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2023 REGULAR SESSION

Acts and Joint Resolutions

of the

GENERAL ASSEMBLY
OF THE STATE OF SOUTH CAROLINA

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

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ACTS

AND

JOINT RESOLUTIONS

OF THE

General Assembly

OF THE

State of South Carolina

HENRY D. MCMASTER, Governor; PAMELA S. EVETTE, Lieutenant Governor; THOMAS C. ALEXANDER, President of the Senate; G. MURRELL SMITH, JR., Speaker of the House of Representatives; THOMAS E. POPE, 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. 1

(R3, H3783)

A JOINT RESOLUTION TO ALLOW THE STATE DEPARTMENT OF EMPLOYMENT AND WORKFORCE REVIEW COMMITTEE TO NOMINATE LESS THAN THREE QUALIFIED CANDIDATES FOR THE POSITION OF EXECUTIVE DIRECTOR OF THE DEPARTMENT OF EMPLOYMENT AND WORKFORCE FOR THE GOVERNOR'S CONSIDERATION UNTIL THE VACANCY IS FILLED OR JULY 1, 2023, WHICHEVER OCCURS FIRST.

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

Department of Employment and Workforce Review Committee

SECTION 1. Notwithstanding Section 41-29-35(B), the Department of Employment and Workforce Review Committee may submit less than three applicants to the Governor to serve as Executive Director of the Department of Employment and Workforce until that position is filled or July 1, 2023, whichever occurs first.

Time effective

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

Ratified the 28th day of February, 2023

Approved the 1st day of March, 2023

No. 2

(R4, S361)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 57-5-1630, RELATING TO THE EXTENSION OF CONSTRUCTION CONTRACTS, SO AS TO PROVIDE THAT THE DEPARTMENT OF TRANSPORTATION COMMISSION IS NOT REQUIRED TO PROVIDE PREAPPROVAL OF CONSTRUCTION CONTRACT EXTENSIONS AND TO PROVIDE THAT THE COMMISSION MUST RATIFY EXTENSIONS AT THE NEXT COMMISSION MEETING.

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

Department of Transportation

SECTION 1. Section 57-5-1630 of the S.C. Code is amended to read:

Section 57-5-1630. No construction contract may be extended to include work not contemplated in the original award, except within the limitations imposed by the contract. Where in the judgment of the Secretary of the Department of Transportation it is in the public's interest and prices advantageous to the department are obtained, the department may extend contracts to include additional work. In every case, the commission must ratify the contract extension at the next succeeding commission meeting. Advertisement in the case of extensions of contracts under this section shall consist of detailed reports of the transactions made public at open meetings of the commission.

Time effective

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

Ratified the 15th day of March, 2023

Approved the 20th day of March, 2023

No. 3

(R6, H3604)

A JOINT RESOLUTION TO APPROPRIATE FUNDING FOR CERTAIN INFRASTRUCTURE AND OTHER PURPOSES TO FOSTER ECONOMIC DEVELOPMENT AND PRESCRIBE THE APPROPRIATE PURPOSES, TERMS, AND CONDITIONS.

Whereas, the General Assembly has through prior enactments determined that the construction of certain infrastructure, including in certain circumstances infrastructure constructed for use by private parties, enhances the recruitment of businesses to and the expansion of businesses within the State; that such infrastructure facilitates the operation and growth of businesses in the State, and thereby provides significant and substantial direct and indirect benefits to the State and its residents, including employment and other opportunities; that such benefits outweigh the costs of such infrastructure; that for such reasons it is in the best interest of the State to provide funding that serves a public purpose in fostering economic development and increasing employment in the State; and that the primary beneficiaries of such funding and the construction of such infrastructure are the State of South Carolina and its residents; and

Whereas, the General Assembly further finds that under certain circumstances it is appropriate for the State to undertake construction of infrastructure and to make other improvements that promote or improve State readiness for further economic development; and

Whereas, the General Assembly further finds that public confidence may be enhanced by identification of the amounts and purposes for which funding may be made available, for specific projects, and for State readiness for further economic development; and

Whereas, the General Assembly further finds that processes of review, approval, and oversight, are appropriate and warranted for public funds designated for purposes of economic development; and

Whereas, the General Assembly further finds that sufficient unobligated funds are presently available and the interest of the State will be served by their appropriation for the purposes and subject to the terms and conditions described herein. Now, therefore,

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

SECTION 1. (A) The sources of revenue appropriated in this joint resolution are: (1) $1,204,834,516 from the Fiscal Year 2021-2022 Contingency Reserve Fund as recognized by the Board of Economic Advisors; and (2) $86,248,470 from the Fiscal Year 2022-2023 Projected General Fund Surplus as forecasted by the Board of Economic Advisors.

(B) The Department of Commerce is appropriated $1,091,082,986 as set forth in this section to provide funding to Project Connect for the following purposes:

(1) bridge to support rail spur construction;

(2) land acquisition;

(3) required site improvements and mitigation;

(4) road access and improvements;

(5) soil stabilization;

(6) training center;

(7) water and wastewater infrastructure; and

(8) any such other purpose as is necessary and recommended by the Department of Commerce for Project Connect. Such other purpose is subject to review and comment by the Joint Bond Review Committee.

(C) The Department of Commerce is appropriated $200,000,000 to loan the Project Connect sponsor for additional soil stabilization to be paid back in full in a manner prescribed by the sponsor and the Department of Commerce. All payments and interest shall be returned to the general fund of the State upon receipt. This loan is not eligible for forgiveness.

SECTION 2. Funds appropriated pursuant to SECTION 1 may be carried forward into subsequent fiscal years for the same purpose as originally awarded, committed, or authorized. Earnings and interest on accounts created pursuant to this joint resolution must be credited to the general fund of the State.

SECTION 3. This joint resolution applies solely to the funds subject to this authorization and has no effect on any provision of permanent law. The expenditure authorizations contained in this joint resolution are supplemental to the expenditure authorizations for receiving entities as contained in Act 239 of 2022, the General Appropriations Act for Fiscal Year 2022-2023, and future expenditure authorizations enacted by the General Assembly. The provisions of this joint resolution terminate on

fulfillment of their terms.

SECTION 4. On a quarterly basis, the Department of Commerce shall send a project status report to the Joint Bond Review Committee until all funds are expended and upon certification by the Secretary of Commerce that all project obligations have been met.

SECTION 5. The State Treasurer shall disburse the funds pursuant to SECTION 1 from Fiscal Year 2021-2022 Contingency Reserve Fund within five days of the effective date of this joint resolution. He shall further disburse all funds available, up to the amount set forth in SECTION 1 from the Fiscal Year 2022-2023 Projected General Fund Surplus within five days of the close of the state's books for Fiscal Year 2022-2023 by the Comptroller General or by November 1, 2023, whichever occurs first.

SECTION 6. Any funds remaining after the completion of Project Connect must be remitted to the general fund.

SECTION 7. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this joint resolution 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 joint resolution, the General Assembly hereby declaring that it would have passed this joint resolution, 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.

SECTION 8. This joint resolution takes effect upon approval by the Governor.

