issued for a nongame device must be attached to the device at all times. A permit and tag receipt must be kept on the person to whom issued while possessing or using a nongame fishing device.

(C) Each set hook must have an identification tag attached to it bearing the owner's name and department customer identification number.

(D) A device or part of it improperly marked, tagged, or identified is in violation and is contraband.

(E) A violation of this section is a misdemeanor and, upon conviction, is punishable as prescribed in this chapter.

Section 50-13-625. Nongame fish may be taken with any lawful game fishing device. A fisherman may use only four game fishing devices. A fisherman fishing from a boat may use an unlimited number of game fishing devices if all persons in the boat older than sixteen years have valid fishing licenses.

Section 50-13-630. A fishing device authorized by this article must not be used, placed, set, or fished so as to constitute a hazard to boating or public safety.

Section 50-13-635. A recreational fisherman may use the following fishing devices and methods for taking nongame fish but only in those waters in which the type and quantity are allowed:

- (1) archery equipment;

- (2) cast net;
- (3) not more than five crayfish traps;
- (4) not more than two eel pots;
- (5) gig;
- (6) one gill net not more than one hundred yards in length or not more than three gill nets, none of which exceeds thirty yards in length;
- (7) hand grabbing;
- (8) not more than one hoop net;
- (9) not more than fifty jugs;
- (10) minnow seine;
- (11) not more than five minnow traps;
- (12) not more than one pump net;
- (13) not more than one seine;
- (14) three to fifty set hooks;
- (15) not more than one skimbrow net;
- (16) spear;
- (17) not more than two traps;
- (18) not more than one trotline with fifty hooks maximum;
- (19) any lawful game fishing device.

Section 50-13-640. (A) It is unlawful to possess more than one blue catfish (*Ictalurus furcatus*) greater than thirty-six inches in length in any one day in Lake Marion, Lake Moultrie, or the upper reach of the Santee, and the Congaree and Wateree Rivers.

(B) A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than three hundred dollars or imprisoned not more than thirty days, or both.

Section 50-13-645. It is unlawful for a recreational fisherman to take more than fifty eels a day. Each eel must be at least six inches long.

Section 50-13-650. (A) No more than four hundred hooks may be attached to a single commercially fished trotline. A trotline must not be attached to another trotline or to the support or float of another trotline. A trotline must not be longer than two thousand feet.

(B) April first to October first a trotline is not permitted in waters in this State one hour after official sunrise to one hour before official sunset unless the trotline is sunk to the bottom or to a minimum depth of four feet below the water surface. October second to March thirty-first trotlines may be left in the water twenty-four hours a day at any depth.

(C) A trotline must not be placed within one hundred feet of the mouth of a tributary stream.

(D) A trotline, cable, line, or any other device used for support may not extend more than halfway across a stream or body of water.

(E) A trotline or any part of it may not remain in the waters of this State more than twenty-four hours without inspection and removal of the fish taken on it.

(F) A trotline must not be placed within two hundred yards of a manmade structure on Lakes Marion and Moultrie nor placed in the Diversion Canal connecting Lakes Marion and Moultrie.

(G) Trotline hooks used in Lakes Marion and Moultrie and the upper reach of the Santee River must have a gap or clearance between point and shank no greater than seven-sixteenths inch.

(H) Stainless steel hooks must not be used on a trotline.

Section 50-13-655. All set hooks must be removed from the water and from the vegetation or structure to which they are attached not later than one hour after sunrise each day and must not be placed in the water earlier than one hour before official sunset.

Section 50-13-660. All jugs used in fishing in freshwaters must be sizes that are between a minimum capacity of one pint and a maximum capacity of one gallon with the licensee's name and department customer identification number clearly marked on each jug. All jugs must be removed from the water not later than one hour after sunrise each day and must not be placed in the water earlier than one hour before official sunset.

The attachment of more than one hook and line to a jug fishing device is prohibited.

Section 50-13-665. (A) Except as provided in subsections (B) and (C), and the bait listed below, no other bait may be used with trotlines, set hooks, and jugs:

- (1) soap;
- (2) dough balls;
- (3) nongame fish or bream cut into two or more equal parts;
- (4) shrimp;
- (5) meat scraps which may not include insects, worms, or other invertebrates;
- (6) grapes.

(B) Notwithstanding another provision of law, on the Black, Edisto, Great Pee Dee (including the navigable oxbows and sloughs), Little

Pee Dee (including the navigable oxbows and sloughs), Lumber, Lynches (including Clarks, Mill, and Muddy Creeks), Sampit, and Waccamaw Rivers, live nongame fish and live bream may be used with single-barbed set hooks that have a shank-to-point gap of one and three-sixteenths inches or greater. However, it is unlawful for a person to have in possession more than the lawful creel limit of bream while fishing with nongame devices on these rivers.

(C) Live nongame fish and live bream may be used on a trotline having not more than twenty hooks that have a shank-to-point gap of one and three-sixteenths inches or greater on the Black, Great Pee Dee (including the navigable oxbows and sloughs), Little Pee Dee (including the navigable oxbows and sloughs), Lumber, Lynches (including Clarks, Mill, and Muddy Creeks) and Waccamaw Rivers. However, it is unlawful for a person to have in possession more than the lawful creel limit of bream while fishing with nongame devices on these rivers.

(D) A person violating 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.

Section 50-13-670. It is unlawful for a person to have in possession game fish, except live bream on those water bodies where permitted as live bait, or game fish devices while possessing or using nongame devices. The provisions of this section do not apply to a person using a cast net.

Section 50-13-675. Archery equipment, cast nets, crayfish traps, gigs, hand grabbing, minnow seines, minnow traps, and spears, may be used in freshwaters, except in lakes owned or managed by the department, to take nongame fish. Where permitted, a recreational fisherman may fish one gill net not more than one hundred yards in length or not more than three gill nets, none of which exceeds thirty yards in length; a commercial fisherman may fish four or more gill nets. Notwithstanding other provisions of this chapter, it is unlawful to use or possess any nongame fishing device or gear or the number not authorized by this section on the particular body of water. Nongame fishing devices, except as provided in this section, must not be used in freshwater including tributaries of rivers or creeks unless listed and regulated in this section:

(1) Ashepoo River:

(a) eel pots:

(i) recreational license - two;

- (ii) commercial license - seventy-five;
- (b) set hooks:
 - (i) recreational license - fifty;
 - (ii) commercial license - fifty;
- (2) Ashley River:
 - (a) eel pots:
 - (i) recreational license - two;
 - (ii) commercial license - seventy-five;
 - (b) set hooks:
 - (i) recreational license - fifty;
 - (ii) commercial license - fifty;
- (3) Black Creek; (Darlington, Florence, and Chesterfield Counties) including Lakes Robinson and Prestwood:
 - (a) gill nets: nongame nets in season;
 - (b) set hooks:
 - (i) recreational license - fifty;
 - (ii) commercial license - fifty;
 - (c) trotlines:
 - (i) recreational license - one line with fifty hooks maximum;
 - (ii) commercial license - five lines with two hundred fifty hooks maximum;
- (4) Black River:
 - (a) gill nets: nongame nets in season;
 - (b) set hooks:
 - (i) recreational license - fifty;
 - (ii) commercial license - fifty;
 - (c) traps - only from Pea House landing downstream:
 - (i) recreational license - two;
 - (ii) commercial license - ten;
 - (d) trotlines:
 - (i) recreational license - one line with fifty hooks maximum;
 - (ii) commercial license - five lines with two hundred fifty hooks maximum;
- (5) Broad River:
 - (a) seines upstream from S.C. State Highway 34 Bridge to the North Carolina/South Carolina State line only:
 - (i) recreational license only - one;
 - (b) set hooks:
 - (i) recreational license - fifty;
 - (ii) commercial license - fifty;
 - (c) traps:
 - (i) recreational license - two;

- (ii) commercial license - five;
- (d) trotlines:
 - (i) recreational license - one line with fifty hooks maximum;
 - (ii) commercial license - three lines with one hundred fifty hooks maximum;
- (6) Bush River, Laurens County:
 - (a) seines:
 - (i) recreational license only - one;
- (7) Catawba River from the Lake Wylie Dam to the Cedar Creek Dam including the in-stream reservoirs:
 - (a) set hooks:
 - (i) recreational license - fifty;
 - (ii) commercial license - fifty;
 - (b) traps:
 - (i) recreational license - two;
 - (ii) commercial license - two;
 - (c) trotlines:
 - (i) recreational license - one line with fifty hooks maximum;
 - (ii) commercial license - three lines with one hundred fifty hooks maximum;
- (8) Combahee River:
 - (a) eel pots:
 - (i) recreational license - two;
 - (ii) commercial license - seventy-five;
 - (b) set hooks:
 - (i) recreational license - fifty;
 - (ii) commercial license - fifty;
 - (c) trotlines:
 - (i) recreational license - one line with fifty hooks maximum;
 - (ii) commercial license - five lines with two hundred fifty hooks maximum;
- (9) Congaree River:
 - (a) hoop nets:
 - (i) commercial license- ten;
 - (b) set hooks:
 - (i) recreational license - fifty;
 - (ii) commercial license - fifty;
 - (c) traps:
 - (i) recreational license - two;
 - (ii) commercial license - ten;
 - (d) trotlines:
 - (i) recreational license - one line with fifty hooks maximum;

(ii) commercial license - three lines with one hundred fifty hooks maximum;

(10) Cooper River (Berkley and Charleston Counties):

(a) eel pots: not allowed upstream from Wadboo Creek:

(i) recreational license - two;

(ii) commercial license - five;

(b) elver fyke nets: allowed on all tributaries and on the main branch from the saltwater/freshwater dividing line upstream to the CSX railroad trestle on the Tail Race Canal:

(i) commercial license only - ten nets;

(c) pump nets:

(i) recreational license only - one;

(d) set hooks: not allowed upstream from Wadboo Creek:

(i) recreational license - fifty;

(ii) commercial license - fifty;

(e) skimbow nets:

(i) recreational license only - one;

(f) traps: not allowed upstream from Wadboo Creek:

(i) recreational license - two;

(ii) commercial license - twenty-five;

(g) trotlines: not allowed upstream from Wadboo Creek:

(i) recreational license - one line with fifty hooks maximum;

(ii) commercial license - three lines with one hundred fifty

hooks maximum;

(11) Coosawhatchie River:

(a) set hooks:

(i) recreational license - fifty;

(ii) commercial license - fifty;

(12) Durbin Creek: (Greenville and Laurens Counties):

(a) seines:

(i) recreational license only - one;

(13) Edisto River, including the North and South Forks:

(a) eel pots:

(i) recreational license - two;

(ii) commercial license - seventy-five;

(b) set hooks:

(i) recreational license - fifty;

(ii) commercial license - fifty;

(c) trotlines:

(i) recreational license - one line with fifty hooks maximum;

(ii) commercial license - five lines with two hundred fifty

hooks maximum;

(14) Enoree River:

(a) seines: from the Norfolk-Southern Railroad in Greenville County downstream to the confluence with the Broad River:

(i) recreational license only - one;

(b) set hooks:

(i) recreational license - fifty;

(ii) commercial license - fifty;

(c) traps:

(i) recreational license - two;

(ii) commercial license - two;

(d) trotlines:

(i) recreational license - one line with fifty hooks maximum;

(ii) commercial license - three lines with one hundred fifty hooks maximum;

(15) Four Holes Lakes system in Dorchester County which includes Bridge Lake, John's Hole Lake, Little Pond Lake, Mallard's Lake, Mims Lake, Mouth of Four Holes Lake, Rock's Lake, Shuler Lake, Steed's Lake and Woods Lake:

(a) gill nets: nongame nets in season;

(b) set hooks:

(i) recreational license - fifty;

(ii) commercial license - fifty;

(16) Great Pee Dee River: the waters from U.S. Interstate Highway 95 to the saltwater/freshwater dividing line including the navigable oxbows and sloughs and Bull Creek:

(a) eel pots: downstream from U.S. Highway 701 to the saltwater/freshwater dividing line:

(i) recreational license - two;

(ii) commercial license - seventy-five;

(b) gill nets: nongame nets in season;

(c) set hooks:

(i) recreational license - fifty;

(ii) commercial license - fifty;

(d) skimbow nets:

(i) recreational license - one;

(e) traps:

(i) recreational license - two;

(ii) commercial license - fifty;

(f) trotlines:

(i) recreational license - one line with fifty hooks maximum;

(ii) commercial license - five lines with two hundred fifty hooks maximum;

(17) Great Pee Dee River, the waters from U.S. Interstate Highway 95 to the North Carolina/South Carolina State Line including the navigable oxbows and sloughs:

- (a) gill nets: nongame nets allowed in season;
- (b) hoop nets: upstream from S.C. State Highway 34 to the North Carolina/ South Carolina state line:
 - (i) commercial license only - fifty;
- (c) set hooks:
 - (i) recreational license - fifty;
 - (ii) commercial license - fifty;
- (d) traps:
 - (i) recreational license - two;
 - (ii) commercial license - fifty;
- (e) trotlines:
 - (i) recreational license - one line with fifty hooks maximum;
 - (ii) commercial license - five lines with two hundred fifty hooks maximum;

(18) Jefferies Creek (Florence County):

- (a) gill nets: nongame nets in season;
- (b) set hooks:
 - (i) recreational license - fifty;
 - (ii) commercial license - fifty;
- (c) trotlines:
 - (i) recreational license - one line with fifty hooks maximum;
 - (ii) commercial license - five lines with two hundred fifty hooks maximum;

(19) Lake Greenwood:

- (a) jugs:
 - (i) recreational license only - fifty;
- (b) traps:
 - (i) recreational license - two;
 - (ii) commercial license - five;
- (c) trotlines:
 - (i) recreational license - one line with fifty hooks maximum;
 - (ii) commercial license - three lines with one hundred fifty hooks maximum;

(20) Lake Hartwell:

- (a) jugs:
 - (i) recreational license only - fifty;
- (b) traps:
 - (i) recreational license - two;
 - (ii) commercial license - five;

- (c) trotlines:
 - (i) recreational license - one line with fifty hooks maximum;
 - (ii) commercial license - three lines with one hundred fifty hooks maximum;
- (21) Lake J. Strom Thurmond and Stevens Creek Reservoir:
 - (a) jugs:
 - (i) recreational license only - fifty;
 - (b) traps:
 - (i) recreational license - two;
 - (ii) commercial license - five;
 - (c) trotlines:
 - (i) recreational license - one line with fifty hooks maximum;
 - (ii) commercial license - three lines with one hundred fifty hooks maximum;
- (22) Lake Keowee:
 - (a) traps:
 - (i) recreational license - two;
 - (ii) commercial license - five;
 - (b) trotlines:
 - (i) recreational license - one line with fifty hooks maximum;
 - (ii) commercial license - three lines with one hundred fifty hooks maximum;
- (23) Lakes Marion and Moultrie, and the upper reach of the Santee River:
 - (a) traps:
 - (i) recreational license - two;
 - (ii) commercial license - twenty-five;
 - (b) trotlines: Hooks must have a gap or clearance between point and shank no greater than seven-sixteenths inch:
 - (i) recreational license - one line with fifty hooks maximum;
 - (ii) commercial license - three lines with not more than four hundred hooks on each line;
- (24) Lake Murray:
 - (a) traps:
 - (i) recreational license - two;
 - (ii) commercial license - five;
 - (b) trotlines:
 - (i) recreational license - one line with fifty hooks maximum;
 - (ii) commercial license - three lines with one hundred fifty hooks maximum;
- (25) Lake Richard B. Russell:
 - (a) jugs:

- (i) recreational license only - fifty;
- (b) traps:
 - (i) recreational license - two;
 - (ii) commercial license - five;
- (c) trotlines:
 - (i) recreational license - one line with fifty hooks maximum;
 - (ii) commercial license - three lines with one hundred fifty hooks maximum;
- (26) Lake Secession:
 - (a) jugs:
 - (i) recreational license only - fifty;
 - (b) traps:
 - (i) recreational license - two;
 - (ii) commercial license - five;
 - (c) trotlines:
 - (i) recreational license - one line with fifty hooks maximum;
 - (ii) commercial license - three lines with one hundred fifty hooks maximum;
- (27) Lake Wateree:
 - (a) traps:
 - (i) recreational license - two;
 - (ii) commercial license - five;
 - (b) trotlines:
 - (i) recreational license - one line with fifty hooks maximum;
 - (ii) commercial license - three lines with one hundred fifty hooks maximum;
- (28) Lake Wylie:
 - (a) traps:
 - (i) recreational license - two;
 - (ii) commercial license - five;
 - (b) trotlines:
 - (i) recreational license - one line with fifty hooks maximum;
 - (ii) commercial license - three lines with one hundred fifty hooks maximum;
- (29) Little Pee Dee River including Russ's Creek and other navigable oxbows and sloughs:
 - (a) gill nets: nongame nets allowed in season;
 - (b) set hooks:
 - (i) recreational license - fifty;
 - (ii) commercial license - fifty;
 - (c) trotlines:
 - (i) recreational license - one line with fifty hooks maximum;

(ii) commercial license - five lines with two hundred fifty hooks maximum;

(30) Little River: from Mars Bridge in McCormick County up to the confluence of Barkers Creek (Long Branch) and Corner Creek in Anderson County:

(a) seines:

(i) recreational license only - one;

(31) Log Creek (Edgefield County):

(a) seines:

(i) recreational license only - one;

(32) Long Cane Creek, (McCormick County) from above Patterson Bridge on S.C. State Highway S-33-117 upstream to S.C. State Highway S-1-75 in Abbeville County:

(a) seines:

(i) recreational license only - one;

(33) Louther's Lake (Darlington County):

(a) gill nets: nongame nets in season;

(b) set hooks:

(i) recreational license - fifty;

(ii) commercial license - fifty;

(34) Lumber River:

(a) gill nets: nongame nets in season;

(b) set hooks:

(i) recreational license - fifty;

(ii) commercial license - fifty;

(c) trotlines:

(i) recreational license - one line with fifty hooks maximum;

(ii) commercial license - five lines with two hundred fifty hooks maximum;