Ratified the 15th day of March, 2023

Approved the 20th day of March, 2023

No. 4

(R7, H3741)

AN ACT TO ADOPT REVISED CODE VOLUME 13A OF THE SOUTH CAROLINA CODE OF LAWS, TO THE EXTENT OF ITS CONTENTS, AS THE ONLY GENERAL PERMANENT STATUTORY LAW OF THE STATE AS OF JANUARY 1, 2023.

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

Revised code volume, authorization

SECTION 1. (A) Section 2-13-90 of the S.C. Code authorizes the Legislative Council and the Code Commissioner to contract to be prepared and published under their supervision and direction revised volumes of the Code of Laws.

(B) The Legislative Council and the Code Commissioner have determined that Volume 13A is appropriate for revision.

(C) Section 2-13-90 of the S.C. Code also provides that the revised volumes must be submitted to the General Assembly for its consideration.

Revised code volume, adopted

SECTION 2. (A) Revised Volume 13A containing Title 39, South Carolina Code of Laws, is substituted for original Volume 13A which contained Title 39.

(B) Revised Volume 13A is adopted as part of the Code of Laws and, to the extent of its contents, is the only general permanent statutory law of the State as of January 1, 2023.

Time effective

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

Ratified the 15th day of March, 2023

Approved the 20th day of March, 2023

No. 5

(R1, S381)

AN ACT TO RATIFY AN AMENDMENT TO SECTION 36(A), ARTICLE III OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE GENERAL RESERVE FUND, SO AS TO INCREASE FROM FIVE TO SEVEN PERCENT THE AMOUNT OF STATE GENERAL FUND REVENUE IN THE LATEST COMPLETED FISCAL YEAR REQUIRED TO BE HELD IN THE GENERAL RESERVE FUND; AND TO RATIFY AN AMENDMENT TO SECTION 36(B) OF ARTICLE III, RELATING TO THE CAPITAL RESERVE FUND, SO AS TO INCREASE FROM TWO TO THREE PERCENT THE AMOUNT OF STATE GENERAL FUND REVENUE IN THE LATEST COMPLETED FISCAL YEAR REQUIRED TO BE HELD IN THE CAPITAL RESERVE FUND AND TO PROVIDE THAT THE FIRST USE OF THE CAPITAL RESERVE FUND MUST BE TO OFFSET MIDYEAR BUDGET REDUCTIONS.

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

General Reserve Fund and Capital Reserve Fund revised

SECTION 1.A. The amendment to Section 36(A), Article III of the Constitution of South Carolina, 1895, prepared under the terms of Joint Resolution 1106 of 2022, having been submitted to the qualified electors at the General Election of 2022 as prescribed in Section 1, Article XVI of the Constitution of South Carolina, 1895, and a favorable vote having been received on the amendment, is ratified and declared to be a part of the Constitution so that Section 36(A), Article III is amended to read:

(A) The General Assembly shall provide for a General Reserve Fund of seven percent of the general fund revenue of the latest completed fiscal year. The seven percent requirement shall be achieved by increasing the percentage requirement by a cumulative one-half of one percent of general fund revenue in each fiscal year succeeding the last fiscal year to which the five percent requirement applied until the percentage of revenue in the General Reserve Fund equals the seven percent requirement, which shall thereafter be maintained. Funds may be withdrawn from the reserve only for the purpose of covering operating deficits of state government. The General Assembly must

provide for the orderly restoration of funds withdrawn from the reserve from future revenues and out of funds accumulating in excess of annual operating expenditures.

(1) The General Assembly shall provide by law for a procedure to survey the progress of the collection of revenue and the expenditure of funds and to authorize and direct reduction of appropriations as may be necessary to prevent a deficit.

(2) In the event of a year-end operating deficit, so much of the reserve fund as may be necessary must be used to cover the deficit; and the amount must be restored to the reserve fund within five fiscal years out of future revenues until the seven percent, or the applicable percentage amount required to be transferred to the General Reserve Fund, is again reached and maintained. Provided that a minimum of one percent of the general fund revenue of the latest completed fiscal year, if so much is necessary, must be restored to the reserve fund each year following the deficit until the seven percent, or the applicable percentage amount required by general law to be transferred to the General Reserve Fund, is restored.

B. The amendment to Section 36(B), Article III of the Constitution of South Carolina, 1895, prepared under the terms of Joint Resolution 1106 of 2022, having been submitted to the qualified electors at the General Election of 2022 as prescribed in Section 1, Article XVI of the Constitution of South Carolina, 1895, and a favorable vote having been received on the amendment, is ratified and declared to be a part of the Constitution so that Section 36(B), Article III is amended to read:

(B) The General Assembly, in the annual general appropriations act, shall appropriate, out of the estimated revenue of the general fund for the fiscal year for which the appropriations are made, into a Capital Reserve Fund, which is separate and distinct from the General Reserve Fund, an amount equal to three percent of the general fund revenue of the latest completed fiscal year.

(1) The General Assembly must provide by law that if before March first the revenue forecast for the current fiscal year projects that revenues at the end of the fiscal year will be less than expenditures authorized by appropriation for that year, then the current year's appropriation to the Capital Reserve Fund first must be reduced to the extent necessary before mandating any reductions in operating appropriations.

(2) After March first of a fiscal year, monies from the Capital Reserve Fund may be appropriated by the General Assembly in separate

legislation upon an affirmative vote in each branch of the General Assembly by two-thirds of the members present and voting, but not less than three-fifths of the total membership in each branch for the following purposes:

(a) to finance in cash previously authorized capital improvement bond projects;

(b) to retire interest or principal on bonds previously issued;

(c) for capital improvements or other nonrecurring purposes.

(3)(a) Any appropriation of monies from the Capital Reserve Fund as provided in this subsection must be ranked in priority of expenditure and is effective thirty days after completion of the fiscal year. If it is determined that the fiscal year has ended with an operating deficit, then the monies appropriated from the Capital Reserve Fund must be reduced based on the rank of priority, beginning with the lowest priority, to the extent necessary and applied to the year-end operating deficit before withdrawing monies from the General Reserve Fund.

(b) At the end of the fiscal year, any monies in the Capital Reserve Fund that are not appropriated as provided in this subsection or any appropriation for a particular project or item which has been reduced due to application of the monies to a year-end deficit must lapse and be credited to the general fund.

Ratified the 28th day of February, 2023

No. 6

(R10, S604)

A JOINT RESOLUTION TO AUTHORIZE THE EXPENDITURE OF FEDERAL FUNDS DISBURSED TO THE STATE IN THE AMERICAN RESCUE PLAN ACT OF 2021, AND TO SPECIFY THE MANNER IN WHICH THE FUNDS MAY BE EXPENDED.

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

SECTION 1. The source of revenue authorized for expenditure in this section is the State Fiscal Recovery Funds disbursed to the State pursuant to the federal "American Rescue Plan Act of 2021", Public Law No. 117-2, (hereinafter referred to as "ARPA").

SECTION 2. From funds disbursed to the State in the ARPA, there is appropriated up to $586,633,226 to the Rural Infrastructure Authority ARPA Water and Sewer Infrastructure Account for the purposes described in Act 244 of 2022. Only existing grant applications, as of January 1, 2023, may be considered in determining disbursements. Of the $586,633,226 appropriated, $100,000,000 shall be available for projects designated by the Secretary of Commerce as being significant to economic development and may be funded at up to twenty million dollars per project with no local match requirement. If any disbursement to any recipient, or subrecipient, resulting from an authorization contained herein is disallowed by federal law, regulation, or order, then the recipient or subrecipient shall promptly return the disbursed funds to the disbursing entity.

SECTION 3. The expenditure authorizations contained in this act are supplemental to the expenditure authorizations for receiving entities as contained in Act 239 of 2022, the General Appropriations Act for Fiscal Year 2022-23, and future expenditure authorizations enacted by the General Assembly through December 31, 2026.

SECTION 4. Earnings and interest on accounts created pursuant to this act must be credited to the account and any balance at the end of the fiscal year carries forward to the account in the succeeding fiscal year for the same purpose.

SECTION 5. Notwithstanding SECTION 14 of Act 244 of 2022, the

funds in the ARPA Resilience Account also may be used to mitigate the potential release of contamination associated with the USS Yorktown, an asset of the Patriots Point Development Authority. The Office of Resilience must make an initial funding request for Phase I review and comment by the Joint Bond Review Committee that describes the project scope and provides an estimate of costs for the proposed improvements. Thereafter, the Office of Resilience must make a full funding request for Phase II review and comment by the Joint Bond Review Committee to establish final budget authorization and project scope. No funds may be expended toward the project in either phase until the Joint Bond Review Committee has provided review and comment. The Office of Resilience is authorized to engage and reimburse the services of other state agencies in the development of both phases of the project.

SECTION 6. This joint resolution takes effect upon approval by the Governor.

Ratified the 19th day of April, 2023

Approved the 20th day of April, 2023

No. 7

(R9, S490)

A JOINT RESOLUTION TO PERMIT FUNDS APPROPRIATED IN ACT 94 OF 2021 FOR SOUTH CAROLINA WELCOME CENTERS TO BE USED FOR THE CURRENT FAIR PLAY WELCOME CENTER PROJECT.

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

Fair Play Welcome Center

SECTION 1. In addition to the projects listed in Section 118.18(B)(41)(g) of Act 94 of 2021, funds appropriated to the Department of Parks, Recreation and Tourism may be extended for the current Fair Play Welcome Center project.

Time effective

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

Ratified the 19th day of April, 2023

Approved the 25th day of April, 2023

No. 8

(R16, S39)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING CHAPTER 8 TO TITLE 59 SO AS TO THE ESTABLISH THE "EDUCATION SCHOLARSHIP TRUST FUND PROGRAM", TO DEFINE NECESSARY TERMS, TO PROVIDE REQUIREMENTS FOR STUDENTS AND SCHOOLS SEEKING TO PARTICIPATE IN THE PROGRAM, TO PROVIDE REQUIREMENTS FOR THE ADMINISTRATION AND OVERSIGHT OF THE PROGRAM, TO ESTABLISH AND PROVIDE FOR THE ADMINISTRATION OF AN EDUCATION SCHOLARSHIP TRUST FUND CONSISTING OF FUNDS APPROPRIATED TO PROVIDE THESE SCHOLARSHIPS, TO PROVIDE LIMITATIONS ON THE NUMBER OF SCHOLARSHIPS THAT MAY BE AWARDED, TO PROVIDE MEASURES FOR EVALUATING THE PERFORMANCE OF PROGRAM PARTICIPANTS, TO ESTABLISH A REVIEW PANEL AND PROVIDE FOR ITS COMPOSITION AND PURPOSES, AND TO CLARIFY STUDENT TRANSFER REQUIREMENTS, AMONG OTHER THINGS.

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

Education Scholarship Trust Fund

SECTION 1. Title 59 of the S.C. Code is amended by adding:

CHAPTER 8

Education Scholarship Trust Fund

Section 59-8-110. For purposes of this chapter:

(1) "Department" means the South Carolina Department of Education.

(2) "Education Scholarship Trust Fund", "ESTF", or "fund" means the individual account that is administered by the department to which funds are allocated to the parent of an eligible student to pay for qualifying expenses.

(3) "Eligible school" means a South Carolina public school or an independent school that chooses to participate in the program. "Eligible school" does not include a charter school.

(4) "Eligible student" means a student who:

(a) is a resident of this State;

(b)(i) attended a public school in this State during the previous school year;

(ii) had not yet attained the age of five on or before September first of the previous school year but who has attained the age of five on or before September of the current school year; or

(iii) received a scholarship pursuant to this chapter for the previous school year; and

(c)(i) in School Year 2024-2025, has a household income that does not exceed two hundred percent of the federal poverty guidelines;

(ii) in School Year 2025-2026, has a household income that does not exceed three hundred percent of the federal poverty guidelines; and

(iii) in School Year 2026-2027 and all subsequent years, has a household income that does not exceed four hundred percent of the federal poverty guidelines.

"Eligible student" does not include students participating in the Educational Credit for Exceptional Needs Children's Fund program, as provided in Section 12-6-3790.

(5) "IDEA" means the Individuals with Disabilities Education Act found in 20 U.S.C. Section 1400, et seq.

(6) "Parent" means a resident of this State who is the natural or adoptive parent, legal guardian, custodian, or other person with legal authority to act on behalf of an eligible student.

(7) "Education service provider" means a person or organization approved by the department that receives payments from ESTF to provide educational goods and services to scholarship students.

(8) "Program" means the ESTF program created by this chapter.

(9) "Resident school district" means the public school district in which the student is domiciled.

(10) "Scholarship" means education funding allocated from an account established pursuant to this chapter.

(11) "Scholarship student" means an eligible student who is participating in the Education Scholarship Trust Fund program.

(12) "Substantial misuse" means wilfully and knowingly receiving or spending any portion of a scholarship for any purpose other than a qualifying expense.

(13) "Qualifying expense" means:

(a) tuition and fees of an education service provider;

(b) textbooks, curriculum, or other instructional materials including, but not limited to, any supplemental materials or associated online instruction required by either a curriculum or an education service provider;

(c) tutoring services approved by the department;

(d) computer hardware or other technological devices that are used primarily for a scholarship student's educational needs and approved by the department or a licensed physician;

(e) tuition and fees for an approved nonpublic online education service provider or course;

(f) fees for approved:

(1) national norm-referenced examinations, advanced placement examinations, or similar assessments;

(2) industry certification exams; or

(3) examinations related to college or university admission;

(g) educational services for pupils with disabilities from a licensed or accredited practitioner or provider including, but not limited to, occupational, behavioral, physical, and speech-language therapies;

(h) approved contracted services from a public school district, including individual classes, after school tutoring services, transportation, or fees or costs associated with participation in extracurricular activities;

(i) contracted teaching services and education classes approved by the department;

(j) fees for transportation paid to a fee-for-service transportation provider for the scholarship student to travel to and from an eligible provider as defined in this section, but not to exceed seven hundred fifty dollars for each school year;

(k) fees for ESTF account management by private financial management firms approved by the department; or

(l) any other educational expense approved by the department.

Section 59-8-115. (A) The department shall create a standard application process and establish the timeline for parents to establish the eligibility of their student for the Education Scholarship Trust Fund program. The application window established shall last at least forty-five days, opening no earlier than January fifteenth and closing no later than March fifteenth each calendar year.