(35) Lynches River (includes Clarks Creek, Mill Creek and Muddy Creek):

(a) gill nets: nongame nets allowed in season;

(b) set hooks:

(i) recreational license - fifty;

(ii) commercial license - fifty;

(c) trotlines:

(i) recreational license - one line with fifty hooks maximum;

(ii) commercial license - five lines with two hundred fifty hooks maximum;

(36) Mulberry Creek (Greenwood County):

(a) seines:

(i) recreational license only - one;

(37) New River:

- (a) set hooks:
 - (i) recreational license - fifty;
 - (ii) commercial license - fifty;

(38) Pacolet River:

- (a) seines:
 - (i) recreational license only - one;
- (b) set hooks:
 - (i) recreational license - fifty;
 - (ii) commercial license - fifty;
- (c) traps:
 - (i) recreational license - two;
 - (ii) commercial license - two;
- (d) trotlines:
 - (i) recreational license - one line with fifty hooks maximum;
 - (ii) commercial license - three lines with one hundred fifty

hooks maximum;

(39) Rabon Creek (Laurens County):

- (a) seines:
 - (i) recreational license only - one;

(40) Reedy River:

(a) seines: from the Norfolk-Southern Railroad in Greenville County downstream to the backwaters of Lake Greenwood:

- (i) recreational license only - one;
- (b) set hooks:
 - (i) recreational license - fifty;
 - (ii) commercial license - fifty;
- (c) traps:
 - (i) recreational license - two;
 - (ii) commercial license - two;
- (d) trotlines:
 - (i) recreational license - one line with fifty hooks maximum;
 - (ii) commercial license - three lines with one hundred fifty

hooks maximum;

(41) Rocky River (Anderson County):

- (a) seines:
 - (i) recreational license only - one;

(42) Salkehatchie River:

- (a) set hooks:
 - (i) recreational license - fifty;
 - (ii) commercial license - fifty;

(43) Saluda River - from S.C. State Highway 183 in Greenville County to the backwaters of Lake Greenwood and on the Middle Reach of the Saluda River:

- (a) seines:
 - (i) recreational license only - one;
- (b) set hooks:
 - (i) recreational license - fifty;
 - (ii) commercial license - fifty;
- (c) traps:
 - (i) recreational license - two;
 - (ii) commercial license - two;
- (d) trotlines:
 - (i) recreational license - one line with fifty hooks maximum;
 - (ii) commercial license - three lines with one hundred fifty

hooks maximum;

(44) Saluda River - Lower reach:

- (a) traps:
 - (i) recreational license only - two;
- (b) trotlines:
 - (i) recreational license only - one line with fifty hooks

maximum;

(45) Sampit River:

- (a) gill nets: nongame nets in season;
- (b) set hooks:
 - (i) recreational license - fifty;
 - (ii) commercial license - fifty;
- (c) skimbow nets:
 - (i) recreational license only - one;
- (d) traps:
 - (i) recreational license - two;
 - (ii) commercial license - twenty-five;

(46) Santee River, from USGS gauging station 1715 about 2.4 miles below Santee Dam downstream to the saltwater/freshwater dividing line including the North and South Santee Rivers:

- (a) eel pots:
 - (i) recreational license - two;
 - (ii) commercial license - seventy-five;
- (b) skimbow nets:
 - (i) recreational license only - one;
- (c) traps:
 - (i) recreational license - two;
 - (ii) commercial license - fifty;

(d) trotlines:

- (i) recreational license - one line with fifty hooks maximum;
- (ii) commercial license - five lines with two hundred fifty

hooks maximum;

(47) Savannah River - Lower Reach to the saltwater/freshwater dividing line:

(a) eel pots:

- (i) recreational license - two;
- (ii) commercial license - seventy-five;

(b) gill nets: nongame nets in season;

(c) hoop nets:

- (i) commercial license only - ten;

(d) set hooks:

- (i) recreational license - fifty;
- (ii) commercial license - fifty;

(e) traps:

- (i) recreational license - two;
- (ii) commercial license - forty;

(f) trotlines:

- (i) recreational license - one line with fifty hooks maximum;
- (ii) commercial license - five lines with two hundred fifty

hooks maximum;

(48) Stevens Creek from S.C. State Highway S-19-53 upstream to the confluence of Hard Labor and Cuffytown Creeks:

(a) seines:

- (i) recreational license only - one;

(49) Thicketty Creek, (Cherokee County):

(a) seines:

- (i) recreational license only - one;

(50) Tulifinny River:

(a) set hooks:

- (i) recreational license - fifty;
- (ii) commercial license - fifty;

(51) Turkey Creek (Edgefield and Greenwood Counties):

(a) seines:

- (i) recreational license only - one;

(52) Tyger River:

(a) seines:

- (i) recreational license only - one;

(b) set hooks:

- (i) recreational license - fifty;
- (ii) commercial license - fifty;

(c) traps:

- (i) recreational license - two;
- (ii) commercial license - two;

(d) trotlines:

- (i) recreational license - one line with fifty hooks maximum;
- (ii) commercial license - three lines with one hundred fifty

hooks maximum;

(53) Waccamaw River:

(a) eel pots: downstream of the junction of Bull Creek to the saltwater/freshwater dividing line:

- (i) recreational license - two;
- (ii) commercial license - seventy-five;

(b) gill nets: nongame nets in season;

(c) set hooks:

- (i) recreational license - fifty;
- (ii) commercial license - fifty;

(d) skimbow nets:

- (i) recreational license only - one;

(e) trotlines:

- (i) recreational license - one line with fifty hooks maximum;
- (ii) commercial license - five lines with two hundred fifty

hooks maximum;

(54) Warrior Creek (Laurens County):

(a) seines:

- (i) recreational license only - one;

(55) Wateree River:

(a) hoop nets:

- (i) commercial license only - ten;

(b) set hooks:

- (i) recreational license - fifty;
- (ii) commercial license - fifty;

(c) traps:

- (i) recreational license - two;
- (ii) commercial license - forty;

(d) trotlines:

- (i) recreational license - one line with fifty hooks maximum;
- (ii) commercial license - three lines with one hundred fifty

hooks maximum;

(56) Wilson Creek (Greenwood County): from the confluence of Wilson Creek and Ninety - Six Creek upstream to U.S. Highway 25/U.S. Highway 178 in Greenwood County:

(a) seines:

- (i) recreational license only - one.

Section 50-13-680. An enforcement officer or department employee acting in their official capacity may inspect, at any reasonable hour, the vehicle, boat, processing house, and wholesale business which is connected with nongame commercial fishing activities and the records of a person required to be licensed by this title to ensure compliance. Upon request of the department, the buyers (fish houses) of nongame fish shall report quarterly the volume of sales and other information as required by the department. An enforcement officer or department employee acting in their official capacity may check any game or nongame fishing device and, if unlawful, may seize the device as contraband and dispose of it and any catch provided by law.

Section 50-13-685. Except as otherwise provided, a person violating this article is guilty of a misdemeanor and, upon conviction, must be fined not less than fifty nor more than five hundred dollars or imprisoned not more than thirty days, or both. In addition to that penalty, the court may order the department to suspend the fishing license and any tags or permits for up to one year.

Section 50-13-690. (A) In addition to any specific penalty provided in this article, any fish or fishing device taken or found to be in possession of a person charged with a violation of this article must be seized. The fish must be sold in the same manner as provided by law for the sale of perishable items. If the person charged is convicted, the money received from the sale must be forwarded to the department and placed to the account of the 'Fish and Wildlife Protection Fund' of the State Treasury. After conviction, the fishing devices must be sold at public auction. The sale of the fish and fishing devices must be conducted using the procedures as provided by law. If the person is acquitted, the devices must be returned to him along with any money that may have come from the sale of the fish.

(B) In addition to the specific penalties provided in this article and the penalties provided in subsection (A), the boat, motor, and fishing gear of a person who is charged with unlawfully using or having in possession a gill net or hoop net on any freshwater lake or reservoir of this State must be confiscated and sold at auction within this State after conviction using the procedure as provided by law. The money received from the sale must be forwarded to the department and placed in the account of the 'Fish and Wildlife Protection Fund' of the State

Treasury. If the person is acquitted, the boat, motor, and fishing gear must be returned to him. Upon conviction, the department shall suspend the person's license or privilege to fish in this State for a period of one year from the date of conviction.

(C) In addition to the specific penalties provided in this article, upon the conviction of a commercial freshwater fisherman of illegal possession of game fish or the sale or trafficking in game fish, the department shall suspend the person's license or privilege to fish in this State for a period of one year from the date of conviction.

Section 50-13-695. (A) Except for department personnel in their official capacity, it is unlawful for a person to fish, inspect, or use in any manner nongame fishing devices owned and tagged by another person or to remove any fish from a device unless under the immediate supervision of the owner. A person found guilty of a violation of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned for up to thirty days, or both.

(B) A person who steals any nongame fishing device or any fish in a device or who tampers with or damages a nongame fishing device or makes it ineffective for the purpose of taking fish is guilty of a misdemeanor and, upon conviction:

(1) for tampering with or damaging or making ineffective a device, must be fined not less than one hundred dollars nor more than two hundred dollars or imprisoned for not more than thirty days; and

(2) for stealing a device or fish caught in the device, must be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned for not more than six months, or both.”

Sale and trafficking in fish

SECTION 5. Article 11, Chapter 13, Title 50 of the 1976 Code is amended to read:

“Article 11

Sale and Trafficking in Fish

Section 50-13-1610. It is unlawful to sell, offer for sale, barter, trafficking in, or purchase any fish classified as a game fish under the provisions of this title except as allowed by this title regardless of

where caught. A person violating this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

(1) for a first offense, by a fine of not more than five hundred dollars or imprisonment for not more than thirty days;

(2) for a second offense within three years of a first offense, by a fine of not less than three hundred dollars nor more than five hundred dollars or imprisonment for not more than thirty days;

(3) for a third or subsequent offense within three years of a second or subsequent offense, by a fine of not more than one thousand dollars or imprisonment for not more than thirty days;

(4) for a fourth and subsequent offense within five years of the date of conviction for the first offense must be punished as provided for a third offense.

Section 50-13-1615. A person selling, offering for sale, or possessing for sale freshwater nongame fish must have in possession dated invoices, bills of sale, or other documentation verifying the origin of the fish and from whom procured.

Section 50-13-1630. (A) A person may not possess, sell, offer for sale, import, bring, or cause to be brought or imported into this State or release anywhere in this State the following species at any stage of its life cycle:

(1) carnero or candiru catfish (*Vandellia cirrhosa*);

(2) freshwater electric eel (*Electrophorus electricus*);

(3) white amur or grass carp (*Ctenopharyngodon idella*);

(4) walking catfish or a member of the clariidae family (*Clarias*, *Heteropneustea*, *Gymnallabes*, *Channallabes*, or *Heterobranchus* genera);

(5) piranha (all members of *Serrasalmus*, *Rooseveltiella*, and *Pygocentrus* genera);

(6) stickleback;

(7) Mexican banded tetra;

(8) sea lamprey;

(9) rudd (*Scardinius erythrophthalmus*-Linnaeus);

(10) snakehead (all members of family *Channidae*);

(11) rusty crayfish (*Orconectes rusticus*); and

(12) other nonindigenous species not established, except by permit, exclusive of the recognized pet trade species.

(B) The department may issue special import permits to qualified persons for research and education only.

(C)(1) The department may issue permits for stocking sterile white amur or grass carp hybrids in the waters of this State. The permits must certify that the permittee's white amur or grass carp hybrids have been tested and determined to be sterile. The department may charge a fee of one dollar for each white amur or grass carp hybrid that measures five inches or longer or twenty-five cents for each white amur or grass carp hybrid that measures less than five inches. The fee collected for sterility testing must be retained by the department and used to offset the costs of the testing.

(2) The department is authorized to promulgate regulations to establish a fee schedule to replace the fee schedule contained in item (1) of this subsection. Upon these regulations taking effect, the fee schedule contained in item (1) of this subsection no longer applies.

(D) The department may issue permits for the importation, breeding, and possession of nonsterile white amur or grass carp hybrids. The permits must be issued pursuant to the provisions of the Aquaculture Enabling Act in Article 2, Chapter 18 of this title. Provided, however, that no white amur or grass carp hybrids imported, bred, or possessed pursuant to this subsection may be stocked in the waters of this State except as provided in subsection (C) of this section.

(E) It is unlawful to take, harm, or kill grass carp from public waters. Any grass carp taken must be returned immediately to the water from which it was taken.

(F) The department shall prescribe the qualifications, methods, controls, and restrictions required of a person or his agent to whom a permit is issued. The department shall condition all permits issued under this section to safeguard public safety and welfare and prevent the introduction into the wild or release of nonnative species of fish or other organisms into the waters of this State. The department may promulgate regulations necessary to effectuate this section and specifically to prohibit additional species of fish from being imported, possessed, or sold in this State when the department determines the species of fish are potentially dangerous. A violation of the terms of the permit may result in revocation and a civil penalty of up to five thousand dollars. An appeal is pursuant to the provisions of Article 2, Chapter 23, Title 1 (the Administrative Procedures Act).

(G) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred nor more than two thousand five hundred dollars or imprisoned for thirty days, or both.

Section 50-13-1635. (A) Except bait lost incidental to fishing or fish released into the waters from which they were taken, it is unlawful to intentionally release any aquatic species, regardless of the stage of its life cycle, into the waters of this State without a permit from the department.

(B) It is unlawful to use any nonindigenous fish as bait that is not already established in the water body being fished except the following minnows: fathead minnows (*Pimephales promelas*), golden shiners (*Notemigonus crysoleucas*), and goldfish, including 'black salties' (*Carassius auratus*). Magistrates court retains concurrent jurisdiction of this offense.

(C) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than one thousand dollars or up to thirty days in jail, or both. In addition to the criminal penalties, the court may order a civil penalty sufficient to cover costs for eradication."

Fish hatcheries and sanctuaries

SECTION 6. Article 13, Chapter 13, Title 50 of the 1976 Code is amended to read:

“Article 13

Fish Hatcheries and Sanctuaries; Propagation

Section 50-13-1910. This State hereby assents to the provisions of the act of Congress entitled ‘An Act to Provide that the United States Shall Aid the States in Fish Restoration and Management Projects, and for Other Purposes,’ approved August 9, 1950 (Public Law No. 681, 81st Congress), and the department shall perform acts as necessary to the conduct and establishment of cooperative fish restoration projects, as defined in this act of Congress, in compliance with the act and rules and regulations promulgated by the Secretary of the Interior. The amounts necessary for this State to provide, in order to receive the benefits of the act, must be paid from the fees collected by the department from the sale of resident fishing licenses and a separate fund for this purpose must be set up.

Section 50-13-1920. The department may acquire a sufficient number of acres of land in close proximity to any dam, artificial lake, impounded water, or stream for the purpose of establishing fish

hatcheries or fish nurseries. The board may exercise the power of eminent domain if necessary to accomplish this purpose.

Section 50-13-1935. The department shall charge a fee for stocking fish in private water bodies and nonnavigable waters sufficient to cover all costs of producing and stocking the fish.

Section 50-13-1936. If the federal government ceases to operate the Walhalla Fish Hatchery, the department may accept and maintain operations of the facility by charging a fee that is sufficient to cover the cost of operating the facility.

Section 50-13-1940. (A) The department may grant permits to collect freshwater fish for scientific purposes during any time of the year and on any area including sanctuaries without further review. The application must be accompanied by the requisite fee. The department shall investigate the applicant and the need for the permit. A permit is valid until December thirty-first in the year in which issued. A permit must be extended for one year with payment of the fee. A permit is not transferable but a student assistant working under the direct supervision of the permittee is covered by the permit. All collecting must be done in accordance with recognized scientific methods. Data and results must be made available to the department upon request. The conditions of the permit must be adhered to. The department may suspend or cancel the permit at its discretion.

(B) A person violating this section is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned for up to thirty days, or both.

Section 50-13-1950. The department, without cost to this State, shall designate and establish sanctuaries where fish may breed unmolested, in the manner and subject to the provisions in this article.

Section 50-13-1960. The department may select any place upon any river or stream within this State as a fish sanctuary. Upon making this selection, the board, upon approval in writing of a majority of the members of the county legislative delegation from the county in which this proposed fish sanctuary is to be located, may designate and set apart the place as a fish sanctuary. A sanctuary may not exceed two miles in length along any river or stream. When a sanctuary is so designated and set apart, the board shall have it adequately and

conspicuously marked and shall designate the limits of it in all directions.

Section 50-13-1990. A person fishing or trespassing upon any property or waters so established as a sanctuary by the department is guilty of a misdemeanor and, upon conviction, must be fined not exceeding two hundred dollars or imprisoned not more than thirty days. In cases where magistrates have countywide territorial jurisdiction, the magistrate closest to the sanctuary where the offense occurred shall have jurisdiction of the case. In counties where magistrates are given separate and exclusive territorial jurisdiction the case must be tried as provided in Section 22-3-530.

Section 50-13-1995. The department may permit the federal government to conduct fish culture and scientific investigations in the waters of this State in connection with hatchery operations or management of those species under federal jurisdiction.

Section 50-13-2011. The department has management authority over the lakes and ponds that it owns or leases. It may establish terms and conditions under which the public may use the lakes and ponds pursuant to the provisions of Article 3, Chapter 23, Title 1 (the Administrative Procedures Act).

Section 50-13-2015. (A) A fish sanctuary is established in the St. Stephen Rediversion Canal between the Corps of Engineers' powerhouse and the Atlantic Coastline Railroad Bridge. It is unlawful for a person to fish in the sanctuary except as provided in this section.

(B) From March first to May first each year, fishing for nongame fish is allowed from the Atlantic Coastline Bridge upstream to a point marked by signs or buoys, or both. This location must be marked by the department after consultation with and with the permission of the United States Army Corps of Engineers. Fishing is allowed from six p.m. to twelve midnight. The area otherwise is closed to all fishing and boating activities.