(B) Pursuant to the timeline established pursuant to subsection (A), the department shall:

(1) process applications in the order in which they are received, after a preference has been extended to all prior-year participants and their respective siblings; and

(2) enroll and issue award letters within thirty days of the deadline for receipt of completed applications and all required documentation.

(C) Before awarding a scholarship, the department shall have obtained evidence of the student's eligibility through the card issued in the student's name from the Department of Health and Human Services for Medicaid eligibility included as applicable with application documentation.

(D) Before awarding a scholarship, the department must obtain evidence of all other student eligibility criteria set forth in Section 59-8-110.

(E) The department shall approve an application for scholarship if:

(1) the parent submits an annual application for a scholarship in accordance with the application and procedures established by the department;

(2) the student on whose behalf the parent is applying is an eligible student;

(3) funds are available for the ESTF; and

(4) the parent signs an annual agreement with the department:

(a) to provide, at a minimum, a program of academic instruction for the eligible student in at least the subjects of English/language arts to include writing, mathematics, social studies, and science;

(b) to acknowledge and agree to comply with the education service provider's prescribed curriculum, dress code, and other requirements of enrolled students;

(c) to ensure the scholarship student takes assessments as referenced in Section 59-8-150 or provides assessments in a similar manner through other means if the scholarship student does not receive full-time instruction from an education service provider;

(d) to use program funds for qualifying expenses only for an

approved provider to educate the scholarship student, subject to penalty;

(e) not to enroll their scholarship student in a public school as a full-time student in the resident school district, as defined in this chapter;

(f) not to participate in a home instruction program under Sections 59-65-40, 59-65-45, or 59-65-47;

(g) that includes documentation of the consultation process between the parent, the resident school district, the education service provider, and any school district that the education service provider contracts with under an IEP or services plan, for each scholarship student with a disability regarding the special education and related services, and the manner by which these services as listed in the student's IEP or services plan, will be provided to a scholarship student with a disability; and

(h) to confirm that, if the parent's child is a student with disabilities, the parent has received notice from the department that participation in the ESTF program is a parental placement of the scholarship student under IDEA, along with an explanation of the rights that parentally placed students possess under IDEA and any applicable state laws and regulations, including the consultation process provided for in 20 U.S.C. Section 1412(a)(10) and the Individual Education Program requirements described in Section 1414(d) of IDEA.

(F) The department shall make available on its website in a conspicuous location information in conformity with 34 C.F.R. Sections 300.130 through 300.144, Assistance to States for the Education of Children with Disabilities, explaining to parents the rights of children with disabilities under IDEA both in public schools and as parentally placed students in private schools.

(G) A parent will be allowed to make payments for the cost of educational goods and services not covered by the funds in their student's ESTF; however, personal deposits into an ESTF account are prohibited.

(H) Funds received pursuant to this section do not constitute taxable income to the parent of the scholarship student or to the student.

(I) A parent's signed agreement under subsection (E)(4) satisfies the state's compulsory attendance law pursuant to Section 59-65-10.

(J) The State Board of Education shall promulgate regulations for the administration of the program as may be applicable.

(K) The department may contract with qualified organizations to administer the program application process or specific functions, maintenance, and monitoring of the program application process as required above.

Section 59-8-120. (A) There is established at the department, the "South Carolina Education Scholarship Trust Fund" that is separate and distinct from the general fund, consisting of monies appropriated to the department to provide scholarships to eligible students for qualifying expenses. The fund must receive and hold all monies allocated for it as well as all earnings until disbursed as provided in this section.

(B) The department shall administer the fund and is responsible for keeping records, managing accounts, and disbursing scholarships awarded pursuant to this section and as directed by the parent.

(C) Upon request of the parent and approval of an eligible student's application by the department, the State Treasurer shall transfer six thousand dollars per scholarship student to the Education Scholarship Trust Fund as directed by the General Assembly, unless an increased or decreased limit is authorized in the annual general appropriations act.

(D) The department shall create an individual online ESTF account for each scholarship student.

(1) The parent must be able to access the individual online account for the scholarship student using a secure portal.

(2) The individual scholarship student's account must be created within thirty days of the application approval.

(E) The department shall make payments to an individual scholarship student's account from the ESTF on a quarterly basis with the first payment being distributed by July thirty-first of each year.

(F) By September first of each school year and again on January fifteenth and March fifteenth of the school year, the department shall compare the list of scholarship students with the public school enrollment lists to avoid duplicate payments.

(G) Education service providers may not refund, rebate, or share a student's scholarship funds directly with a parent or the scholarship student. The funds in an account may only be used for qualifying expenses as defined in this chapter and provided by the department.

(H) The department may contract with qualified organizations to administer the program.

(I) The trust fund does not constitute a debt of the State or any political subdivision thereof, including school districts. The trust fund must be held and applies solely toward carrying out the purposes of this chapter.

Section 59-8-125. (A) The department shall develop an online electronic system for payment for services authorized by participating parents pursuant to this chapter and the guidelines provided by the department. Parents may not be reimbursed for out-of-pocket expenses.

(B) The General Assembly shall appropriate funds to the department for initial costs to create the program. Thereafter, the department shall deduct an amount from the ESTF to cover the costs of overseeing the accounts and administering the program up to a limit of two percent. Annually, on or before December thirty-first, the department shall notify the respective Chairmen of the Senate Finance Committee and House of Representatives Ways and Means Committee regarding the amount deducted for administrative costs and an itemization of the costs incurred to administer the program for the previous school year.

(C) The department may contract with qualified vendors to manage accounts and shall establish reasonable fees for private financial management firms participating in the program based upon market rates.

(D) The department may contract with qualified organizations to administer the program or specific functions of the program.

(E) Payments made by the department must remain in force until a parent or scholarship student is proven to have participated in a prohibited activity specified in this chapter, a scholarship student returns to a public school in his resident public school district, or a scholarship student graduates from high school or attains twenty-two years of age, whichever occurs first. A scholarship student who enrolls in his resident public school district is considered to have returned to a public school for the purpose of determining the end of the term.

(F) The department may suspend or deactivate an account for substantial misuse or the scholarship student leaves the program for any reason, at which time any remaining funds must revert to the ESTF.

(G) Unused funds must be rolled over to the following school year for a scholarship student who applies and continues to meet eligibility requirements to participate in the program.

(H) A scholarship terminates automatically if the student is no longer domiciled in this State, and any money remaining in the account reverts to the ESTF.

(I) Only one account may be established for a scholarship student.

Section 59-8-130. If a scholarship student's program of academic instruction is terminated for any reason before the end of the semester or school year and the student does not resume instruction within thirty days, then the parent shall notify the department and remaining funds in the account revert to the ESTF.

Section 59-8-135. (A) Beginning with the 2024-2025 School Year, the annual number of ESTF students is limited by the following capacity:

(1) in School Year 2024-2025, the program is limited to five

thousand scholarship students;

(2) in School Year 2025-2026, the program is limited to ten thousand scholarship students; and

(3) in School Year 2026-2027, and for all subsequent school years, the program is limited to fifteen thousand scholarship students.

(B) In 2027, and every five years thereafter, the department shall conduct an eligibility and use review of the program and shall make recommendations to the General Assembly to improve the program.