(C) The catch limit is five hundred pounds of fish or one hundred dozen fish a boat a day. Game fish taken must be returned immediately to the water. All fish, except those used for live bait, must be packed in boxes with a one hundred pound capacity before crossing back under the railroad bridge.

(D) Fishing devices must not be used except cast nets, dip nets, or drop nets. The diameter of the dip or drop nets used may not exceed

six feet. Nets must not be operated by the use of mechanical devices such as winches, cranes, or pulleys.

(E) A person violating this section is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty-five nor more than one hundred dollars or imprisoned not less than fifteen nor more than thirty days.

Section 50-13-2016. Herring fishing is prohibited within one hundred feet of the fish lift exit channel at St. Stephens Powerhouse.”

Fishing devices on Little Pee Dee River

SECTION 7. Article 13, Chapter 19, Title 50 of the 1976 Code is amended to read:

“Article 13

Devices on Little Pee Dee River

Section 50-19-710. Beginning on July 1, 2012, and for three years thereafter on the Little Pee Dee River, the following nongame devices are permitted:

- (1) Hoop nets:
 - (i) recreational license - one;
 - (ii) commercial license - twenty-five;
- (2) Traps:
 - (i) recreational license - two;
 - (ii) commercial license - twenty-five.

To fish these devices only in the Little Pee Dee River the department will issue special tags valid for three years at no cost.”

Repeal

SECTION 8. Sections 50-13-385, 50-13-390, 50-13-400, and 50-13-1450 of the 1976 Code are repealed.

Time effective

SECTION 9. Upon approval by the Governor, this act takes effect July 1, 2012.

Ratified the 26th day of January, 2012.

Approved the 1st day of February, 2012.

No. 115

(R122, H3895)

AN ACT TO AMEND SECTION 17-15-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO APPEARANCE BONDS, SO AS TO PROVIDE THAT AN APPEARANCE BOND IS VALID FOR A CERTAIN TIME PERIOD IN CIRCUIT AND MAGISTRATES OR MUNICIPAL COURTS UNDER CERTAIN CIRCUMSTANCES AND TO PROVIDE A PROCEDURE TO RELIEVE THE SURETY OF LIABILITY WHEN THE TIME PERIOD HAS RUN.

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

Appearance bonds, validity, relief of surety

SECTION 1. Section 17-15-20 of the 1976 Code is amended to read:

“Section 17-15-20. (A) An appearance recognizance or appearance bond must be conditioned on the person charged personally appearing before the court specified to answer the charge or indictment and to do and receive what is enjoined by the court, and not to leave the State, and be of good behavior toward all the citizens of the State, or especially toward a person or persons specified by the court.

(B) Unless a bench warrant is issued, an appearance recognizance or an appearance bond is discharged upon adjudication, a finding of guilt, a deferred disposition, or as otherwise provided by law. An appearance bond is valid for a period of three years from the date the bond is executed for a charge triable in circuit court and eighteen months from the date the bond is executed for a charge triable in magistrates or municipal court. In order for the surety to be relieved of liability on the appearance bond when the time period has run, the surety must provide sixty days written notice to the solicitor, when appropriate, and the respective clerk of court, chief magistrate, or municipal court judge with jurisdiction over the offense of the surety’s

intent to assert that the person is no longer subject to a valid appearance bond. If the appropriate court determines the person has substantially complied with his court obligations and the solicitor does not object within the required sixty days by demanding a hearing, the court shall order the appearance bond converted to a personal recognizance bond and the surety relieved of liability.”

Time effective

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

Ratified the 26th day of January, 2012.

Approved the 1st day of February, 2012.

No. 116

(R123, H3914)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 20 TO CHAPTER 23, TITLE 57 SO AS TO DESIGNATE CERTAIN HIGHWAYS IN BEAUFORT COUNTY AS SCENIC HIGHWAYS AND SCENIC BYWAYS; AND TO REPEAL ACT 714 OF 1978 WHICH DESIGNATED CERTAIN PORTIONS OF HIGHWAYS IN BEAUFORT COUNTY AS SCENIC HIGHWAYS.

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

Scenic Byways

SECTION 1. Chapter 23, Title 57 of the 1976 Code is amended by adding:

“Article 20

Beaufort County Scenic Highway, Hilton Head Island Scenic Byway,
and May River Scenic Byway

Section 57-23-1100. (A) South Carolina Highway 170 from the South side of the Broad River to its intersection with South Carolina Highway 462 is designated as a state scenic highway.

(B) United States Highway 278 from its intersection with South Carolina Highway 170 to State Road S-80 at Sea Pines Circle on Hilton Head Island is designated as Hilton Head Island Scenic Byway.

(C) South Carolina Highway 46 from its intersection with the Jasper/Beaufort County line to its intersection with State Road S-66 in the Town of Bluffton, State Road S-66 from its intersection with South Carolina Highway 46 to its intersection with State Road S-13, and State Road S-13 from its intersection with State Road S-66 to Brighton Beach on the May River, all totaling approximately eleven miles, are designated as the May River Scenic Byway.

(D) The Department of Transportation shall install appropriate markers or signs to implement these designations.”

Repeal

SECTION 2. Act 714 of 1978 is repealed.

Time effective

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

Ratified the 26th day of January, 2012.

Approved the 1st day of February, 2012.

No. 117

(R124, H3947)

AN ACT TO AMEND SECTION 55-11-320, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CREATION OF THE RICHLAND-LEXINGTON AIRPORT COMMISSION, SO AS TO PROVIDE THAT THE COMMISSION MUST BE APPOINTED BY THE RICHLAND AND LEXINGTON COUNTY LEGISLATIVE DELEGATIONS AND THE COLUMBIA CITY COUNCIL AND NO LONGER BY

THE GOVERNOR, AND DELETE AN OBSOLETE PROVISION.

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

Richland-Lexington Airport Commission

SECTION 1. Section 55-11-320 of the 1976 Code, as last amended by Act 326 of 2002, is further amended to read:

“Section 55-11-320. The corporate powers and duties of the Richland-Lexington Airport District must be exercised and performed by a commission to be known as Richland-Lexington Airport Commission. The commission must be composed of twelve members. Five members must be appointed by the Lexington County Legislative Delegation, five members must be appointed by the Richland County Legislative Delegation, and two members must be appointed by the City Council of the City of Columbia. The members of the commission shall serve for terms of four years and until their successors are appointed. Members may not serve more than two consecutive terms. In the event of a vacancy for any reason, other than the expiration of a term, a successor must be appointed in the same manner of the original appointment for the balance of the unexpired term. Any member may be removed by the appointing authority for neglect of duty, misconduct, or malfeasance in office after being given a written statement of reasons and an opportunity to be heard. Notwithstanding the expiration of the term of office of any member, he shall continue to serve until his successor shall have been appointed, but any delay in appointing a successor shall not extend the term of the successor. The members of the commission shall serve without compensation, except for their actual and necessary expenses while in performance of duties prescribed under this article.”

Time effective

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

Ratified the 26th day of January, 2012.

Approved the 1st day of February, 2012.

No. 118

(R125, H4005)

AN ACT TO AMEND SECTION 39-25-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO TERMS AND THEIR DEFINITIONS REGARDING ADULTERATED OR MISBRANDED FOOD AND COSMETICS, SO AS TO PROVIDE A DEFINITION FOR THE TERM "HONEY", TO PROVIDE STANDARDS FOR THE PROCESSING AND PACKAGING OF HONEY FOR SALE, TO EXEMPT CERTAIN BEEKEEPERS FROM CERTAIN INSPECTIONS AND REGULATIONS RELATING TO THE PROCESSING, EXTRACTION, AND PACKAGING OF HONEY, AND TO PROVIDE LABELING REQUIREMENTS FOR HONEY.

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

Honey defined

SECTION 1. Section 39-25-20 of the 1976 Code is amended by adding at the end:

“() The term ‘honey’ means the raw food product produced by honeybees for human consumption. Honey and honey products are subject to all labeling requirements of this chapter. Honey sold wholesale to other retail outlets for resale must be processed and packaged in an inspected and registered food processing facility in accordance with the act regardless of the amount of overall honey produced by the beekeeper.

Beekeepers producing no more than four hundred gallons (4,800 pounds) of honey annually and who only sell directly to the end consumer are exempt from inspections and regulations requiring honey to be processed, extracted and packaged in an inspected food processing establishment, or from being required to obtain a registration verification certificate (RVC) from the Department of Agriculture. However, labels are required on all containers of honey that are sold in South Carolina. Beekeepers must file for the exemption on forms to be provided by the Department of Agriculture.”

Time effective

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

Ratified the 26th day of January, 2012.

Approved the 1st day of February, 2012.

No. 119

(R126, H4192)

AN ACT TO AMEND SECTION 1-30-90, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CERTAIN AGENCIES, BOARDS, AND COMMISSIONS THAT WERE TRANSFERRED TO, INCORPORATED IN, AND ADMINISTERED AS PART OF THE DEPARTMENT OF PUBLIC SAFETY, SO AS TO DELETE THE LAW ENFORCEMENT TRAINING COUNCIL.

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

Department of Public Safety

SECTION 1. Section 1-30-90 of the 1976 Code is amended to read:

“Section 1-30-90. The following agencies, boards, and commissions, including all of the allied, advisory, affiliated, or related entities, as well as the employees, funds, property and all contractual rights and obligations associated with any such agency, except for those subdivisions specifically included under another department, are hereby transferred to and incorporated in and shall be administered as part of the Department of Public Safety to be initially divided into divisions for Highway Patrol, State Police, and Training and Continuing Education.

(A) Law Enforcement Hall of Fame, formerly provided for in Section 23-25-10, et seq.;

(B) State Highway Patrol, formerly provided for in Section 23-5-10, et seq.;

(C) Public Service Commission Safety Enforcement, formerly provided in Section 58-3-310;

(D) Public Safety Division, formerly of the Governor's Office.”

Time effective

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

Ratified the 26th day of January, 2012.

Approved the 1st day of February, 2012.

No. 120

(R128, H3470)

AN ACT TO AMEND SECTION 44-53-50, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PROHIBITION AGAINST USING, SELLING, OR MANUFACTURING CLEANING AGENTS CONTAINING PHOSPHATES, SO AS TO INCLUDE HOUSEHOLD AND COMMERCIAL LAUNDRY DETERGENTS AND HOUSEHOLD AND COMMERCIAL DISHWASHING DETERGENTS IN THIS PROHIBITION; TO FURTHER SPECIFY CRITERIA FOR AND TYPES OF CLEANING AGENTS EXEMPT FROM THIS PROHIBITION; TO AUTHORIZE THE SALE OF PROHIBITED CLEANING AGENTS THAT ARE IN A RETAILER'S INVENTORY ON JULY 1, 2012; AND TO STAGGER THE IMPLEMENTATION OF THE PROHIBITION OF THESE CLEANING AGENTS.

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

Sale of household and commercial laundry detergent and dishwashing detergent containing phosphorus prohibited

SECTION 1. Section 44-53-50 of the 1976 Code is amended to read:

“Section 44-53-50. (A) Except as otherwise provided in this section, a person may use, sell, manufacture, or distribute for use or sale in this State no cleaning agent that contains more than zero percent

phosphorus by weight expressed as elemental phosphorus except for an amount not exceeding five-tenths of one percent. For the purposes of this section, 'cleaning agent' means a household or commercial laundry detergent, dishwashing compound, household cleaner, household or commercial dishwashing detergent, metal cleaner, industrial cleaner, phosphate compound, or other substance that is intended to be used for cleaning purposes.

(B) A person may use, sell, manufacture, or distribute for use or sale a cleaning agent that contains greater than zero percent phosphorus by weight but does not exceed eight and seven-tenths percent phosphorus by weight that is a substance excluded from the zero percent phosphorus limitation of this section by regulations adopted by the Department of Health and Environmental Control which are based on a finding that compliance with this section would:

- (1) create a significant hardship on the user; or
- (2) be unreasonable because of the lack of an adequate substitute cleaning agent.

(C) This section does not apply to a cleaning agent that is:

- (1) used in dairy, beverage, or food processing equipment;
- (2) used in hospitals, veterinary hospitals, clinics, or health care facilities or in agricultural or dairy production or in the manufacture of health care supplies;
- (3) used by industry for metal, fabric, or fiber cleaning or conditioning;
- (4) manufactured, stored, or distributed for use or sale outside of this State;
- (5) used in a laboratory, including a biological laboratory, research facility, chemical laboratory, or engineering laboratory; or
- (6) used as a water softening chemical, antiscaling chemical, or corrosion inhibitor intended for use in closed systems such as boilers, air conditioners, cooling towers, or hot water heating systems.

(D) The Department of Health and Environmental Control shall promulgate regulations to administer and enforce the provisions of this section. A cleaning agent held for sale or distribution in violation of this section may be seized by appropriate administrative or law enforcement personnel. The seized cleaning agents are considered forfeited.

(E) A person who knowingly sells, manufactures, or distributes any cleaning agent in violation of the provisions of this section shall receive a written warning from the Department of Health and Environmental Control for the first violation. For a subsequent violation, the person is guilty of a misdemeanor and, upon conviction,

must be fined not more than five thousand dollars or imprisoned not more than one year. Each unlawful sale constitutes a separate violation.

(F) The provisions of this section may not restrict sale by a retailer of a household dishwashing detergent product from inventory existing and in stock at the retailer on July 1, 2012.”

Time effective

SECTION 2. The provisions of this act relating to household dishwashing detergent take effect July 1, 2012. The provisions of this act relating to commercial dishwashing and laundry detergent and industrial cleaners take effect on July 1, 2013. All other provisions of this act take effect July 1, 2014.

Ratified the 21st day of February, 2012.

Approved the 22nd day of February, 2012.

No. 121

(R129, H3630)

AN ACT TO AMEND SECTION 61-4-720, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SALE OF WINE BY A LICENSED WINERY LOCATED IN SOUTH CAROLINA, SO AS TO ELIMINATE THE REQUIREMENT THAT A MAJORITY OF THE JUICE USED IN THE WINE BE DERIVED FROM FRUIT OR BERRIES GROWN IN THIS STATE; AND TO AMEND SECTION 61-4-730, RELATING TO THE SALE OF WINE BY PERMITTED WINERIES, SO AS TO ALLOW A PERMITTED WINERY THAT PRODUCES AND SELLS WINE PRODUCED ON ITS PREMISES TO SELL THE WINE, UNDER CERTAIN CIRCUMSTANCES, AT RETAIL, WHOLESALE, OR BOTH, TO CLARIFY THE CIRCUMSTANCES UNDER WHICH A PERMITTED WINERY IS NOT DEEMED A WHOLESALER OF WINE AND MUST USE A LICENSED SOUTH CAROLINA WHOLESALER TO DELIVER OR SHIP WINE TO LICENSED RETAILERS, AND TO PROVIDE PENALTIES.

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

Sale of wine by winery located in South Carolina

SECTION 1. Section 61-4-720 of the 1976 Code is amended to read:

“Section 61-4-720. Notwithstanding another provision of law, a licensed winery located in this State is authorized to sell wine on the winery premises and deliver or ship this wine to consumer homes in or outside the State so long as the wine is produced on its premises and contains an alcoholic content of sixteen percent or less. These wineries are authorized to provide, with or without cost, wine tasting samples to prospective customers.”

Sales by permitted wineries

SECTION 2. Section 61-4-730 of the 1976 Code is amended to read:

“Section 61-4-730. (A) Permitted wineries that produce and sell wine produced on its premises with at least sixty percent of the juice from fruit and berries that are grown in this State may sell the wine at retail, wholesale, or both, and deliver or ship the wine to licensed retailers in this State or to consumer homes in and outside the State. Wine must be delivered between 7:00 a.m. and 7:00 p.m.

(B) Permitted wineries that produce and sell wine produced on their premises with less than sixty percent of the juice from fruit and berries that are grown in this State may retail from the winery and ship the wine directly to consumer homes in and outside the State, but these wineries are not wholesalers of the wine. These wineries shall use a licensed South Carolina wholesaler to deliver or ship the wine to licensed retailers in this State.

(C) The South Carolina Department of Agriculture shall periodically inspect the records of permitted wineries for verification of the percentage of juice from fruit and berries grown in this State used in the manufacturing of the wineries' products. Within ten days of conducting an inspection, the South Carolina Department of Agriculture shall report its findings to the South Carolina Department of Revenue. If a winery is found to be in violation of this statute, the owner of the winery is subject to penalties pursuant to Section 61-4-780.”

Time effective

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

Ratified the 21st day of February, 2012.

Approved the 22nd day of February, 2012.

No. 122

(R130, H4108)

AN ACT TO AMEND SECTIONS 5-31-2510, 6-11-2510, 33-49-1410, 58-5-1110, 58-27-2510, AND 58-31-510, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS USED IN PROCEDURES GOVERNING THE TERMINATION OF ELECTRIC AND NATURAL GAS SERVICE UNDER CERTAIN CIRCUMSTANCES FURNISHED BY A MUNICIPALITY, SPECIAL PURPOSE DISTRICT OR PUBLIC SERVICE DISTRICT, ELECTRIC COOPERATIVE, PUBLIC UTILITY, PUBLIC SERVICE AUTHORITY, OR ELECTRIC UTILITY, SO AS TO CHANGE THE DEFINITION OF "SPECIAL NEEDS ACCOUNT CUSTOMER" TO INCLUDE CUSTOMERS WHO SUFFER FROM ALZHEIMER'S DISEASE OR DEMENTIA.

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

Definition revised

SECTION 1. Section 5-31-2510(2) of the 1976 Code, as added by Act 313 of 2006, is amended to read:

“(2) ‘Special needs account customer’ means the account of a residential customer:

(a) when the customer can furnish to the municipality furnishing electricity or natural gas to its citizens a certificate on a form provided by the municipality and signed by a licensed health care provider that states that termination of electric or gas service would be dangerous to

the health of the customer or a member of his household at the premises to which electric or natural gas service is rendered; or

(b) who suffers from Alzheimer's disease or dementia as certified by a licensed health care provider.”