Section 59-8-140. (A)(1) The department must develop an application approval process for participation in the ESTF program for education service providers.

(2) The department must require an independent school that applies to be an education service provider to be located in the State, to have an educational curriculum that includes courses set forth in the state's diploma requirements and to meet the compulsory attendance and State Board of Education approval requirements in Section 59-65-10.

(3) An education service provider that participated in the program in the previous school year and desires to participate in the program in the current school year shall reapply to the department. The education service provider reapplying shall certify to the department that it continues to meet all program requirements. An education service provider required to administer academic testing shall provide to the department test score data from the previous school year. If individual student test score data is not submitted, then the department shall remove the education service provider from the program.

(4) By February first of each year, the department will certify the list of approved education service providers for participation in the program that meet all program requirements. The department may waive the deadline requirement upon good cause shown by an education service provider.

(5) An education service provider that is denied approval pursuant to this section may seek review by filing a request for a contested case hearing with the Administrative Law Court in accordance with the court's rules of procedure.

(6) By February fifteenth of each year, the department shall publish on its website a comprehensive list of approved education service providers. The list must include the name, address, telephone number, and website address for each education service provider.

(B) If approved by the department, new education service providers may be added to the list of approved providers on a rolling basis. The providers will be added to the comprehensive list available on the

department's website.

(C) The department may bar an education service provider from the program if the department establishes that the education service provider has:

(1) failed to comply with the accountability standards established in this section; or

(2) failed to provide the scholarship student with the educational services funded by the account.

(D) The department shall create procedures to ensure that a fair process exists to determine whether an education service provider should be barred from receiving payments from accounts.

(1) If the department decides to bar an education service provider from the program, it shall notify affected students and their parents of this decision as quickly as possible.

(2) Education service providers may appeal the department's decision to bar the education service provider from receiving payments from accounts pursuant to the Administrative Procedures Act.

(E) The State Board of Education shall promulgate regulations to allow scholarship students to return to their resident school districts during the course of their participation in the program.

(F)(1) For scholarship students utilizing a scholarship to attend an online education service provider, the department must track data on scholarship student wellness through mandatory in-person days of attendance at least once per semester at their resident public school. For first semester the in-person date shall be no later than November fifteenth. For the second semester the in-person date shall be no later than March fifteenth. During the in-person attendance, a school teacher, counselor, principal, assistant principal, school attendance officer, social or public assistance worker, school nurse, on-site mental health, or allied health professional, or other appropriately designated mandated reporter at the local public school as defined in Section 63-7-310 must complete a comprehensive wellness check to screen for abuse and neglect as defined in Section 63-7-20.

(2) All employees at an online education service provider who are employed in same or similar roles as defined in Section 63-7-310 shall be considered persons required to report and must complete the training programs required pursuant to Section 63-7-310(A) and hold all the same rights, responsibilities, and potential penalties as defined in Sections 63-7-315, 63-7-320, 63-7-350, 63-7-360, 63-7-370, 63-7-380, 63-7-390, 63-7-400, 63-7-430, 63-7-440, and receive information pursuant to Section 63-7-450.

Section 59-8-145. (A) The department shall adopt procedures to inform students and their parents annually of their eligibility for the program.

(B) The department shall adopt procedures to annually inform scholarship students and their parents of the approved education service providers.

(C) The department shall provide to parents of a scholarship student written instructions for the allowable uses of an account and the responsibilities of parents and the duties of the department.

(D) The department may declare that a parent is ineligible for continuation in the program due to substantial misuse of their account funds.

(E) The department may conduct or contract for the auditing of accounts, and shall, at a minimum, conduct random audits of education service providers and scholarship accounts on an annual basis.

(F) The department may refer cases of substantial misuse of funds to law enforcement agencies for investigation.

(G) The department may contract with one or more qualified organizations to administer some or all portions of this program.

(H) The department shall maintain a record of the number of applications received annually for the program, the number of students accepted into the program each year, and the number of students not accepted into the program each year with a corresponding explanation as to why the student was not accepted into the program. The department shall compile this information and provide a report to the General Assembly by December thirty-first of each year.

Section 59-8-150. (A) To ensure equitable treatment and personal safety of all scholarship students, all education service providers shall:

(1) comply with all applicable health and safety laws or codes;

(2) hold a valid occupancy permit if required by the municipality in which the education service provider is located;

(3) not unlawfully discriminate on the basis of race, color, or national origin. This item shall not be interpreted to preclude any independent or religious educational provider from exercising an exemption allowed under federal law; and

(4) conduct criminal background checks on employees and exclude from employment anyone who:

(a) is not permitted by state law to work in a school;

(b) reasonably might pose a threat to the safety of students; or

(c) is listed on federal, state, or other central child abuse registries.

(B) To ensure that funds are spent appropriately, all education service providers shall:

(1) provide parents with a receipt for all qualifying expenses; and

(2) demonstrate their financial viability by filing a surety bond with the department prior to the start of the school year if they are to receive fifty thousand dollars or more during the school year.

(C) In order to allow parents and the public to measure the achievements of the program, academic progress must be documented annually for each scholarship student. Students with an Individualized Education Plan that cannot be accommodated with standardized testing are excluded from the requirements of item (1). Education service providers that provide academic instruction must monitor the progress of students with significant cognitive disabilities through alternative assessments including portfolios.

(1) Education service providers that provide full-time academic instruction shall:

(a) ensure that each scholarship student in grades three through eight takes the SC Ready or SC Ready alternative summative assessment required of students in public schools in this State;

(b) ensure that each scholarship student in grades four and six takes the SC Pass or SC Pass alternative summative assessment required of students in public schools in this State;

(c) in lieu of the assessments required by subitems (a) and (b), ensure that each scholarship recipient in grades three through eight takes a nationally norm-referenced formative assessment at the beginning of the school year, at the end of the first semester, and at the end of the school year. The assessment must be approved by the department, aligned with state standards, and include a linking study;

(d) ensure that each scholarship student in grades nine through twelve takes a nationally norm-referenced or formative assessment approved by the department. Students with disabilities for whom standardized testing is not appropriate are exempt from this requirement;

(e) collect high school graduation information of scholarship students for reporting to the department as required in this section; and

(f) ensure that the parent or guardian of a scholarship student taking the assessments above receives a written report of the student's performance on each assessment. The report must include the student's score on the assessment and an indication of how the student's assessment performance compares to other South Carolina students.

The department may promulgate regulations to carry out the requirements of this subsection.

(2) The department shall ensure that the education service provider

has access to and is trained in administering the state assessments required in subitems (1)(a) and (b). The department shall assume any costs associated with training, administering, or taking assessments with no charges to the provider or ESTF students.

(3) For the purpose of evaluating program effectiveness, education service providers that provide full-time academic instruction shall ensure that results in item (1) are:

(a) provided to the parent of a scholarship student and must be provided to the department on an annual basis, beginning with the first year of program implementation; and

(b) disaggregated by grade level, gender, family income level, race, and English learner status.

(4) The department, or the appropriate organization chosen by the department, if any, must be informed of the scholarship student's graduation from high school.

(D) The department shall:

(1) comply with all student privacy laws;

(2) collect all test results;

(3) annually provide individual student assessment results and information to the Education Oversight Committee. The transmission of the information must be made in a manner that safeguards the data to ensure student privacy.

(E) The Education Oversight Committee shall:

(1) comply with all student privacy laws;

(2) report on and publish associated learning gains and graduation rates to the public by means of a state website with data aggregated by grade level, gender, family income level, number of years participating in the program, and race and a report for any participating school if at least fifty-one percent of the total enrolled students in the private school participated in the ESTF program in the prior school year or if there are at least thirty participating students who have scores for tests administered. If the Education Oversight Committee determines that the thirty participating-student cell size may be reduced without disclosing the personally identifiable information of a participating student, the Education Oversight Committee may reduce the participating-student cell size, but the cell size may not be reduced to fewer than ten participating students;

(3) evaluate and report the academic performance of scholarship students compared to similar public school populations; and

(4) collaborate with the department to develop and administer an annual parental satisfaction survey for all parents of scholarship students on issues relevant to the ESTF program, to include effectiveness and

length of the program participation. Results of this survey must be provided to the General Assembly by December thirty-first of each year.

(F) An education service provider, not a public school, is autonomous and not an agent of the state or federal government, therefore:

(1) the department or any other state agency may not regulate the educational program of an approved education provider that accepts funds from an account;

(2) the creation of the program does not expand the regulatory authority of the State, its officers, or a school district to impose regulation of education service providers beyond those necessary to enforce the requirements of the program;

(3) the freedom of education service providers to provide for the educational needs of scholarship students without governmental control must not be abridged;

(4) an education service provider that accepts payment by a parent from an ESTF account pursuant to this chapter is not an agent of the state or federal government; and

(5) education service providers shall not be required to alter their creeds, practices, admissions policy, or curriculum in order to accept payments by a parent from an ESTF account.

(G) A person paid by, contracted with, employed by, or having a financial interest in an education service provider shall not be allowed to serve on the board of an organization contracting for services with the department as defined in Section 59-8-115(J), serve on the board of a vendor or private management firm contracted to manage accounts as defined in Section 59-8-125(C), on the board of any other provider of contracted-for services under Section 59-8-110(12) or under Section 59-8-120(H), or on the ESTF Review Panel. Any education service provider violating this subsection shall be barred from participating in the program for two years and shall return any funds received under the program to the ESTF.

(H) A person serving as a board member or director of an education service provider shall have a fiduciary duty to the provider and shall avoid any conflicts of interest with the provider.

(I) No member of the General Assembly or their immediate family, as defined by Section 8-13-100(18), may have a financial interest in an education service provider. This does not prevent a member or their immediate family from qualifying under the provisions of this chapter to participate in the ESTF program.

(J) A person shall not serve in a position of leadership with an education service provider who has been convicted of a financial crime.

Section 59-8-155. The scholarship student's resident school district shall provide a parent and the education service providers designated by the parent with a complete copy of the student's school records, while complying with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Section 1232(g).

Section 59-8-160. (A) There is created the "ESTF Review Panel" that shall serve as an advisory panel to the department.

(B) The review panel shall consist of ten members, pursuant to the following:

(1) the Governor, or his designee, who shall serve as the chair of the panel;

(2) three members to be appointed by the Governor;

(3) one member appointed by the Speaker of the House of Representatives;

(4) one member appointed by the President of the Senate;

(5) one member appointed by the Chairman of the House of Representatives Education and Public Works Committee;

(6) one member appointed by the Chairman of the Senate Education Committee; and

(7) two parents of scholarship students to be appointed by the Governor.

(C) The review panel may advise the department on whether certain expenses meet the requirements to be considered a qualified expense under this chapter when requested by the department. The review panel periodically may make recommendations to the General Assembly about improving the program.

(D) Members shall serve at the pleasure of their appointing authority. In making appointments to the panel, the appointing authorities, as appropriate, shall consider legal, financial, accounting, and marketing experience and race, gender, and other demographic factors to ensure nondiscrimination, inclusion, and representation of all segments of the State to the greatest extent possible.

(E) Members may not receive mileage or per diem.

Section 59-8-165. The provisions of the chapter do not restrict a school district's ability to enact or enforce a district's student transfer policy.

Section 59-8-170. A scholarship student transferring from one public school to another public school pursuant to this program is not subject to any prohibition by the South Carolina High School League on a

transfer student from participating in a sport immediately upon transfer.

Severability

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

Time effective

SECTION 3. This act takes effect thirty days after approval by the Governor, provided that upon approval of this act by the Governor, the Department of Education shall begin undertaking and executing responsibilities incidental to the implementation of this act so that the provisions of this act may be fully implemented thirty days after approval by the Governor.

Ratified the 2nd day of May, 2023

Approved the 4th day of May, 2023

No. 9

(R17, S299)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 63-1-50, RELATING TO THE JOINT CITIZENS AND LEGISLATIVE COMMITTEE ON CHILDREN, SO AS TO PROVIDE FOR THE INCLUSION OF THE STATE CHILD ADVOCATE TO THE COMMITTEE.

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

The Joint Citizens and Legislative Committee on Children, membership

SECTION 1. Section 63-1-50(A) of the S.C. Code is amended to read:

(A) There is established the Joint Citizens and Legislative Committee on Children to be composed of three members of the House of Representatives appointed by the Speaker of the House, three members of the Senate to be appointed by the President of the Senate, and three members to be appointed by the Governor. The Director of the Department of Juvenile Justice, the Director of the Department of Social Services, the Director of the Department of Disabilities and Special Needs, the Superintendent of the Department of Education, the Director of the Department of Mental Health, the Director of the Department of Alcohol and Other Drug Abuse Services, the Director of the Department of Health and Environmental Control, the Director of the Department of Health and Human Services, the Director of the Office of South Carolina First Steps to School Readiness, and the State Child Advocate serve as ex officio, nonvoting members of the committee. Members appointed by the Governor must not be employees of the State. Members serve at the pleasure of the appointing authority. The committee shall study issues relating to children as the committee may undertake or as may be requested or directed by the General Assembly. The committee may contract for all necessary legal research and support services, subject to funding as provided in subsection (E).

Time effective

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

Ratified the 2nd day of May, 2023

Approved the 8th day of May, 2023

No. 10

(R18, S341)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 62-5-101, RELATING TO DEFINITIONS AND USE OF TERMS, SO AS TO PROVIDE FOR GUARDIANSHIP PROCEEDINGS FOR A MINOR WITHIN ONE HUNDRED EIGHTY DAYS OF TURNING EIGHTEEN; BY AMENDING SECTION 62-5-201, RELATING TO JURISDICTION, SO AS TO PROVIDE FOR ADDITIONAL LIMITED JURISDICTION OF THE COURT OVER MINORS; AND BY AMENDING SECTION 62-5-303, RELATING TO THE PROCEDURE FOR COURT APPOINTMENT OF A GUARDIAN, SO AS TO EXTEND THE TIME A GUARDIANSHIP PROCEEDING CAN BE INITIATED TO ONE HUNDRED EIGHTY DAYS BEFORE A MINOR REACHES THE AGE OF EIGHTEEN.