Definition revised

SECTION 2. Section 6-11-2510(2) of the 1976 Code, as added by Act 313 of 2006, is amended to read:

“(2) ‘Special needs account customer’ means the account of a residential customer:

(a) when the customer can furnish to the special purpose or public service district furnishing electricity or natural gas to residents of this State a certificate on a form provided by the special purpose or public service district and signed by a licensed health care provider that states that termination of electric or gas service would be dangerous to the health of the customer or a member of his household at the premises to which electric or natural gas service is rendered; or

(b) who suffers from Alzheimer's disease or dementia as certified by a licensed health care provider.”

Definition revised

SECTION 3. Section 33-49-1410(2) of the 1976 Code, as added by Act 313 of 2006, is amended to read:

“(2) ‘Special needs account member’ means the account of a residential member:

(a) when the member can furnish to the electric cooperative a certificate on a form provided by the electric cooperative and signed by a licensed health care provider that states that termination of electric service would be dangerous to the health of the member or a person residing in the member's household at the premises to which electric service is rendered; or

(b) who suffers from Alzheimer's disease or dementia as certified by a licensed health care provider.”

Definition revised

SECTION 4. Section 58-5-1110(2) of the 1976 Code, as added by Act 313 of 2006, is amended to read:

“(2) ‘Special needs account customer’ means the account of a residential customer:

(a) when the customer can furnish to the utility a certificate on a form provided by the utility and signed by a licensed health care provider that states that termination of natural gas service would be dangerous to the health of the customer or a member of his household at the premises to which natural gas service is rendered; or

(b) who suffers from Alzheimer’s disease or dementia as certified by a licensed health care provider.”

Definition revised

SECTION 5. Section 58-27-2510(2) of the 1976 Code, as added by Act 313 of 2006, is amended to read:

“(2) ‘Special needs account customer’ means the account of a residential customer:

(a) when the customer can furnish to the utility a certificate on a form provided by the utility and signed by a licensed health care provider that states that termination of electric service would be dangerous to the health of the customer or a member of his household at the premises to which electric service is rendered; or

(b) who suffers from Alzheimer’s disease or dementia as certified by a licensed health care provider.”

Definition revised

SECTION 6. Section 58-31-510(2) of the 1976 Code, as added by Act 313 of 2006, is amended to read:

“(2) ‘Special needs account customer’ means the account of a residential customer:

(a) when the customer can furnish to the Public Service Authority a certificate on a form provided by the Public Service Authority and signed by a licensed health care provider that states that termination of electric service would be dangerous to the health of the

customer or a member of his household at the premises to which electric service is rendered; or

(b) who suffers from Alzheimer's disease or dementia as certified by a licensed health care provider.”

Time effective

SECTION 7. This act takes effect upon approval by the Governor.

Ratified the 21st day of February, 2012.

Approved the 22nd day of February, 2012.

No. 123

(R132, H4434)

AN ACT TO AMEND ACT 794 OF 1966, AS AMENDED, RELATING TO THE PENDLETON DISTRICT HISTORICAL AND RECREATIONAL COMMISSION OF ANDERSON, OCONEE, AND PICKENS COUNTIES, SO AS TO PROVIDE THAT EFFECTIVE MARCH 1, 2012, THE NAME OF THE PENDLETON DISTRICT AGRICULTURAL MUSEUM MUST BE THE “BART GARRISON AGRICULTURAL MUSEUM OF SOUTH CAROLINA”.

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

Name designated

SECTION 1. Section 4 of Act 794 of 1966 is amended by adding the following new paragraph at the end to read:

“Effective March 1, 2012, the name of the Pendleton District Agricultural Museum established and operated by the Pendleton District Historical and Recreational Commission, pursuant to Section 2 of this act, must be the ‘Bart Garrison Agricultural Museum of South Carolina’. The commission shall erect appropriate markers and signs reflecting the name of the agricultural museum as the ‘Bart Garrison Agricultural Museum of South Carolina’.”

Time effective

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

Ratified the 21st day of February, 2012.

Approved the 22nd day of February, 2012.

No. 124

(R134, H4636)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 16 TO CHAPTER 3, TITLE 23 SO AS TO ESTABLISH THE BLUE ALERT PROGRAM THAT IS DESIGNED TO APPREHEND A SUSPECT THAT ALLEGEDLY KILLS, SERIOUSLY INJURES, OR ABDUCTS A LAW ENFORCEMENT OFFICER BY RAPIDLY DISSEMINATING INFORMATION REGARDING THE SUSPECT.

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

Blue Alert Program

SECTION 1. Chapter 3, Title 23 of the 1976 Code is amended by adding:

“Article 16

Blue Alert Program

Section 23-3-1400.(A) The ‘Blue Alert Program’ is established within the South Carolina Law Enforcement Division (SLED). The purpose of the program is to assist law enforcement in the apprehension of a suspect who allegedly kills, seriously injures, or abducts a law enforcement officer by rapidly disseminating information regarding the suspect, and to reduce the suspect’s ability to flee thereby posing a serious threat to the safety of others.

(B) SLED shall adopt guidelines and establish procedures for issuing a blue alert, including the rapid dissemination of information regarding a suspect through the use of the South Carolina Department of Transportation's electronic traffic signage system and other law enforcement mechanisms. The Chief of SLED shall act as the program's statewide coordinator.

(C) To aid in hindering a suspect's ability to flee and threaten citizens, communities, and other law enforcement personnel, SLED shall encourage and recruit television and radio broadcasters and other organizations to assist in the program by quickly disseminating information regarding the suspect.

(D) A blue alert may be issued if:

(1) a local, state, or federal law enforcement officer is killed, seriously injured, or abducted; and

(2) the law enforcement agency of jurisdiction:

(a) determines that a suspect poses a serious risk or threat to the public and other law enforcement personnel;

(b) possesses sufficient information that could assist in locating the suspect, including information regarding the suspect's vehicle; and

(c) recommends the issuance of a blue alert to SLED.

(E) SLED may issue a blue alert upon confirmation of the requirements of subsection (D). Upon issuance of a blue alert, information that could assist in locating a suspect may be displayed across the State via the South Carolina Department of Transportation's electronic traffic signage system and other law enforcement mechanisms. Also, the information may be disseminated to organizations assisting with the program.

(F) A blue alert may be canceled at the request of the law enforcement agency of jurisdiction or by the Chief of SLED when appropriate."

Time effective

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

Ratified the 21st day of February, 2012.

Approved the 27th day of February, 2012.

No. 125

(R133, H4627)

A JOINT RESOLUTION TO SUSPEND THE AUTHORITY OF THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL FOR ALL DECISIONS SUBSEQUENT TO 2007 PERTAINING TO THE NAVIGABILITY, DEPTH, DREDGING, WASTEWATER AND SLUDGE DISPOSAL, AND RELATED COLLATERAL ISSUES IN REGARD TO THE USE OF THE SAVANNAH RIVER AS A WATERWAY FOR OCEAN-GOING CONTAINER OR COMMERCE VESSELS, IN PARTICULAR THE APPROVAL BY THE DEPARTMENT OF THE APPLICATION FOR THE CONSTRUCTION IN NAVIGABLE WATERS PERMIT FOR DREDGING OF THE SOUTH CAROLINA PORTION OF THE SAVANNAH RIVER, BECAUSE THE AUTHORITY TO ISSUE SUCH A PERMIT HAD BEEN GRANTED TO THE SAVANNAH RIVER MARITIME COMMISSION BY ACT 56 OF 2007 AND THE ACTIVITIES AUTHORIZED BY THIS PERMIT COULD PRESENT IMMINENT AND IRREVERSIBLE PUBLIC HEALTH AND ENVIRONMENTAL CONCERNS; AND TO PROVIDE THAT THE DEPARTMENT RETAINS AUTHORITY OVER OTHER MATTERS PERTAINING TO THE SAVANNAH RIVER.

Whereas, the South Carolina Department of Health and Environmental Control, hereinafter the department, was granted the authority to maintain reasonable standards of purity of air and water quality by enactment of the South Carolina Pollution Control Act; and

Whereas, the Savannah River Maritime Commission, hereinafter the Maritime Commission, by enactment of Act 56 in 2007, effective May 1, 2007, was granted the authority to represent this State in all matters pertaining to the navigability, depth, dredging, wastewater and sludge disposal, and related collateral issues in regard to the use of the Savannah River as a waterway for ocean-going container or commerce vessels; and

Whereas, the General Assembly granted to the Maritime Commission by statute the oversight and permitting responsibilities for the State as to the navigability or depth of the South Carolina portion of the

Savannah River, superseding any other concurrent responsibilities of a particular state agency or department; and

Whereas, by enactment of Act 56 in 2007, the General Assembly also bifurcated the permitting process for construction in the South Carolina portion of the Savannah River, such that all matters pertaining to the navigability, depth, dredging, wastewater and sludge disposal, and related collateral issues, including navigable waters permitting criteria, in regard to the use of the Savannah River as a waterway for ocean-going container or commerce vessels fell within the purview of the Maritime Commission; and

Whereas, the South Carolina General Assembly has learned that, contrary to its legislative enactment of 2007, the authority of the Maritime Commission was unlawfully usurped by the department in its approval of an application from the Savannah District Office of the United States Corps of Engineers for Water Quality Certification pursuant to Section 401 of the Clean Water Act and Construction in Navigable Waters Permit to dredge a portion of the Savannah River in South Carolina as part of the Savannah River Expansion Project; and

Whereas, the South Carolina General Assembly has learned that the approval of the above-referenced application could present imminent and irreversible public health and environmental concerns; and

Whereas, Section 7, Article I of the South Carolina Constitution provides that the power to suspend the laws shall be exercised only by the General Assembly. Now, therefore,

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

Department of Health and Environmental Control authority over certain Savannah River matters suspended

SECTION 1. The General Assembly, pursuant to Section 7, Article I of the South Carolina Constitution, suspends the authority of the South Carolina Department of Health and Environmental Control, hereinafter the department, for all decisions subsequent to 2007 related to all matters pertaining to the navigability, depth, dredging, wastewater and sludge disposal, and related collateral issues in regard to the use of the Savannah River as a waterway for ocean-going container or commerce vessels, in particular the approval by the department of the application

of the United States Army Corps of Engineers for a Construction in Navigable Waters Permit for the dredging of the South Carolina portion of the Savannah River, because the authority of the Savannah River Maritime Commission, hereinafter the Maritime Commission, superseded the responsibilities of the department for such approval, as established by Act 56 of 2007, and the approval by the department could present imminent and irreversible public health and environmental concerns for the South Carolina portion of the Savannah River. The Department of Health and Environmental Control retains authority for all matters pertaining to the Savannah River unrelated to the navigability, depth, dredging, wastewater and sludge disposal, and related collateral issues in regard to the use of the Savannah River as a waterway for ocean-going container or commerce vessels.

Time effective

SECTION 2. This joint resolution takes effect upon approval of the Governor.

Ratified the 21st day of February, 2012.

Vetoed by the Governor -- 2/27/2012.

Veto overridden by House -- 2/28/2012.

Veto overridden by Senate -- 3/1/2012.

No. 126

(R143, H3583)

AN ACT TO AMEND SECTION 12-6-40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE APPLICATION OF THE INTERNAL REVENUE CODE TO STATE INCOME TAX LAWS, SO AS TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE TO THE YEAR 2011 AND TO PROVIDE THAT ANY INTERNAL REVENUE CODE SECTIONS ADOPTED BY THE STATE THAT EXPIRED ON DECEMBER 31, 2011, OR JANUARY 1, 2012, THAT ARE EXTENDED BY THE FEDERAL GOVERNMENT IN 2012 ARE ALSO EXTENDED FOR SOUTH

CAROLINA INCOME TAX PURPOSES; AND TO AMEND SECTION 12-6-50, RELATING TO INTERNAL REVENUE CODE SECTIONS SPECIFICALLY NOT ADOPTED BY THIS STATE, SO AS TO MAKE CERTAIN ADDITIONS.

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

Internal Revenue Code conformity

SECTION 1. Section 12-6-40(A)(1)(a) of the 1976 Code, as last amended by Act 5 of 2011, is further amended to read:

“(a) Except as otherwise provided, ‘Internal Revenue Code’ means the Internal Revenue Code of 1986, as amended through December 31, 2011, and includes the effective date provisions contained in it.”

Internal Revenue Code extension

SECTION 2. Section 12-6-40(A)(1) of the 1976 Code, as last amended by Act 5 of 2011, is further amended by adding an appropriately numbered subitem to read:

“() For Internal Revenue Code sections adopted by the State which expired or portions thereof expired on December 31, 2011, or January 1, 2012, in the event any of these expired sections or portions thereof are extended, but otherwise not amended, by the federal government during 2012, these sections or portions thereof also will be extended for South Carolina income tax purposes in the same manner that they are extended for federal income tax purposes.”

Internal Revenue Code sections not adopted

SECTION 3. Section 12-6-50(3) of the 1976 Code, and items (11) and (12) as last amended by Act 145 of 2005, are further amended to read:

“(3) Sections 55 through 59A relating to minimum taxes;

(11) Sections 801 through 848 relating to taxation of insurance companies;

(12) Sections 861 through 909, 912, 931 through 940, and 944 through 989 relating to the taxation of foreign income;”

Time effective

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

Ratified the 7th day of March, 2012.

Approved the 13th day of March, 2012.

No. 127

(R144, H3711)

AN ACT TO AMEND SECTION 39-61-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS OF THE SOUTH CAROLINA MOTOR CLUB ACT, SO AS TO PROVIDE THAT AN ENTITY THAT CONTRACTS WITH AN AUTOMOBILE CLUB LICENSED UNDER THE MOTOR CLUB SERVICES ACT FOR THE PROVISIONS OF EMERGENCY ROAD SERVICE AND TOWING SERVICE TO THE ENTITY'S CUSTOMERS IS NOT INCLUDED IN THE DEFINITION OF MOTOR CLUB.

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

Definition revised

SECTION 1. Section 39-61-20(b) of the 1976 Code, as added by Act 155 of 1987, is amended to read:

“(b) ‘Club’ means a person engaged in selling, furnishing, or making available to members, either as principal or agent, motor club services. This definition does not include an entity that enters into a service contract with a club licensed under this chapter for the provision of emergency road service and towing service to the customers of the entity.”

Time effective

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

Ratified the 7th day of March, 2012.

Approved the 13th day of March, 2012.

No. 128

(R145, H3750)

AN ACT TO AMEND SECTION 17-5-530, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO A CORONER'S DUTIES WHEN A PERSON DIES, INCLUDING WHERE AND BY WHOM AN AUTOPSY MAY BE PERFORMED IF A PERSON DIES IN A HEALTH CARE FACILITY WITHIN TWENTY-FOUR HOURS OF ENTERING THE FACILITY OR WITHIN TWENTY-FOUR HOURS OF UNDERGOING AN INVASIVE SURGICAL PROCEDURE, SO AS TO PROVIDE THAT UNLESS THE CORONER CERTIFIES THAT THERE IS NO REASONABLE ALTERNATIVE, THE AUTOPSY MUST NOT BE PERFORMED AT THE HEALTH CARE FACILITY WHERE THE DEATH OCCURRED OR BY A PHYSICIAN WHO TREATED THE PATIENT OR WHO WAS EMPLOYED BY THE HEALTH CARE FACILITY WHERE THE DEATH OCCURRED; AND TO AMEND SECTION 43-35-520, AS AMENDED, RELATING TO INVESTIGATIONS OF DEATHS IN FACILITIES OPERATED BY THE DEPARTMENT OF MENTAL HEALTH OR THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS, SO AS TO PROVIDE THAT IF THE CORONER RULES A DEATH RESULTED FROM NATURAL CAUSES IN A VETERANS' NURSING HOME UNDER THE DEPARTMENT OF MENTAL HEALTH, THE STATE LAW ENFORCEMENT DIVISION IS NOT REQUIRED TO CONDUCT AN INVESTIGATION OF THE DEATH.

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

Autopsies

SECTION 1. Section 17-5-530(E) of the 1976 Code, as last amended by Act 226 of 2010, is further amended to read:

“(E) If the coroner or medical examiner orders an autopsy upon review of a death pursuant to item (8) of subsection (A), the autopsy must not be performed:

- (1) at the health care facility where the death occurred;
- (2) by a physician who treated the patient; or
- (3) by a physician who is employed by the health care facility in which the death occurred;

unless the coroner or medical examiner certifies that no reasonable alternative exists.”

Death investigations

SECTION 2. Section 43-35-520 of the 1976 Code, as last amended by Act 223 of 2010, is further amended to read:

“Section 43-35-520. The Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division, created pursuant to Section 23-3-810, shall, in addition to its investigation responsibilities under that section or Article 1, investigate cases of vulnerable adult fatalities in facilities operated or contracted for operation by the Department of Mental Health or the Department of Disabilities and Special Needs. Provided, that in a nursing home, as defined in Section 44-7-130, contracted for operation by the Department of Mental Health, the Vulnerable Adults Investigations Unit shall investigate those fatalities for which there is suspicion that the vulnerable adult died as a result of abuse or neglect, the death is suspicious in nature, or the death is referred by a coroner or medical examiner as provided in Section 43-35-35(A). In the event that a coroner rules that the death of an individual in a veterans’ nursing home under the authority of the Department of Mental Health results from natural causes, the State Law Enforcement Division is not required to conduct an investigation regarding the individual’s death.”

Time effective

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

Ratified the 7th day of March, 2012.

Approved the 13th day of March, 2012.

No. 129

(R136, S929)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 41-18-170 TO ENACT "BENJI'S LAW" SO AS TO SPECIFY PERMIT REQUIREMENTS FOR MINIATURE TRAINS OPERATED FOR THE USE OF THE PUBLIC AS AN AMUSEMENT DEVICE IN AN AMUSEMENT PARK.

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

Act citation

SECTION 1. This act may be cited as "Benji's Law".