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

Definitions

SECTION 1. Section 62-5-101(11) of the S.C. Code is amended to read:

(11) "Guardianship proceeding" means a formal proceeding to determine if an adult or a minor within one hundred eighty days of turning eighteen is an incapacitated individual or in which an order for the appointment of a guardian for an adult or a minor within one hundred eighty days of turning eighteen is sought or has been issued.

Jurisdiction

SECTION 2. Section 62-5-201 of the S.C. Code is amended to read:

Section 62-5-201. Exclusive jurisdiction of the court is set forth in Sections 62-1-302 and 62-5-701 as to appointment of a guardian or issuance of a protective order. Pursuant to the court's authority to appoint a guardian, and Section 62-5-309, the guardian has the authority to maintain custody of the person of the ward and to establish the ward's place of abode, unless otherwise specified in the court's order. Other than the proceeding set forth in Section 62-5-303(C), the court does not have jurisdiction over the care, custody, and control of the person of a minor, but does have jurisdiction over the property of a minor if the court determines that the minor owns property that requires management or protection.

Initiation of guardianship proceedings

SECTION 3. Section 62-5-303 of the S.C. Code is amended by adding:

(C) A person may initiate guardianship proceedings by filing a summons and petition for guardianship of a minor child up to one hundred eighty days prior to the date the child reaches the age of eighteen if the petitioner anticipates the minor child will require a guardian upon attaining the age of eighteen. The court has jurisdiction over the proceedings in this subsection beginning one hundred eighty days prior to the date the child reaches the age of eighteen. The minor shall be provided all due process rights conferred upon an alleged incapacitated individual pursuant to this chapter including, but not limited to, the appointment of an attorney and a guardian ad litem. An order appointing a guardian pursuant to this subsection shall be issued upon the minor’s eighteenth birthday or as soon thereafter as possible.

Time effective

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

Ratified the 2nd day of May, 2023

Approved the 8th day of May, 2023

No. 11

(R19, S581)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 1-1-661 SO AS TO NAME THE VENUS FLYTRAP THE OFFICIAL CARNIVOROUS PLANT OF THE STATE.

Whereas, the Venus flytrap is a small flowering perennial plant that grows in boggy areas of the Southeastern United States; and

Whereas, the Venus flytrap is one of the most internationally recognized carnivorous plants, characterized by leaves with hinged lobes that spring shut when stimulated by insects and is dependent on a fire-maintained landscape; and

Whereas, the Venus flytrap is federally designated as an At-Risk Species and the State of South Carolina is just one of two places in the world where the Venus flytrap is native; and

Whereas, the Venus flytrap is considered globally imperiled and Horry County is known to have the only remaining population of the Venus flytrap in the State of South Carolina. Now, therefore,

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

Official Carnivorous Plant

SECTION 1. Chapter 1, Title 1 of the S.C. Code is amended by adding:

Section 1-1-661. The Venus flytrap (Dionaea Muscipula) is the official carnivorous plant of the State.

Time effective

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

Ratified the 2nd day of May, 2023

Approved the 8th day of May, 2023

No. 12

(R20, S593)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 7-7-440, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN ORANGEBURG COUNTY, SO AS TO REDESIGNATE THE MAP NUMBER ON WHICH THESE PRECINCTS MAY BE FOUND ON FILE WITH THE REVENUE AND FISCAL AFFAIRS OFFICE.

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

Map number

SECTION 1. Section 7-7-440(B) of the S.C. Code is amended to read:

(B) The precinct lines defining the precincts in subsection (A) are as shown on official maps on file with the Revenue and Fiscal Affairs Office and as shown on copies provided to the State Election Commission and the Board of Voter Registration and Elections of Orangeburg County by the office and designated as P-75-23A.

Time effective

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

Ratified the 2nd day of May, 2023

Approved the 8th day of May, 2023

No. 13

(R21, H3605)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE "EARN AND LEARN ACT OF 2023", BY AMENDING SECTION 40-1-80, RELATING TO INVESTIGATIONS OF LICENSEES, SO AS TO REQUIRE THE DIRECTOR TO SEND INFORMATION REGARDING AN INVESTIGATION TO THE LICENSEE; BY AMENDING SECTION 40-1-90, RELATING TO DISCIPLINARY ACTION PROCEEDINGS, SO AS TO ALLOW A LICENSEE TO REQUEST CERTIFICATION OF AN INVESTIGATION FROM THE DIRECTOR; BY AMENDING SECTION 40-1-140, RELATING TO EFFECT OF PRIOR CRIMINAL CONVICTIONS OF APPLICANTS, SO AS TO PROHIBIT THE DENIAL OF A LICENSE BASED SOLELY OR IN PART ON A PRIOR CRIMINAL CONVICTION IN CERTAIN CIRCUMSTANCES; AND BY ADDING SECTION 40-1-77 SO AS TO PROVIDE A METHOD TO ALLOW A WORKER TO EARN A PAYCHECK WHILE FULFILLING APPLICABLE LICENSING REQUIREMENTS.

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

Citation

SECTION 1. This act may be cited as the "Earn and Learn Act of 2023".

Investigations of licensees

SECTION 2. Section 40-1-80 of the S.C. Code is amended to read:

Section 40-1-80. (A) If the director has reason to believe that a person has violated a provision of this article or a regulation promulgated under this article or the licensing act or regulation of a board or that a licensee has become unfit to practice the profession or occupation or if a person files a written complaint with the board or the director charging a person with the violation of a provision of this article or a regulation promulgated under this article, the director may initiate an investigation.

(B) Within thirty days after an investigation is initiated, the director

must send the licensee:

(1) a letter advising the licensee that a complaint has been filed and that an investigation has been initiated and a request that the licensee respond in writing within fourteen days;

(2) a copy of the complaint;

(3) the name of the complainant, unless the board believes good cause exists to withhold the name of the complainant; and

(4) all materials filed with the complaint.

(C) In conducting the investigation, the director may subpoena witnesses, compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation including, but not limited to, the existence, description, nature, custody, condition, and location of books, documents, or other tangible items and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence. Upon failure to obey a subpoena or to answer questions propounded by the director, the director may apply to an administrative law judge for an order requiring the person to comply.

Disciplinary action proceedings

SECTION 3. Section 40-1-90 of the S.C. Code is amended to read:

Section 40-1-90. (A) The director shall review any case that the board recommends for a formal complaint to ensure the department mailed the notice of the investigation to the licensee and provided the licensee with opportunity to respond. This shall occur before the formal complaint is issued. The director shall verify that:

(1) the department mailed a copy of the complaint to the licensee;

(2) the name of the complainant was provided to the licensee, unless good cause existed to withhold the name of the complainant;

(3) the licensee was notified of the opportunity to provide a response to the complaint; and

(4) the licensee's response was included and considered in the investigative file.

If the director determines that any of these procedural steps were not followed in the investigative process, the issuance of the formal complaint shall be held until such time as the procedural defects may be rectified. Nothing in this section should be construed to require the director's review if a case is disposed of by any means other than issuance of a formal complaint.

(B) The results of an investigation must be presented to the board. If

from these results it appears that a violation has occurred or that a licensee has become unfit to practice the profession or occupation, the board, in accordance with the Administrative Procedures Act, may take disciplinary action authorized by Section 40-1-120. No disciplinary action may be taken unless the matter is presented to and voted upon by the board. The board may designate a hearing officer or hearing panel to conduct hearings or take other action as may be necessary under this section.