Miniature train amusement ride requirements

SECTION 2. Article 1, Chapter 18, Title 41 of the 1976 Code is amended by adding:

"Section 41-18-170. A miniature train amusement ride must satisfy the following requirements before the Department of Labor, Licensing and Regulation may issue a permit or renewal permit:

- (1) the ride must have a properly operating speedometer;
- (2) the ride must have a device that allows the speed of the train to be regulated and the speed of the train must be set so as to only operate at or below the maximum speed recommended by the manufacturer;
- (3) all drivers operating the ride must be trained to operate the ride in accordance with the manufacturer's operation recommendations; a training record for each driver must be maintained by the owner or operator of the ride as long as the driver is employed by or operates the train on behalf of the owner or operator; and each driver must be tested by the department before the driver is authorized to operate the train; a driver employed to operate the train, or who will operate the train on behalf of the owner or operator, subsequent to the department issuing the permit or renewal permit does not affect the validity of the permit, so long as the driver does not operate the train until the driver has been tested by the department; and

(4) the ride must be inspected mechanically, including, but not limited to, a speed test of the train to ensure that the train is operating in accordance with the requirements of item (2), and in accordance with this chapter or regulations promulgated pursuant to this chapter, but in no case less than an annual inspection.”

Time effective

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

Ratified the 7th day of March, 2012.

Approved the 13th day of March, 2012.

No. 130

(R137, S1063)

AN ACT TO AMEND SECTION 7-7-160, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF PRECINCTS IN CHEROKEE COUNTY, SO AS TO REVISE AND RENAME CERTAIN PRECINCTS AND REDESIGNATE A MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE DIVISION OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD, AND TO CORRECT ARCHAIC LANGUAGE.

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

Cherokee County voting precincts designated

SECTION 1. Section 7-7-160 of the 1976 Code, as last amended by Act 223 of 2002, is further amended to read:

“Section 7-7-160. (A) In Cherokee County there are voting precincts as follows:

Allens

Alma Mill

Antioch and King’s Creek

Ashworth
Blacksburg Ward No. 1
Blacksburg Ward No. 2
Draytonville
Ezells and Butler
Gaffney Ward No. 1
Gaffney Ward No. 2
Gaffney Ward No. 3
Gaffney Ward No. 4
Gaffney Ward No. 5
Gaffney Ward No. 6
Goucher and Thicketty
Grassy Pond
Holly Grove and Buffalo
Limestone Mill
Littlejohn's and Sarratt's
Macedonia
Morgan
Musgrove Mill
Ninety Nine and Cherokee Falls
Pleasant Grove
Pleasant Meadows
Timber Ridge
White Plains
Wilkinsville and Metcalf
Wood's.

(B) The polling places of the various voting precincts in Cherokee County must be designated by the Cherokee County Election Commission. The precinct lines defining the above precincts are as shown on the official map designated as P-21-12 on file with the Division of Research and Statistics of the South Carolina Budget and Control Board and as shown on copies provided to the board of voter registration of the county by the Division of Research and Statistics. The official map may not be changed except by act of the General Assembly.”

Time effective

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

Ratified the 7th day of March, 2012.

Approved the 13th day of March, 2012.

No. 131

(R138, S1196)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1-1-616 SO AS TO PROVIDE THAT THE MONTH OF FEBRUARY OF EVERY YEAR IS DESIGNATED AFRICAN AMERICAN HISTORY MONTH IN SOUTH CAROLINA.

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

Findings

SECTION 1. The General Assembly finds that:

(1) Black History Month, now to be designated as African American History Month in South Carolina, began as “Negro History Week”, which was created in 1926 by Carter G. Woodson, a noted African American historian, scholar, educator, and publisher. It became a month-long celebration in 1976. The month of February was chosen to coincide with the birthdays of Frederick Douglass and Abraham Lincoln;

(2) African Americans of all generations have contributed greatly to the growth, development, culture, and institutions of the United States; and

(3) to declare the month of February of each year as African American History Month in our State to honor the significant contributions to our country of these outstanding individuals.

African American History Month designated

SECTION 2. Article 9, Chapter 1, Title 1 of the 1976 Code is amended by adding:

“Section 1-1-616. The month of February of every year is also designated African American History Month in South Carolina to be

observed concurrently with American History Month as provided in Section 1-1-615, but with emphasis on the contributions of African Americans to the growth, development, culture, and institutions of our country. South Carolinians are encouraged to sponsor and participate in appropriate observances of African American History Month.”

Time effective

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

Ratified the 7th day of March, 2012.

Approved the 13th day of March, 2012.

No. 132

(R142, S1217)

AN ACT TO AMEND SECTION 7-7-50, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF PRECINCTS IN ALLENDALE COUNTY, SO AS TO REDESIGNATE A MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE DIVISION OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD, AND TO CORRECT ARCHAIC LANGUAGE.

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

Allendale County designated voting precincts

SECTION 1. Section 7-7-50 of the 1976 Code, as last amended by Act 199 of 2004, is further amended to read:

“Section 7-7-50. (A) In Allendale County there are the following voting precincts:

- Allendale No. 1
- Allendale No. 2
- Fairfax No. 1
- Fairfax No. 2

Martin
Sycamore
Ulmer
Woods.

(B) The precinct lines defining the above precincts are as shown on maps on file with the Allendale County Election Commission as provided and maintained by the Division of Research and Statistics of the State Budget and Control Board designated as document P-05-12.”

Time effective

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

Ratified the 7th day of March, 2012.

Approved the 13th day of March, 2012.

No. 133

(R149, S833)

AN ACT TO AMEND SECTION 59-112-50, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO TUITION RATES FOR MILITARY PERSONNEL AND THEIR DEPENDENTS, SO AS TO PROVIDE THAT ACTIVE DUTY MILITARY PERSONNEL MAY BE CHARGED LESS THAN THE UNDERGRADUATE TUITION RATE FOR SOUTH CAROLINA RESIDENTS FOR CERTAIN COURSES.

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

Tuition rates

SECTION 1. Section 59-112-50 of the 1976 Code, as last amended by Act 246 of 2010, is further amended to read:

“Section 59-112-50. (A) Notwithstanding another provision of law, during the period of their assignment to duty in South Carolina, members of the Armed Services of the United States stationed in South Carolina and their dependents are eligible for in-state tuition rates.

When these armed service personnel are ordered away from the State, their dependents are eligible for in-state tuition rates as long as they remain continuously enrolled at the state institution in which they are enrolled at the time the assignment ends or transfer to an eligible institution during the term or semester, excluding summer terms, immediately following their enrollment at the previous institution. In the event of a transfer, the receiving institution shall verify the decision made by the student's previous institution in order to certify the student's eligibility for in-state tuition rates. It is the responsibility of the transferring student to ensure that all documents required to verify both the previous and present residency decisions are provided to the institution. These persons and their dependents are eligible for in-state tuition rates after their discharge from the armed services even though they were not enrolled at a state institution at the time of their discharge, if they have evidenced an intent to establish domicile in South Carolina and if they have resided in South Carolina for a period of at least twelve months immediately preceding their discharge. Active duty military personnel may be charged less than the undergraduate tuition rate for South Carolina residents for courses that are presented on a distance basis, regardless of residency.

(B) For purposes of this section, 'active duty military personnel' includes, but is not limited to, active duty guardsmen and active duty reservists."

Time effective

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

Ratified the 29th day of March, 2012.

Approved the 2nd day of April, 2012.

No. 134

(R150, S1227)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 10-1-35 SO AS TO PROHIBIT CAMPING, SLEEPING, OR USE OF THE STATE

**HOUSE GROUNDS AND ALL BUILDINGS LOCATED ON THE
GROUNDS FOR LIVING ACCOMMODATIONS PURPOSES.**

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

Camping on State House grounds prohibited

SECTION 1. Chapter 1, Title 10 of the 1976 Code is amended by adding:

“Section 10-1-35. (A) For purposes of this section, ‘State House grounds’ means the steps of the State House building and the outside areas of the Capitol Complex, which is that area bounded by Gervais, Sumter, Pendleton, and Assembly streets.

(B) Notwithstanding another provision of law, a person or group of persons may not use the State House grounds or the buildings located on the grounds for:

- (1) camping, or other living accommodations purposes;
- (2) sleeping, or making preparations to sleep;
- (3) storing personal belongings that support camping or other outdoor living accommodations purposes;
- (4) building a campfire;
- (5) erecting tents or other structures used for camping or outdoor living accommodations;
- (6) digging or breaking ground without proper written authorization; or
- (7) cooking, or cooking activities that support camping or other outdoor living accommodations purposes.

This prohibition applies regardless of the participant’s intent or the nature of other activities in which the participant may be engaged.”

Time effective

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

Ratified the 29th day of March, 2012.

Approved the 29th day of March, 2012.

No. 135

(R153, H3221)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12-53-45 SO AS TO REQUIRE THE SOUTH CAROLINA DEPARTMENT OF REVENUE TO FILE ELECTRONICALLY ALL DOCUMENTS RELATING TO THE ENFORCED COLLECTION OF TAXES DUE THIS STATE WITH COUNTY CLERKS OF COURT AND REGISTERS OF DEEDS IN THOSE COUNTIES WHICH ACCEPT ELECTRONIC FILINGS.

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

Electronic filing of documents

SECTION 1. Chapter 53, Title 12 of the 1976 Code is amended by adding:

“Section 12-53-45. When filing documents relating to the enforced collection of taxes due this State with county clerks of court and registers of deeds, the department shall file those documents electronically if the clerk of court or register of deeds accepts electronic filings.”

Time effective

SECTION 2. This act takes effect July 1, 2012.

Ratified the 29th day of March, 2012.

Approved the 2nd day of April, 2012.

No. 136

(R154, H3254)

AN ACT TO AMEND SECTION 57-23-800, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ROADSIDE

VEGETATION MANAGEMENT BY THE DEPARTMENT OF TRANSPORTATION ALONG THE INTERSTATE HIGHWAY SYSTEM, SO AS TO INCREASE THE PORTION OF VEGETATION THE DEPARTMENT MAY MANAGE ALONG THE INTERSTATE HIGHWAY SYSTEM, AND TO ALLOW LOCAL GOVERNMENTAL ENTITIES TO CONDUCT VEGETATION MANAGEMENT ACTIVITIES BEYOND THE PORTIONS OF ROADWAYS MANAGED BY THE DEPARTMENT; AND TO REPEAL SECTIONS 57-23-810, 57-23-815, 57-23-820, 57-23-825, 57-23-830, 57-23-835, 57-23-840, AND 57-23-850 ALL RELATING TO ROADSIDE VEGETATION MANAGEMENT PROCEDURES IN VARIOUS COUNTIES.

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

Roadside vegetation management

SECTION 1. Section 57-23-800 of the 1976 Code is amended to read:

“Section 57-23-800. (A) The Department of Transportation shall conduct vegetation management of the medians, roadsides, and interchanges along the interstate highway system in accordance with the following requirements:

(1) a median of not more than eighty feet in width shall have its mowable area mowed in its entirety. A median wider than eighty feet only shall be mowed within forty feet from the edges of the pavement.

(2) a roadside shall be mowed thirty feet from the edge of the pavement. If fill slopes or back slopes are steep, one swath of the mower or not less than five feet shall be mowed on these slopes.

(3) an interchange shall be mowed in the same manner as a roadside, provided that the distance from the pavement required to be mowed may be increased to address any safety concerns involved.

(B) The mowing widths provided in subsection (A) may be increased when necessary to provide adequate visibility for signs erected by the department, when the department determines that increasing the widths is in the public interest, or upon request of the governing body of a county or municipality.

(C) The vegetation management activities conducted by the department shall not interfere in any way with the visibility of any outdoor advertising sign.

(D) If the Department of Natural Resources makes an assessment and written determination that vegetation management pursuant to this

section causes an increase in safety risks because of the attraction of wildlife to a specific area along the highway, then the department may increase the distance from the pavement required to be mowed.

(E) Upon the written approval of the Department of Transportation, a county or municipality, at its own expense, may itself conduct vegetation management activities beyond vegetation management widths provided in subsection (A) if the department declines to conduct vegetation management in those areas.”

Repeal

SECTION 2. Sections 57-23-810, 57-23-815, 57-23-820, 57-23-825, 57-23-830, 57-23-835, 57-23-840, and 57-23-850 of the 1976 Code are repealed.

Savings clause

SECTION 3. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Time effective

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

Ratified the 29th day of March, 2012.

Approved the 2nd day of April, 2012.

No. 137

(R155, H3333)

AN ACT TO AMEND SECTION 38-1-20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS USED IN TITLE 38 RELATING TO THE DEPARTMENT OF INSURANCE, SO AS TO AMEND THE DEFINITION OF "ADMITTED ASSETS"; TO AMEND SECTION 38-9-10, RELATING TO CASH OR MARKETABLE SECURITIES THAT MUST COMPRISE INITIAL CAPITAL AND SURPLUS REQUIRED OF STOCK INSURERS, SO AS TO PROVIDE THE CASH AND MARKETABLE SECURITIES MUST QUALIFY AS ADMITTED ASSETS ON THE MOST RECENT STATUTORY FINANCIAL STATEMENT OF THE INSURER FILED WITH THE DEPARTMENT OF INSURANCE; TO AMEND SECTION 38-9-20, RELATING TO CASH OR MARKETABLE SECURITIES THAT MUST COMPRISE INITIAL CAPITAL AND SURPLUS REQUIRED OF MUTUAL INSURERS, SO AS TO PROVIDE THE CASH AND MARKETABLE SECURITIES MUST QUALIFY AS ADMITTED ASSETS ON THE MOST RECENT STATUTORY FINANCIAL STATEMENT OF THE INSURER FILED WITH THE DEPARTMENT OF INSURANCE; TO AMEND SECTION 38-9-210, RELATING TO THE REDUCTION FROM LIABILITY FOR THE REINSURANCE CEDED BY A DOMESTIC INSURER, SO AS TO CHANGE THE SECURITIES LISTED THAT QUALIFY AS SECURITY TO THOSE THAT QUALIFY AS ADMITTED ASSETS ON THE MOST RECENT FINANCIAL STATEMENT FILED BY THE ASSUMING INSURER; TO AMEND SECTION 38-10-40, RELATING TO THE PROTECTED CELL ASSETS, SO AS TO CHANGE A CODE REFERENCE; TO AMEND SECTION 38-33-130, RELATING TO STOP-LOSS COVERAGE REQUIRED OF A HEALTH MAINTENANCE ORGANIZATION, SO AS TO DELETE CERTAIN REQUIREMENTS OF RELATED OPTIONAL CONVERSION POLICIES; TO AMEND SECTION 38-55-80, RELATING TO LOANS BY AN INSURER TO ITS DIRECTORS OR OFFICERS, SO AS TO CHANGE A CODE REFERENCE; TO AMEND SECTION 38-41-10, RELATING TO THE DEFINITION OF A MULTIPLE EMPLOYER SELF-INSURED HEALTH PLAN, SO AS TO PROVIDE AN

ABBREVIATION OF THE TERM AND MAKE TECHNICAL CHANGES; TO AMEND SECTION 38-41-50, RELATING TO EXCESS STOP-LOSS COVERAGE OF MULTIPLE EMPLOYER SELF-INSURED HEALTH PLANS, SO AS TO PROVIDE A PLAN MUST MAINTAIN EXCESS COVERAGE WRITTEN BY AN INSURER CONSIDERED APPROVED OR ELIGIBLE TO DO BUSINESS IN THIS STATE BY THE DEPARTMENT, THE COVERAGE MUST HAVE A NET RETENTION LEVEL IN COMPLIANCE WITH SOUND ACTUARIAL PRINCIPLES, TO PROVIDE THE PLAN MUST FILE ITS POLICY CONTRACT WITH THE DEPARTMENT, AND THE POLICY CONTRACT MUST INCLUDE SPECIFIC TERMS RELATING TO ITS CANCELLATION AND MODIFICATION; AND TO AMEND SECTION 38-41-80, RELATING TO RECORD KEEPING REQUIREMENTS OF A MULTIPLE EMPLOYER SELF-INSURED HEALTH PLAN, SO AS TO PROVIDE A PLAN IS SUBJECT TO CERTAIN FINANCIAL EXAMINATION.

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

Insurance definitions, “admitted assets” redefined

SECTION 1. Section 38-1-20(4) of the 1976 Code, as last amended by Act 69 of 2009, is further amended to read:

“(4) ‘Admitted assets’ means assets of an insurer considered admitted on the most recent statutory financial statement of the insurer filed with the department pursuant to Section 38-13-80.”

Capital and surplus required for stock insurance companies must be admitted assets

SECTION 2. Section 38-9-10(A)(2) of the 1976 Code is amended to read:

“(2) The director or his designee may require additional initial capital and surplus based on the type or nature of business transacted, and the initial capital and surplus of the insurer must consist of cash or marketable securities that qualify as admitted assets on the most recent statutory financial statement of the insurer filed with the department pursuant to Section 38-13-80.”

Capital and surplus requirements for mutual insurance companies must be admitted assets

SECTION 3. Section 38-9-20(A)(2) of the 1976 Code is amended to read:

“(2) The director or his designee may require additional initial surplus based on the type or nature of business transacted, and the initial surplus of the insurer must consist of cash or marketable securities that qualify as admitted assets on the most recent statutory financial statement of the insurer filed with the department pursuant to Section 38-13-80.”

Reduction from liability for reinsurance, securities must be admitted assets

SECTION 4. Section 38-9-210(2) of the 1976 Code is amended to read:

“(2) Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners that qualify as admitted assets on the most recent statutory financial statement filed by the insurer with the department pursuant to Section 38-13-80.”

Protected cell assets, code reference changed

SECTION 5. Section 38-10-40(B) of the 1976 Code is amended to read:

“(B) The income, gains and losses, realized or unrealized, from protected cell assets and protected cell liabilities must be credited to or charged against the protected cell without regard to other income, gains, or losses of the protected cell company, including income, gains, or losses of other protected cells. Amounts attributed to any protected cell and accumulations on the attributed amounts may be invested and reinvested without regard to any requirements or limitations of Chapter 12 of this title and the investments in a protected cell or cells may not be taken into account in applying the investment limitations otherwise applicable to the investments of the protected cell company.”

Mandatory stop-loss coverage for health maintenance organizations, requirements for related conversion policies deleted

SECTION 6. Section 38-33-130(C) of the 1976 Code is amended to read:

“(C) A health maintenance organization shall procure and maintain a policy of individual excess stop-loss coverage provided by an insurance company licensed by the State. The policy also must include provisions to cover all incurred, unpaid claim liability in the event of the termination of the health maintenance organization due to insolvency or otherwise. In addition, the director or his designee may require that the policy provide that the insurer will issue an individual policy to an enrollee upon termination of the health maintenance organization or the ineligibility of the enrollee for further coverage in the health maintenance organization.”

Loans by insurers to directors and officers, code reference changed

SECTION 7. Section 38-55-80(B) of the 1976 Code is amended to read:

“(B) This section does not prohibit an insurer in connection with the relocation of the place of employment of an officer, including any relocation in connection with the initial employment of the officer, from making, or the officer from accepting, a mortgage loan to the officer on real property owned by the officer which is to serve as his residence or acquiring, or the officer from selling to it, at not more than the fair market value, the residence of the officer. Mortgage loans made or residences acquired under this section are subject to the limitations imposed on investments by Chapter 12 of this title. In addition, this section does not prohibit an insurer from making a loan to its directors or officers if the loan is first approved in writing by the director or his designee.”

Multiple employer self-insured health plan defined, abbreviation provided

SECTION 8. Section 38-41-10 of the 1976 Code is amended to read:

“Section 38-41-10. As used in this chapter, ‘multiple employer self-insured health plan’ or ‘multiple employer welfare arrangement

(MEWA)' means a plan or arrangement established or maintained to offer or provide health, dental, or short-term disability benefits to employees of two or more employers but which is not fully insured. A plan or arrangement is considered 'fully insured' only if all benefits payable are guaranteed under a contract or policy of insurance issued by an insurer authorized to transact business in this State."

Excess stop-loss coverage for multiple employer self-insured health plans, requirements modified

SECTION 9. Section 38-41-50 of the 1976 Code is amended to read:

"Section 38-41-50. A multiple employer self-insured health plan shall include aggregate excess stop-loss coverage and individual excess stop-loss coverage provided by an insurer licensed, approved, or eligible by the State. A MEWA shall maintain excess insurance coverage written by an insurer that the Department of Insurance considers approved or eligible to do business in this State. This coverage must have a net retention level determined in accordance with sound actuarial principles approved by the director or his designee, and based on the number of risks insured by the MEWA. The MEWA must file the policy contract providing this coverage with the director or his designee. The terms of this policy contract must require that before the insurer may cancel or modify the terms of this policy contract, the insurer must give notice of the pending cancellation or modification of terms to the director at least thirty days before the cancellation or modification may occur. Aggregate excess stop-loss coverage shall include provisions to cover incurred, unpaid claim liability in the event of plan termination. The excess or stop-loss insurer shall bear the risk of coverage for any member of the pool that becomes insolvent with outstanding contributions due. In addition, the plan shall have a participating employer's fund in an amount at least equal to the point at which the excess or stop-loss insurer shall assume one hundred percent of additional liability. A plan shall submit its proposed excess or stop-loss insurance contract to the director or his designee at least thirty days prior to the proposed plan's effective date and at least thirty days subsequent to any renewal date. The director or his designee shall review the contract to determine whether it meets the standards established by this chapter and respond within a thirty-day period. Any excess or stop-loss insurance plan must be noncancellable for a minimum term of two years."

Record keeping requirements for multiple employer self-insured health plans, financial examinations required

SECTION 10. Section 38-41-80 of the 1976 Code is amended to read:

“Section 38-41-80. A multiple employer self-insured health plan shall make and keep a full and correct record of its business and affairs and the director or his representative shall inspect these records at least every three years. The information from these records must be furnished to the director or his representatives on demand and the original books or records must be open to examination by the director or his representatives when demanded. Every multiple employer self-insured health plan must be subject to an examination of its financial affairs. This examination must be conducted in accordance with the requirements of Chapter 13, and the cost of the examination must be borne by the Multiple Employer Welfare Arrangement.”

Time effective

SECTION 11. This act takes effect upon approval by the Governor.

Ratified the 29th day of March, 2012.

Approved the 2nd day of April, 2012.

No. 138

(R156, H3393)

AN ACT TO AMEND SECTION 32-8-320, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PERSONS WHO MAY SERVE AS A DECEDENT'S AGENT TO AUTHORIZE CREMATION, SO AS TO FURTHER PROVIDE FOR THOSE PERSONS WHO IN ORDER OF PRIORITY MAY AUTHORIZE CREMATION, AND TO PROVIDE THAT A FUNERAL HOME RECEIVING A DECEDENT'S BODY FOR CREMATION MAY RELY ON A CREMATION AUTHORIZATION EXECUTED AT ANOTHER

**FUNERAL HOME HANDLING THE FUNERAL
ARRANGEMENTS.**

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

Cremation authorizations and reliance thereon

SECTION 1. Section 32-8-320 of the 1976 Code, as last amended by Act 221 of 2010, is further amended to read:

“Section 32-8-320. (A) In the following order of priority these persons may serve as a decedent’s agent and in the absence of a preneed cremation authorization may authorize cremation of the decedent:

(1) the person designated as agent for this purpose by the decedent in a will or other verified and attested document, or a person named in the decedent’s United States Department of Defense Record of Emergency Data Form (DD Form 93), or its successor form, if the decedent died while serving in any branch of the United States Armed Services, as defined in 10 U.S.C. Section 1481, and there is no known designation in a will or other verified and attested document of the decedent;

(2) the spouse of the decedent, unless the spouse and the decedent are separated pursuant to one of the following:

(a) entry of a pendente lite order in a divorce or separate maintenance action;

(b) formal signing of a written property or marital settlement agreement;

(c) entry of a permanent order of separate maintenance and support or of a permanent order approving a property or marital settlement agreement between the spouse and the decedent;

(3) the decedent’s surviving adult children;

(4) the decedent’s surviving parents;

(5) adult siblings of the decedent;

(6) the adult grandchildren of the decedent;

(7) the grandparents of the decedent;

(8) the person appointed by the probate court as the guardian;

and

(9) any other person authorized or under obligation by law to dispose of the body.

(B) If there is more than one member of a class listed in subsection (A)(1), (3), (4), (5), (6), (7), or (9) entitled to authorize the cremation of

the decedent, the authorization to cremate may be made by a member of the class unless the member knows of an objection by another member within the class. If an objection is known, the authorization to cremate only may be made by a majority of the members of the class who are reasonably available.

(C) A person may not execute an authorization to cremate if a person in a prior class is reasonably available to make or object to the execution of the authorization to cremate the decedent.

(D) In the absence of a person serving as a decedent's agent pursuant to subsection (A), the following may serve as an agent and may authorize a decedent's cremation:

(1) a person serving as executor or legal representative of the decedent's estate;

(2) a public administrator, medical examiner, coroner, state appointed guardian, or other public official charged with arranging the final disposition of the decedent if the decedent is indigent or if the final disposition is the responsibility of the State or an instrumentality of the State; or

(3) the adult who exhibited special care and concern for the decedent.

(E) If a dispute arises among persons of equal priority, as provided for in subsection (A), concerning the cremation of a decedent, the matter must be resolved by order of the probate court.

(F) If a funeral home handling funeral arrangements for a decedent transfers the decedent's body to another funeral home solely for cremation purposes, the funeral home performing the cremation may, in good faith, rely on a cremation authorization document executed at the funeral home handling the funeral arrangements."

Time effective

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

Ratified the 29th day of March, 2012.

Approved the 2nd day of April, 2012.

No. 139

(R157, H3631)

AN ACT TO AMEND SECTION 48-34-40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REQUIREMENTS FOR CONDUCTING A PRESCRIBED FIRE, SO AS TO PROVIDE THAT THESE FIRES MUST COMPLY WITH SOUTH CAROLINA SMOKE MANAGEMENT GUIDELINES; TO FURTHER SPECIFY RESPONSIBILITIES OF A CERTIFIED PRESCRIBED FIRE MANAGER; AND TO EXEMPT PURPOSEFULLY SET PRESCRIBED FIRES THAT COMPLY WITH SMOKE MANAGEMENT GUIDELINES AND STATUTORY REQUIREMENTS IF THEY ARE SET FOR CERTAIN MANAGEMENT PRACTICES, AGRICULTURAL PURPOSES, OR GAME MANAGEMENT PURPOSES; TO AMEND SECTION 48-34-50, RELATING TO IMMUNITY FROM LIABILITY FOR DAMAGES CAUSED BY A PRESCRIBED FIRE, EXCEPT FOR RESULTING SMOKE, SO AS TO PROVIDE THAT A PROPERTY OWNER, LESSEE, AGENT, OR EMPLOYEE IS NOT LIABLE FOR DAMAGES, INJURY, OR LOSS CAUSED BY THE RESULTING SMOKE OF A PRESCRIBED FIRE UNLESS GROSS NEGLIGENCE OR RECKLESSNESS IS PROVEN; AND TO PROVIDE THAT “SMOKE MANAGEMENT GUIDELINES FOR VEGETATIVE DEBRIS BURNING FOR FORESTRY, AGRICULTURE, AND WILDLIFE PURPOSES IN THE STATE OF SOUTH CAROLINA” IS DEEMED TO BE PROMULGATED BY THE STATE FORESTRY COMMISSION AND ANY AMENDMENT TO THESE GUIDELINES MUST BE PROMULGATED BY THE COMMISSION.

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

Requirements for conducting a prescribed fire

SECTION 1. Section 48-34-40 of the 1976 Code is amended to read:

“Section 48-34-40. (A) For purposes of this section, ‘South Carolina Smoke Management Guidelines’ means smoke management guidelines for vegetative debris burning for forestry, agriculture, and wildlife

purposes that are promulgated as regulations by the State Forestry Commission pursuant to the Administrative Procedures Act.

(B) Prescribed fires conducted pursuant to this chapter:

(1) must have a written prescribed fire plan that:

(a) complies with the South Carolina Smoke Management Guidelines;

(b) is prepared before authorization to burn is issued by the State Commission of Forestry; and

(c) is on site and followed during the burn;

(2) must have present at least one certified prescribed fire manager who must:

(a) be certified by the commission;

(b) personally supervise the burn from ignition until the certified prescribed fire manager determines the burn to be safe;

(c) fully consider both fire behavior and related smoke management issues during and after the burn;

(3) are considered in the public interest and do not constitute a public or private nuisance when conducted pursuant to the South Carolina Smoke Management Guidelines, Chapters 1 and 35, Title 48, and Chapter 2, Title 50; prescribed fires that are purposefully set in accordance with these chapters and the South Carolina Smoke Management Guidelines are exempt from the open fire prohibition pursuant to R. 61-62.2 and are acceptable to the Department of Health and Environmental Control if the fire is for:

(a) burning forest lands for specific management practices;

(b) agricultural control of diseases, weeds, and pests and for other specific agricultural purposes;

(c) open burning of trees, brush, grass, and other vegetable matter for game management purposes;

(4) are considered a property right of the property owner.”

Liability for smoke resulting from a prescribed fire

SECTION 2. Section 48-34-50 of the 1976 Code is amended to read:

“Section 48-34-50. A property owner or lessee or his agent or employee conducting a prescribed fire pursuant to this chapter is not liable for damage, injury, or loss caused by fire or other consequences of the prescribed fire, except for smoke, unless negligence is proven. A property owner or lessee or his agent or employee conducting a prescribed fire pursuant to this chapter is not liable for damage, injury,

or loss caused by the resulting smoke of a prescribed fire unless gross negligence or recklessness is proven.”

Smoke Management Guidelines are considered promulgated by the State Forestry Commission

SECTION 3. The guidelines published by the State Forestry Commission in August 2006 entitled, ‘Smoke Management Guidelines for Vegetative Debris Burning for Forestry, Agriculture, and Wildlife purposes in the State of South Carolina’ are hereby considered promulgated by the State Forestry Commission and approved by the General Assembly. Any amendment, replacement, or revision of these guidelines must be promulgated by the State Forestry Commission pursuant to the Administrative Procedures Act.

Time effective

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

Ratified the 29th day of March, 2012.

Approved the 2nd day of April, 2012.

No. 140

(R158, H3793)

AN ACT TO AMEND SECTION 44-53-160, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE MANNER IN WHICH CHANGES IN SCHEDULES OF CONTROLLED SUBSTANCES MUST BE MADE, SO AS TO PROVIDE THAT CHANGES MADE BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO THESE SCHEDULES WHEN THE GENERAL ASSEMBLY IS NOT IN SESSION HAVE THE FORCE AND EFFECT OF LAW UNLESS OVERTURNED BY THE GENERAL ASSEMBLY AND TO REQUIRE THE DEPARTMENT TO DISTRIBUTE THESE CHANGES TO ADDITIONAL LEGISLATIVE COMMITTEES AND POST THESE CHANGES TO THE DEPARTMENT’S WEBSITE; TO CLARIFY THAT THE BOARD OF THE

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL MUST CONFORM CHANGES MADE BY FEDERAL LAW OR REGULATION TO THESE SCHEDULES AND TO REQUIRE THE DEPARTMENT TO DISTRIBUTE THESE CHANGES TO CERTAIN LEGISLATIVE COMMITTEES AND THE CLERKS OF THE SENATE AND HOUSE AND POST THESE CHANGES ON THE DEPARTMENT'S WEBSITE; AND TO PROVIDE THAT CHANGES MADE TO SCHEDULES OF CONTROLLED SUBSTANCES PURSUANT TO THIS SECTION ARE NOT REQUIRED TO BE PROMULGATED AS REGULATIONS PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT; AND TO AMEND SECTION 44-53-190, AS AMENDED, RELATING TO MATERIALS, COMPOUNDS, MIXTURES, AND PREPARATIONS CLASSIFIED AS SCHEDULE I CONTROLLED SUBSTANCES, INCLUDING HALLUCINOGENICS, SO AS TO ADD SYNTHETIC CANNABINOIDS, CATHINONES, AND SUBSTITUTED CATHINONES, COMMONLY KNOWN AS "BATH SALTS" TO THE LIST OF SCHEDULE I CONTROLLED SUBSTANCES.

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

Manner in which changes must be made to schedules of controlled substances

SECTION 1. Section 44-53-160 of the 1976 Code, as last amended by Act 273 of 2010, is further amended to read:

"Section 44-53-160. (A)(1) Annually, within thirty days after the convening of each regular session of the General Assembly, the department shall recommend to the General Assembly any additions, deletions, or revisions in the schedules of controlled substances enumerated in Sections 44-53-190, 44-53-210, 44-53-230, 44-53-250, and 44-53-270 which the department deems necessary. Except as otherwise provided in this section, the department shall not make any additions, deletions, or revisions in the schedules until after notice and an opportunity for a hearing is afforded to all interested parties. In making a recommendation to the General Assembly regarding a substance, the department shall consider the following:

- (a) the actual or relative potential for abuse;

- (b) the scientific evidence of the substance's pharmacological effect, if known;
- (c) the state of current scientific knowledge regarding the substance;
- (d) the history and current pattern of abuse;
- (e) the scope, duration, and significance of abuse;
- (f) the risk to public health;
- (g) the potential of the substance to produce psychic or physiological dependence liability;
- (h) whether the substance is an immediate precursor of a substance already controlled pursuant to this chapter; and
- (i) whether the substance has an accepted or recognized medical use.

(2) After considering the factors listed in subsection (A)(1), the department shall make a recommendation to the General Assembly specifying to what schedule the substance should be added, deleted, or rescheduled, if the department finds that the substance has a potential for abuse.

(B) Except as otherwise provided in this section, during the time the General Assembly is not in session, the department may add, delete, or reschedule a substance as a controlled substance after providing notice and a hearing to all interested parties. The addition, deletion, or rescheduling of a substance pursuant to this subsection has the full force of law unless overturned by the General Assembly. Upon the addition, deletion, or rescheduling of a substance, the department shall forward copies of the change to the Chairmen of the Medical Affairs Committee and the Judiciary Committee of the Senate, the Medical, Military, Public and Municipal Affairs Committee, and the Judiciary Committee of the House of Representatives, and to the Clerks of the Senate and House, and shall post the schedules on the department's website indicating the change and specifying the effective date of the change.

(C) If a substance is added, deleted, or rescheduled as a controlled substance pursuant to federal law or regulation, the department shall, at the first regular or special meeting of the South Carolina Board of Health and Environmental Control within thirty days after publication in the federal register of the final order designating the substance as a controlled substance or rescheduling or deleting the substance, add, delete, or reschedule the substance in the appropriate schedule. The addition, deletion, or rescheduling of a substance by the department pursuant to this subsection has the full force of law unless overturned by the General Assembly. The addition, deletion, or rescheduling of a

substance by the department pursuant to this subsection must be in substance identical with the order published in the federal register effecting the change in federal status of the substance. Upon the addition, deletion, or rescheduling of a substance, the department shall forward copies of the change to the Chairmen of the Medical Affairs Committee and the Judiciary Committee of the Senate, the Medical, Military, Public and Municipal Affairs Committee, and the Judiciary Committee of the House of Representatives, and to the Clerks of the Senate and House, and shall post the schedules on the department's website indicating the change and specifying the effective date of the change.

(D) The department shall exclude any nonnarcotic substance from a schedule if the substance may, under the federal Food, Drug, and Cosmetic Act and the laws of this State, be lawfully sold over the counter without a prescription.

(E) The department's addition, deletion, or rescheduling of a substance as a controlled substance is governed by this section and is not subject to the promulgation requirements of Title 1, Chapter 23."

Substances added to Schedule I controlled substances

SECTION 2. Section 44-53-190 of the 1976 Code, as last amended by Act 267 of 2002, is further amended to read:

"Section 44-53-190. (A) The controlled substances listed in this section are included in Schedule I.

(B) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

1. Acetylmethadol
2. Allylprodine
3. Alphacetylmethadol
4. Alphameprodine
5. Alphamethadol
6. Benzethidine
7. Betacetylmethadol
8. Betameprodine
9. Betamethadol
10. Betaprodine
11. Clonitazene
12. Dextromoramide

13. [Deleted]
14. Diampromide
15. Diethylthiambutene
16. Dimenoxadol
17. Dimepheptanol
18. Dimethylthiambutene
19. Dioxaphetyl butyrate
20. Dipipanone
21. Ethylmethylthiambutene
22. Etonitazene
23. Etoxadine
24. Furethidine
25. Hydroxypethidine
26. Ketobemidone
27. Levomoramide
28. Levophenacymorphan
29. Morpheridine
30. Noracymethadol
31. Norlevorphanol
32. Normethadone
33. Norpipanone
34. Phenadoxone
35. Phenampromide
36. Phenomorphan
37. Phenoperidine
38. Piritramide
39. Proheptazine
40. Properidine
41. Racemoramide
42. Trimeperidine
43. Propiram
44. Difenoxin
45. Alfentanyl
46. Tilidine
47. Alphamethylfentanyl (N-[1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl-4-(N-propanilido) piperidine).

(C) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

1. Acetorphine

2. Acetyldihydrocodeine
3. Benzylmorphine
4. Codeine methylbromide
5. Codeine-N-Oxide
6. Cyprenorphine
7. Desomorphine
8. Dihydromorphine
9. Etorphine
10. Heroin
11. Hydromorphanol
12. Methyldesorphine
13. Methylhydromorphine
14. Morphine methylbromide
15. Morphine methylsulfonate
16. Morphine-N-Oxide
17. Myrophine
18. Nicocodeine
19. Nicomorphine
20. Normorphine
21. Pholcodine
22. Thebacon
23. Drotebanol

(D) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

1. 3,4-methylenedioxy amphetamine
2. 5-methoxy-3,4-methylenedioxy amphetamine
3. 3,4-methylenedioxymethamphetamine (MDMA)
4. 3,4,5-trimethoxy amphetamine
5. Bufotenine
6. Diethyltryptamine (DET)
7. Dimethyltryptamine (DMT)
8. 4-methyl-2,5-dimethoxyamphetamine (STP)
9. Ibogaine
10. Lysergic acid diethylamide (LSD)
11. Marijuana
12. Mescaline
13. Peyote
14. N-ethyl-3-piperidyl benzilate
15. N-methyl-3-piperidyl benzilate

16. Psilocybin
17. Psilocyn
18. Tetrahydrocannabinol (THC)
19. 2,5-dimethoxyamphetamine
20. 4-bromo-2,5-dimethoxyamphetamine
21. 4-Methoxyamphetamine
22. Thiophene analog of phencyclidine
23. Parahexyl

24. Synthetic cannabinoids. – Any material, compound, mixture, or preparation that is not listed as a controlled substance in Schedule I through V, is not an FDA-approved drug, and contains any quantity of the following substances, their salts, isomers (whether optical, positional, or geometric), homologues, and salts of isomers and homologues, unless specifically excepted, whenever the existence of these salts, isomers, homologues, and salts of isomers and homologues is possible within the specific chemical designation:

a. Naphthoylindoles. Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Including, but not limited to, JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, JWH-210, JWH-398, AM-2201, WIN 55-212, AM-2201 (C1 analog), AM-1220.

b. Naphthylmethylindoles. Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent.

c. Naphthoylpyrroles. Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Including, but not limited to, JWH-307, JWH-370, JWH-176.

d. Naphthylmethylindenes. Any compound containing a naphthylideneindene structure with substitution at the 3-position of the

indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent.

e. Phenylacetylindoles. Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Including, but not limited to, SR-18, RCS-8, JWH-203, JWH-250, JWH-251.

f. Cyclohexylphenols. Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not substituted in the cyclohexyl ring to any extent. Including, but not limited to, CP 47,497 (and homologues), cannabicyclohexanol, CP-55, 940.

g. Benzoylindoles. Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Including, but not limited to, AM-694, Pravadoline (WIN 48,098), RCS-4, AM-630, AM-1241, AM-2233.

h. 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo [1,2,3-de]-1, 4-benzoxazin-6-yl]-1-naphthalenylmethanone (WIN 55,212-2).

i. 9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl) - 6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol 7370 (HU-210, HU-211).

j. Adamantoylindoles. Any compound containing a 3-(1-adamantoyl)indole structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring system to any extent.

(E) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation

which contains any quantity of the following substance having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers if possible within the specific chemical designation:

- (1) Mecloqualone;
- (2) Methaqualone; or
- (3) Gamma Hydroxybutyric Acid.

(F) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

- (1) Fenethylamine;
- (2) N-ethylamphetamine;
- (3) Cathinone; or
- (4) Substituted Cathinones.

Any compound (not being bupropion) structurally derived from 2-amino-1-phenyl-1-propanone by modification in any of the following ways:

- (a) by substitution in the phenyl ring to any extent with alkyl, alkoxy, alkylendioxy, haloalkyl or halide substituents, whether or not further substituted in the phenyl ring by one or more other univalent substituents;
- (b) by substitution at the 3-position with an alkyl substituent;
- (c) by substitution at the nitrogen atom with alkyl or dialkyl groups, benzyl or methoxybenzyl groups; or
- (d) by inclusion of the nitrogen atom in a cyclic structure.

Including, but not limited to: Methylone, Mephedrone, 3,4-Methylenedioxypropylamphetamine (MDPV), Butylone, Methedrone, 4-Methylethcathinone, Flephedrone, Pentylone, Pentedrone, Buphedrone.”

Severability clause

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

subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Savings clause

SECTION 4. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Time effective

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

Ratified the 29th day of March, 2012.

Approved the 2nd day of April, 2012.

No. 141

(R159, H4295)

AN ACT TO AMEND SECTION 7-7-300, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN HAMPTON COUNTY, SO AS TO DELETE POLLING PLACE LOCATIONS IN THE VOTING PRECINCTS OF HAMPTON COUNTY, TO DESIGNATE A MAP NUMBER FOR THE MAP ON WHICH LINES OF THESE PRECINCTS ARE DELINEATED AND MAINTAINED BY THE DIVISION OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD, AND TO AUTHORIZE THE HAMPTON COUNTY

**BOARD OF ELECTIONS AND VOTER REGISTRATION,
WITH THE APPROVAL OF A MAJORITY OF THE
HAMPTON COUNTY LEGISLATIVE DELEGATION, TO
DETERMINE THE POLLING PLACES FOR THE PRECINCTS
IN HAMPTON COUNTY.**

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

Designation of Hampton County voting precincts

SECTION 1. Section 7-7-300 of the 1976 Code, as last amended by Act 191 of 2004, is further amended to read:

“Section 7-7-300. (A) In Hampton County there are the following voting precincts:

Black Creek
Bonnett
Brunson
Crocketville-Miley
Cummings
Early Branch
Estill
Furman
Garnett
Gifford
Hampton No. 1
Hampton No. 2
Hopewell
Horse Gall
Rivers Mill
Scotia
Varnville
Yemassee.

(B) The precinct lines defining the precincts provided in subsection (A) are as shown on the map prepared by and on file with the Division of Research and Statistics of the State Budget and Control Board designated as document P-49-12 and as shown on copies provided to the Hampton County Board of Elections and Voter Registration.

(C) The polling places for the precincts provided in this section must be established by the Hampton County Board of Elections and Voter Registration subject to the approval of a majority of the Hampton County Legislative Delegation.”

Time effective

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

Ratified the 29th day of March, 2012.

Approved the 2nd day of April, 2012.

No. 142

(R160, H4475)

AN ACT TO AMEND SECTION 47-9-710, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS FOR PURPOSES OF EQUINE LIABILITY IMMUNITY, SO AS TO REVISE THE DEFINITIONS OF “EQUINE ACTIVITY” AND “EQUINE ACTIVITY SPONSOR”; AND TO AMEND SECTION 47-9-730, RELATING TO WARNING SIGNS REQUIRED TO BE POSTED BY EQUINE PROFESSIONALS AND EQUINE ACTIVITY SPONSORS, SO AS TO INCLUDE A REQUIREMENT THAT WARNING SIGNS ARE TO BE POSTED AT THE PRIMARY ENTRANCE TO RIDING TRAILS.

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

Equine liability immunity, definition of “equine activity”

SECTION 1. Section 47-9-710(3)(a) of the 1976 Code, as added by Act 182 of 1993, is amended to read:

“(3) ‘Equine activity’ means:

(a) an equine show, fair, competition, performance, parade, or trail riding that involves a breed of equine and an equine discipline, including, but not limited to, dressage, hunter and jumper horse shows, grand prix jumping, three-day events, combined training, rodeos, driving, pulling, cutting, polo, steeplechasing, English and Western performance riding, trail riding and Western games, and hunting.”

Equine liability immunity, definition of “equine activity sponsor”

SECTION 2. Section 47-9-710(4) of the 1976 Code, as added by Act 182 of 1993, is amended to read:

“(4) ‘Equine activity sponsor’ means an individual, a group, a club, a partnership, or a corporation, whether the sponsor is operating for profit or nonprofit, which sponsors, organizes, or provides the facilities for an equine activity, including, but not limited to, a pony club, 4-H club, hunt club, riding club, school and college-sponsored class, program, and activity, therapeutic riding program, and an operator, instructor, and promoter of an equine facility, including, but not limited to, a stable, clubhouse, ponyride string, fair, and an arena at which the activity is held or a landowner who has given permission for the use of his land in an equine activity either by easement or other means.”

Equine liability immunity, warning signs at entrance to riding trails

SECTION 3. Section 47-9-730(A) of the 1976 Code, as added by Act 182 of 1993, is amended to read:

“(A) An equine professional and an equine activity sponsor shall post and maintain signs which contain the warning notice specified in subsection (B). These signs must be placed in a clearly visible location on or near stables, corrals, or arenas where the equine professional or the equine activity sponsor conducts equine activities or once at the primary entrance to any riding trail maintained or operated by the activity sponsor. The warning notice specified in subsection (B) must appear on the sign in black letters with each letter a minimum of one inch in height. A written contract entered into by an equine professional or by an equine activity sponsor to provide professional services, instruction, or rental of equipment, tack, or an equine to a participant, whether or not the contract involves equine activities on or off the location or site of the business of the equine professional or the equine activity sponsor, must contain in clearly readable print the warning notice specified in subsection (B).”

Time effective

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

Ratified the 29th day of March, 2012.

Approved the 2nd day of April, 2012.

No. 143

(R161, H4639)

AN ACT TO AMEND SECTION 6-10-30, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE 2006 EDITION OF THE INTERNATIONAL ENERGY CONSERVATION CODE, SO AS TO ADOPT THE 2009 EDITION OF THE INTERNATIONAL ENERGY CONSERVATION CODE AS THE ENERGY STANDARD OF THIS STATE.

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

State energy standard, 2009 International Energy Conservation Code adopted

SECTION 1. Section 6-10-30 of the 1976 Code, as last amended by Act 46 of 2009, is further amended to read:

“Section 6-10-30. The 2009 edition of the International Energy Conservation Code is adopted as the Energy Standard. All new and renovated buildings and additions constructed within the State must comply with this standard.”

Time effective

SECTION 2. This act takes effect on January 1, 2013.

Ratified the 29th day of March, 2012.

Approved the 2nd day of April, 2012.

No. 144

(R162, H4716)

AN ACT TO AMEND SECTION 57-23-800, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ROADSIDE VEGETATION MANAGEMENT BY THE DEPARTMENT OF TRANSPORTATION ALONG THE INTERSTATE HIGHWAY SYSTEM, SO AS TO INCREASE THE PORTION OF VEGETATION THE DEPARTMENT MAY MANAGE ALONG THE INTERSTATE HIGHWAY SYSTEM, AND TO ALLOW LOCAL GOVERNMENTAL ENTITIES TO CONDUCT VEGETATION MANAGEMENT ACTIVITIES BEYOND THE PORTIONS OF ROADWAYS MANAGED BY THE DEPARTMENT; AND TO REPEAL SECTIONS 57-23-810, 57-23-815, 57-23-820, 57-23-825, 57-23-830, 57-23-835, 57-23-840, AND 57-23-850 ALL RELATING TO ROADSIDE VEGETATION MANAGEMENT PROCEDURES IN VARIOUS COUNTIES.

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

Roadside vegetation management

SECTION 1. Section 57-23-800 of the 1976 Code is amended to read:

“Section 57-23-800. (A) The Department of Transportation shall conduct vegetation management of the medians, roadsides, and interchanges along the interstate highway system in accordance with the following requirements:

(1) a median of not more than eighty feet in width shall have its mowable area mowed in its entirety. A median wider than eighty feet only shall be mowed within forty feet from the edges of the pavement.

(2) a roadside shall be mowed thirty feet from the edge of the pavement. If fill slopes or back slopes are steep, one swath of the mower or not less than five feet shall be mowed on these slopes.

(3) an interchange shall be mowed in the same manner as a roadside, provided that the distance from the pavement required to be mowed may be increased to address any safety concerns involved.

(B) The mowing widths provided in subsection (A) may be increased when necessary to provide adequate visibility for signs erected by the department, when the department determines that

increasing the widths is in the public interest, or upon request of the governing body of a county or municipality.

(C) The vegetation management activities conducted by the department shall not interfere in any way with the visibility of any outdoor advertising sign.

(D) If the Department of Natural Resources makes an assessment and written determination that vegetation management pursuant to this section causes an increase in safety risks because of the attraction of wildlife to a specific area along the highway, then the department may increase the distance from the pavement required to be mowed.

(E) Upon the written approval of the Department of Transportation, a county or municipality, at its own expense, may itself conduct vegetation management activities beyond vegetation management widths provided in subsection (A) if the department declines to conduct vegetation management in those areas.”

Repeal

SECTION 2. Sections 57-23-810, 57-23-815, 57-23-820, 57-23-825, 57-23-830, 57-23-835, 57-23-840, and 57-23-850 of the 1976 Code are repealed.

Savings clause

SECTION 3. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Time effective

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

Ratified the 29th day of March, 2012.

Approved the 2nd day of April, 2012.

No. 145

(R163, H4797)

**AN ACT TO AMEND SECTION 5-31-230, AS AMENDED,
CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING
TO MUNICIPALITIES IN WHICH THERE ARE NO BOARD
OF COMMISSIONERS OF PUBLIC WORKS, SO AS TO
INCLUDE THE CITY OF TEGA CAY.**

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

Municipalities without Boards of Commissioners of Public Works

SECTION 1. Section 5-31-230 of the 1976 Code, as last amended by Act 22 of 2005, is further amended to read:

“Section 5-31-230. The following cities and towns shall have no board of commissioners of public works: Abbeville, Allendale, Barnwell, Beaufort, Belton, Bennettsville, Blackville, Bluffton, Bowman, Branchville, Camden, Central, Chapin, Cheraw, Cherry Grove Beach, Chesnee, Chester, Clemson, Clinton, Clio, Clover, Conway, Cowpens, Crescent Beach, Denmark, Dillon, Donalds, Due West, Duncan, Edgefield, Elgin, Estill, Fairfax, Forest Acres, Fort Mill, Fountain Inn, Georgetown, Goose Creek, Govan, Great Falls, Hampton, Hardeeville, Heath Springs, Hemingway, Hilda, Honea Path, Irmo, Iva, Jamestown, Johnston, Kingstree, Lake City, Lamar, Lancaster, Landrum, Lane, Latta, Lexington, Liberty, Little Mountain, Lodge, Loris, Lyman, Marion, McCall, Moneta, Mullins, Myrtle Beach, Newberry, North Augusta, Norway, Ocean Drive Beach, Orangeburg, Pelion, Pelzer, Pickens, Prosperity, Quinby, Ridgeland, Ridge Spring, Ridgeville, Rock Hill, St. George, St. Stephen, Salem, Salley, Scranton, Sharon, Simpsonville, Smoaks, Society Hill, Springfield, Sumter, Swansea, Tega Cay, Timmonsville, Trenton, Union, Varnville, Walhalla, Walterboro, Ware Shoals, West Columbia, West Greenville, West Union, Westminster, Williams, Windy Hill

Beach, Winnsboro, and York. In these cities and towns, the duties, powers, and responsibilities vested in a board of commissioners of public works must be vested in the respective city or town council, except that:

(a) in the cities of Marion and Newberry and in the town of Landrum, they must be vested in the mayor and aldermen;

(b) in the cities and towns of Beaufort, Bennettsville, Blackville, Branchville, Chesnee, Clio, Clover, Dillon, Due West, Hampton, Johnston, Kingstree, Lancaster, Myrtle Beach, North Augusta, Prosperity, Rock Hill, Salley, Union, Walhalla, West Columbia, West Union, and York, they must be vested in the mayor and city or town council or in the intendant and wardens, as applicable;

(c) in the town of Winnsboro, they must be vested in the mayor and commissioners;

(d) in the city of Forest Acres, they are devolved upon a director of public works until June 30, 1975, and after that time are devolved upon the city council; and

(e) in the city of Westminster, they are devolved upon the city council on July 1, 2005.”

Time effective

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

Ratified the 29th day of March, 2012.

Approved the 2nd day of April, 2012.

No. 146

(R164, S1301)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 6-11-335 SO AS TO PROVIDE FOR THE MANNER IN WHICH AND REQUIREMENTS UNDER WHICH THE MEMBERSHIP OF THE GOVERNING BODY OF CERTAIN PUBLIC SERVICE DISTRICTS MAY BE EXPANDED.

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

Additional members

SECTION 1. Article 1, Chapter 11, Title 6 of the 1976 Code is amended by adding:

“Section 6-11-335. (A) For purposes of this section:

(1) ‘membership’ means the governing body of a public service district created prior to 1975, located wholly in one county, and providing water, sewer, or fire service; and

(2) ‘additional members’ means the persons who increase the membership as provided by this section.

(B) The membership may seek to authorize additional members not to exceed a total of ten by petitioning:

(1) the county legislative delegation if the membership is appointed by or upon the recommendation of the county legislative delegation; or

(2) the county governing body, if the membership is elected or appointed by or upon the recommendation of the county governing body or an entity other than the county legislative delegation.

(C) The petition must be in writing and include reasons for the increase in membership.

(D) If the county legislative delegation or the county governing body has not affirmatively disapproved the petition within sixty days of receiving the petition, the membership may file the petition with the Office of the Secretary of State. Upon certification by the Secretary of State that additional members have been authorized, the membership shall be increased.

(E) If the membership is elected, the additional members shall be elected at the next regularly scheduled election for the membership in the same manner as the membership is elected and to serve for terms of the same length and until their successors are elected and qualify; provided, that of the additional members first elected:

(1) if an even number of additional members is elected, one-half of the additional members receiving the highest number of votes shall serve initial terms of the same length as the membership, and the remaining additional members receiving the next highest number of votes shall serve initial terms of one-half that length; or

(2) if an odd number of additional members is elected, one-half plus one of the additional members receiving the highest number of votes shall serve initial terms of the same length as the membership and

the remaining additional members receiving the next highest number of votes shall serve initial terms of one-half that length.

Thereafter, the successors of the additional members must be elected for terms of the same length as the membership.

(F) If the membership is appointed, the additional members may be appointed in the same manner the membership is appointed with at least one-half of the additional members to serve initial terms of the same length as the membership, and the remaining additional members to serve initial terms of one-half that length. The initial terms of all additional members must be designated by their appointing authority. Thereafter, their successors must be appointed for terms of the same length as the membership.

(G) All members shall serve until their successors are elected or appointed and qualify.”

Time effective

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

Ratified the 13th day of April, 2012.

Approved the 18th day of April, 2012.

No. 147

(R166, S710)

AN ACT TO AMEND SECTION 56-1-140, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ISSUANCE AND CONTENTS OF A SOUTH CAROLINA DRIVER'S LICENSE, SO AS TO, UPON THE LICENSEE'S REQUEST AND PROOF OF ELIGIBILITY, INCLUDE A VETERAN STATUS DESIGNATION ON THE DRIVER'S LICENSE; TO AMEND SECTION 56-1-3350, AS AMENDED, RELATING TO THE ISSUANCE OF SPECIAL IDENTIFICATION CARDS, SO AS TO, UPON THE CARD HOLDER'S REQUEST AND PROOF OF ELIGIBILITY, INCLUDE A VETERAN STATUS DESIGNATION ON THE SPECIAL IDENTIFICATION CARD; BY ADDING SECTION 56-1-205 SO AS TO PROVIDE THAT, UPON PROOF OF

ELIGIBILITY, AN APPLICANT FOR A SOUTH CAROLINA DRIVER'S LICENSE MAY HAVE A NOTATION PLACED ON HIS DRIVER'S LICENSE THAT THE APPLICANT IS HEARING IMPAIRED; AND BY ADDING SECTION 56-3-1920 SO AS TO PROVIDE THAT, UPON PROOF OF ELIGIBILITY, A HEARING IMPAIRED DRIVER MAY APPLY TO THE DEPARTMENT OF MOTOR VEHICLES FOR A HEARING IMPAIRED IDENTIFICATION PLACARD.

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

Driver's license veterans designations and fees

SECTION 1. Section 56-1-140 of the 1976 Code, as last amended by Act 176 of 2005, is further amended to read:

“Section 56-1-140. (A) Upon payment of a fee of twelve dollars and fifty cents for a license that is valid for five years, or twenty-five dollars for a license that is valid for ten years, the Department of Motor Vehicles shall issue to every qualified applicant a driver's license as applied for by law. The license must bear on it a distinguishing number assigned to the licensee, the full name, date of birth, residence address, a brief description and laminated colored photograph of the licensee, and a facsimile of the signature of the licensee, or a space upon which the licensee shall write his usual signature with pen and ink immediately upon receipt of the license. No license is valid until it has been so signed by the licensee. The license authorizes the licensee to operate only those classifications of vehicles as indicated on the license.

(B) An applicant for a new, renewed, or replacement South Carolina driver's license may apply to the Department of Motor Vehicles to obtain a veteran designation on the front of his driver's license by providing:

(1) a United States Department of Defense discharge certificate, also known as a DD Form 214, that shows a characterization of service, or discharge status of 'honorable' or 'general under honorable conditions' and establishes the person's qualifying military service in the United States Armed Forces; and

(2) payment of a one dollar fee that must be retained by the department.

The Department of Motor Vehicles may determine the appropriate form of the veteran designation on the driver's license authorized pursuant to this section.

(C) The fees collected pursuant to this section must be credited to the Department of Transportation State Non-Federal Aid Highway Fund.”

Identification card veterans designations and fees

SECTION 2. Section 56-1-3350 of the 1976 Code, as last amended by Act 27 of 2011, is further amended to read:

“Section 56-1-3350. (A) Upon application by a person five years of age or older, who is a resident of South Carolina, the department shall issue a special identification card as long as the:

(1) application is made on a form approved and furnished by the department; and

(2) applicant presents to the person issuing the identification card a birth certificate or other evidence acceptable to the department of his name and date of birth.

(B) An applicant for a new, renewed, or replacement South Carolina driver's license may apply to the Department of Motor Vehicles to obtain a veteran designation on the front of his driver's license by providing a:

(1) United States Department of Defense discharge certificate, also known as a DD Form 214, that shows a characterization of service, or discharge status of 'honorable' or 'general under honorable conditions' and establishes the person's qualifying military service in the United States Armed Forces; and

(2) payment of a one dollar fee that must be retained by the department.

(C)(1) The fee for the issuance of the special identification card is five dollars for a person between the ages of five and sixteen years.

(2) An identification card must be free to a person aged seventeen years or older.

(D) The identification card expires five years from the date of issuance.

(E) Special identification cards issued to persons under the age of twenty-one must be marked, stamped, or printed to readily indicate that the person to whom the card is issued is under the age of twenty-one.

(F) The fees collected pursuant to this section must be credited to the Department of Transportation State Non-Federal Aid Highway Fund.”

Hearing impaired designations on driver’s licenses and placards

SECTION 3. A. Article 1, Chapter 1, Title 56 of the 1976 Code is amended by adding:

“Section 56-1-205. An applicant for the issuance or renewal of a driver’s license may request that a notation be placed on the license indicating that the applicant is hearing impaired.

The department shall place the notation on the driver’s license if requested by the applicant and if the applicant provides an original certificate from a licensed physician, as defined in Section 40-47-5, that the applicant has a permanent, uncorrectable hearing loss of forty decibels or more in one or both ears.

This section shall apply to a driver’s license issued after 2012.”

B. Article 7, Chapter 3, Title 56 of the 1976 Code is amended by adding:

“Section 56-3-1920. (A) An identification placard must be issued to a hearing impaired licensed driver upon application. The application is to be on a form prescribed by the department and may be made in person or by mail. The application must include an original certificate from a licensed physician, as defined in Section 40-47-5, that the applicant has a permanent, uncorrectable hearing loss of forty decibels or more in one or both ears. No licensed applicant may be denied a placard if the completed application includes an original certificate from a licensed physician. The placard shall expire on the licensee’s birth date of the fifth calendar year after the calendar year in which a hearing impaired driver is issued a license.

(B) The placard must be rectangular in shape, approximately the same size as an average motor vehicle sun visor, as determined by the department, to enable it to be attached to a sun visor in a motor vehicle. The department shall determine the shape, size preferred, and manner in which a hearing impaired motorcycle operator is to carry or display the placard. The placard must contain the heading ‘Hearing Impaired Driver’ in boldface type and the name, signature, and driver’s license number of the hearing impaired person along with an explanation of

appropriate use if the hearing impaired driver is stopped by a law enforcement officer while driving.

(C) A fee not to exceed five dollars may be charged to each applicant issued a placard in accordance with this section. These fees may be retained by the department to offset the cost of providing these placards.”

Time effective

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

Ratified the 19th day of April, 2012.

Approved the 23rd day of April, 2012.

No. 148

(R167, H4595)

AN ACT TO AMEND ACT 73 OF 2011, RELATING TO THE 2011-2012 GENERAL APPROPRIATIONS ACT, SO AS TO REVISE PARAGRAPH 1A.54, SECTION 1A, PART IB, DIRECTING THE DEPARTMENT OF EDUCATION TO TRANSFER CERTAIN FUNDS TO MEET MAINTENANCE OF EFFORT REQUIREMENTS FOR THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT BY FURTHER PROVIDING FOR THE DOLLAR AMOUNT OF THE TRANSFER AND FOR OTHER TERMS AND CONDITIONS OF THE TRANSFER; AND TO PROVIDE THAT NOTWITHSTANDING ANY OTHER PROVISION OF LAW, SCHOOL DISTRICTS UNIFORMLY MAY NEGOTIATE SALARIES BELOW THE SCHOOL DISTRICT SALARY SCHEDULE FOR THE 2012-2013 SCHOOL YEAR FOR RETIRED TEACHERS.

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

Transfer of funds revised

SECTION 1. Paragraph 1A.54, Section 1A, Part IB of Act 73 of 2011, is amended to read:

“1A.54. (SDE-EIA:IDEA Maintenance of Effort) Prior to the dispersal of funds appropriated in Section XI.A.1 Aid to Districts according to Proviso 1A.48 for Fiscal Year 2011-2012, the department shall direct \$33,549,409 of the funds appropriated in Section XI.A.1 Aid To Districts to school districts and special schools for supplemental support of programs and services for students with disabilities, to meet the estimated maintenance of effort for IDEA. Funds provided for the maintenance of effort for IDEA may not be transferred to any other purpose and therefore are not subject to flexibility. The department shall distribute these funds using the current fiscal year one hundred thirty-five day Average Daily Membership. For continued compliance with the federal maintenance of effort requirements of the IDEA, funding for children with disabilities must, to the extent practicable, be held harmless to budget cuts or reductions to the extent those funds are required to meet federal maintenance of effort requirements under the IDEA. By June 30, 2012, the department shall submit an estimate of the IDEA MOE requirement to the General Assembly and the Governor.”

Retired teacher salaries

SECTION 2. Notwithstanding another provision of law, school districts uniformly may negotiate salaries below the school district salary schedule for the 2012-2013 school year for retired teachers.

Time effective

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

Ratified the 19th day of April, 2012.

Approved the 23rd day of April, 2012.

No. 149

(R169, H4664)

**AN ACT TO AMEND SECTION 11-50-50, CODE OF LAWS OF
SOUTH CAROLINA, 1976, RELATING TO THE**

MEMBERSHIP OF THE BOARD OF DIRECTORS OF THE SOUTH CAROLINA RURAL INFRASTRUCTURE AUTHORITY, SO AS TO FURTHER PROVIDE FOR THE APPOINTMENT OF CERTAIN MEMBERS OF THE GOVERNING BOARD OF THE AUTHORITY; AND BY ADDING SECTION 11-50-55 SO AS TO PROVIDE THAT THE AUTHORITY, BY A MAJORITY VOTE OF THE BOARD OF DIRECTORS, MAY HIRE A DIRECTOR FOR THE AUTHORITY, SO LONG AS AT LEAST ONE OF THE GUBERNATORIAL APPOINTEES AND AT LEAST THREE OF THE LEGISLATIVE APPOINTEES VOTE IN FAVOR OF THE HIRING.

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

Appointment of members

SECTION 1. Section 11-50-50 of the 1976 Code, as added by Act 171 of 2010, is amended to read:

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

(1) six members who reside in or represent all or some portion of the counties designated as distressed or least developed pursuant to Section 12-6-3360 for 2009; one appointed by the President Pro Tempore of the Senate, one appointed by the Speaker of the House of Representatives, one appointed by the Chairman of the Senate Finance Committee, one appointed by the Chairman of the House Ways and Means Committee, and two appointed by the Governor. Notwithstanding the provisions of Section 8-13-770, the members appointed pursuant to this item (1) by the President Pro Tempore of the Senate, Speaker of the House of Representatives, Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee may be members of the General Assembly and, if so appointed, shall serve ex officio; and

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

Members not serving ex officio shall serve for terms of four years and until their successors are appointed and qualify except that of the members first appointed by the Speaker of the House, President Pro Tempore of the Senate, and one of the members first appointed by the

Governor, the member shall serve for a term of two years and the term must be noted on the appointment. Vacancies must be filled in the manner of original appointment for the unexpired portion of the term. Members shall serve without compensation, but are allowed mileage, subsistence, and per diem allowed by law for members of state boards, committees, and commissions.”

Director of the authority

SECTION 2. Chapter 50, Title 11 of the 1976 Code is amended by adding:

“Section 11-50-55. The authority, by a majority vote of the board of directors, may hire a director for the authority, so long as at least one of the gubernatorial appointees and at least three of the legislative appointees vote in favor of the hiring.”

Time effective

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

Ratified the 19th day of April, 2012.

Approved the 23rd day of April, 2012.

No. 150

(R170, H4983)

AN ACT TO AMEND SECTION 50-11-870, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO BIRD SANCTUARIES AND THE USE OF FIREARMS WITHIN THEIR BORDERS, SO AS TO REVISE THE BOUNDARIES OF CERTAIN BIRD SANCTUARIES IN YORK COUNTY.

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

Bird sanctuaries

SECTION 1. Section 50-11-870 of the 1976 Code is amended to read:

“Section 50-11-870. The following areas are declared to be bird sanctuaries:

- (1) Port Royal Plantation on Hilton Head Island, Beaufort County;
- (2) Highlands of Otranto Subdivision in Berkeley County;
- (3) the Town of Bonneau in Berkeley County;
- (4) St. James Estates, Spring Hill, Devonshire, Raintree, and Harbor Lakes Subdivisions in Berkeley County;
- (5) The subdivision of Clear View on James Island, Charleston County;
- (6) James Island water district in Charleston County;
- (7) the subdivision of Lee-Jackson-McCalls Corner on James Island, Charleston County;
- (8) St. Phillips Parish, St. Michaels Parish, and North Charleston Public Service District, Charleston County;
- (9) Melrose, Longbranch, and Shaftesbury Subdivisions in Charleston County as bounded on the South by Highway 17, on the West by Long Branch Creek, on the North by Magwood property line, and on the East by the property line of Castlewood Subdivision;
- (10) Forest Lakes Subdivision located in the City and County of Charleston;
- (11) Winnsboro Mills in Fairfield County bounded on the North by the city limits of Winnsboro, on the South by the intersection of Highways 321, 34, and 215, on the West by the by-pass of Highway 321, and on the East by Golf Course Road;
- (12) Avondale Forest as recorded at plat book RR page 186, and plat book BBB page 36, in the office of the Registrar of Mesne Conveyances for Greenville County;
- (13) Lake Forest and Lake Forest Heights in Greenville County, bounded on the North by Edwards Road, on the East by Shannon Drive, on the South by Old Spartanburg Road, and the West by Highway 291;
- (14) Botony Woods, Greenville County;
- (15) Heritage Lakes in Greenville County;
- (16) the City of Ocean Drive Beach, Horry County;
- (17) Windy Hill Beach, Horry County;
- (18) Briarcliff Acres in Horry County as bounded on the North by Highway 17, on the East by the Holmes property, on the South by the Atlantic Ocean, and on the West by the Patterson property;
- (19) Kirkover Hills near Camden in Kershaw County;
- (20) Sunnyhills Subdivision near Camden in Kershaw County;

(21) the area between the Western city limits of Camden and the Seaboard Railroad tracks, Kershaw County;

(22) that area bounded by the Haile Street Extension, U.S. Highway No. 1, and Lake Shore Drive near Camden, Kershaw County;

(23) Saluda Gardens, Saluda Terrace, Westover Acres, and Saluda Hills Subdivisions in Lexington County;

(24) Town of Arcadia Lakes, Richland County;

(25) Community of Belvedere in Richland County;

(26) Deerfield Plantation, Berkeley County;

(27) City of Tega Cay, York County;

(28) the area in York County, embracing the Country Club Estates, the Rock Hill Country Club, the Oakdale School property, a portion of the Drennan property, and being bounded on the North by the Fewell property, on the East by the Fewell and Parrish properties, on the South by the old Mount Holly Road, and on the West and North by State Highway No. 72;

(29) the area in York County consisting of all waters and tributaries impounded by the Lake Wylie Dam located within the boundaries of the State of South Carolina. Notwithstanding any other provision of law, waterfowl may be hunted during any appropriate migratory waterfowl season on all waters of Lake Wylie with the following restrictions: it is unlawful to hunt migratory waterfowl on Lake Wylie within two hundred yards of a dwelling, school or business without written permission of the owner and occupant;

(30) the area known as the community of River Hills Plantation, Inc., in York County;

(31) the Town of Pawleys Island in Georgetown County;

(32) the area in Clarendon County consisting of that portion of Tawcaw Creek, adjacent to Goat Island, lying Southeast of County Road 38, and extending into Lake Marion to the extent of the Santee National Wildlife Refuge boundaries lying East and West of that portion of Lake Marion;

(33) Rolling Green Retirement Community in Greenville County;

(34) the grounds of the Presbyterian Home of South Carolina located on Highway 56 in the Town of Clinton in Laurens County.”

Time effective

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

Ratified the 19th day of April, 2012.

Approved the 23rd day of April, 2012.

No. 151

(R171, H5042)

AN ACT TO AMEND SECTION 7-7-340, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF PRECINCTS IN KERSHAW COUNTY, SO AS TO CONSOLIDATE THE “CAMDEN NO. 3” AND THE “CAMDEN NO. 4” PRECINCTS INTO THE “HOBKIRK’S HILL” PRECINCT, TO ADD THE “ELGIN NO. 6” PRECINCT, TO REDESIGNATE A MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE DIVISION OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD, AND TO CORRECT ARCHAIC LANGUAGE.

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

Kershaw County voting precincts designated

SECTION 1. Section 7-7-340 of the 1976 Code, as last amended by Act 131 of 2010, is further amended to read:

“Section 7-7-340. (A) In Kershaw County there are the following voting precincts:

Airport
Antioch
Bethune
Buffalo
Camden No. 1
Camden No. 2
Camden No. 5
Camden No. 5-A
Camden No. 6
Cassatt
Charlotte Thompson

If the last act shown on the opposite page is not complete, it will be continued in the next Advance Sheet.

STEPHEN T. DRAFFIN
Code Commissioner
P. O. Box 11489
Columbia, S.C. 29211