(C) For the purpose of a proceeding under this article, the department may administer oaths and issue subpoenas for the attendance and testimony of witnesses and the production and examination of books, papers, and records on behalf of the board or, upon request, on behalf of a party to the case. Upon failure to obey a subpoena or to answer questions propounded by the board or its hearing officer or panel, the board may apply to an administrative law judge for an order requiring the person to comply with the subpoena.

Prior criminal convictions of applicants

SECTION 4. Section 40-1-140 of the S.C. Code is amended to read:

Section 40-1-140. (A)(1) A professional or occupational board may not deny a license to an applicant solely because of a prior criminal conviction, unless the criminal conviction directly relates to the duties, responsibilities, or fitness of the occupation or profession for which the applicant is seeking a license.

(2) Notwithstanding any other provision in a professional or occupational licensing practice act regulated by this chapter, professional and occupational boards are prohibited from using vague or generic terms including, but not limited to, “moral turpitude” or “good character”, and from considering charges that have been dismissed, nol prossed, or adjudicated with a finding of not guilty as a justification for denying an applicant a license.

(B) An applicant who has submitted a completed licensing application may not be denied a license because of the applicant’s prior criminal conviction, unless the applicable professional or occupational licensing board has given the applicant an opportunity to appear at an application hearing to determine the applicant's fitness for the occupation or profession. The application hearing must be scheduled for the next available application hearing date for that board.

(C) If a board denies an applicant’s license solely or in part because of the applicant’s prior criminal history, then the board must issue a

written final order within thirty days following the date of the application hearing. The written order shall include:

(1) the grounds for the denial; and

(2) that the final order is appealable to the Administrative Law Court pursuant to Chapter 23, Title 1.

Initial license

SECTION 5. Chapter 1, Title 40 of the S.C. Code is amended by adding:

Section 40-1-77. (A) The purpose of this section is to expand economic opportunities and build a skilled workforce according to industry standards by allowing a worker to earn a paycheck while he fulfills applicable licensing requirements.

(B) For purposes of this section:

(1) "Apprenticeship" means a United States Department of Labor-approved and registered apprenticeship or an industry-recognized apprenticeship for an occupation or profession licensed by a South Carolina regulatory board or commission under the South Carolina Department of Labor, Licensing and Regulation, as approved by the applicable licensing board.

(2) "Board" means a board, commission, or panel under the South Carolina Department of Labor, Licensing and Regulation that regulates a profession or occupation and issues a license to an individual. This definition of "board" does not include boards and commissions established and operating pursuant to Chapter 15, Title 54.

(3) "License" means a license, certificate, registration, permit, or other evidence that an individual is qualified to engage in an occupation or profession before that person may engage in or represent himself as a member of an occupation or profession.

(4) "Scope of practice" means the procedures, actions, processes, and work that a person may perform pursuant to a license issued by an occupation's or profession's regulatory board.

(C) A board shall issue an initial license pursuant to this section to an applicant, if the applicant:

(1) completes an apprenticeship in an occupation or profession that has a similar scope of practice, as determined by the board, to an occupation or profession regulated by this State through license requirements;

(2) successfully passes requisite examinations;

(3) submits a completed application and pays all applicable fees;

(4) is not otherwise disqualified from licensure because of an applicable criminal conviction; and

(5) completes all other requirements for initial licensure as required by the applicable licensing board in accordance with state law, only if the board imposes the same requirements on other license applicants. A board shall not require an applicant pursuant to this section to complete requirements that exceed the requirements of other license applicants for initial licensure.

(D) If a board denies a license to an applicant under this section, then the board shall:

(1) provide the applicant with a denial in writing; and

(2) explain the reason for the denial in the written decision, such as whether the licensing entity determined that the applicant's apprenticeship program does not correspond to the profession or occupation or level of license for which the applicant applied.

(E) A license issued pursuant to this section is subject to the same provisions of law governing a license for the occupation or profession.

(F) A board shall not require an applicant pursuant to this section to complete an apprenticeship for a greater duration of time than that which is required pursuant to federal law.

(G) A board may require an applicant pursuant to this section to successfully pass an examination only if the board imposes the same examination requirement on other license applicants. A board shall not require an applicant pursuant to this section to receive a higher score on an examination than the score required of other license applicants.

(H) A board may require an applicant pursuant to this section to pay a licensing fee only if the board imposes a licensing fee on other license applicants. A board shall not impose on an applicant pursuant to this section a licensing fee greater than the licensing fee imposed on other applicants.

(I) A board may promulgate regulations necessary for the implementation of this act.

(J) This section does not apply to:

(1) a licensing entity that does not license individual workers for which there is a board-approved apprenticeship program;

(2) a license that requires the educational equivalent of a bachelor's degree or higher; or

(3) apprenticeship programs that are established by state law.

Time effective

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

Ratified the 2nd day of May, 2023

Approved the 8th day of May, 2023

No. 14

(R22, H4099)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 7-7-350, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN LANCASTER COUNTY, SO AS TO REMOVE TWO EXISTING PRECINCTS, TO ADD TWO NEW PRECINCTS, AND TO REDESIGNATE THE MAP NUMBER ON WHICH THESE PRECINCTS MAY BE FOUND ON FILE WITH THE REVENUE AND FISCAL AFFAIRS OFFICE.

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

Precincts

SECTION 1. Section 7-7-350 of the S.C. Code is amended to read:

Section 7-7-350. (A) In Lancaster County there are the following voting precincts:

521 North
Antioch
Black Horse Run
Buford
Camp Creek
Carmel
Chesterfield Avenue
College Park
Douglas
Elgin
Erwin Farm
Flat Creek
Gold Hill

Harrisburg
Heath Springs
Hyde Park
Jim Wilson
Kershaw North
Kershaw South
Lake House
Lancaster East
McIlwain
Osceola
Pleasant Hill
Pleasant Valley
Possum Hollow
Rich Hill
River Road
Riverside
Six Mile Creek
Springdale
The Lodge
Tradesville
Unity
University
Van Wyck

(B) The precinct lines defining the above precincts are as shown on maps filed with the clerk of court of the county and also on file with the State Election Commission as provided and maintained by the Revenue and Fiscal Affairs Office designated as document P-57-23A.

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

Time effective

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

Ratified the 2nd day of May, 2023

Approved the 8th day of May, 2023

No. 15

(R24, S101)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 50-9-525, RELATING TO LICENSES FOR DISABLED RESIDENTS, SO AS TO PROVIDE THE REQUIREMENTS FOR OBTAINING A LIFETIME DISABILITY COMBINATION LICENSE OR A LIFETIME DISABILITY FISHING LICENSE FOR CERTAIN PERSONS.

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

Licenses for disabled veterans

SECTION 1. Section 50-9-525 of the S.C. Code is amended to read:

Section 50-9-525. (A) A resident who is determined to be disabled and receiving benefits under a Social Security program, the Civil Service Retirement System, the South Carolina State Retirement System, the Railroad Retirement Board, the Veterans Administration, or Medicaid, or their successor agencies or programs, may obtain a three year disability combination license or a three year disability fishing license at no cost. The license must be issued by the department from its designated offices and is valid for three years from the date of issue. Disability recertification is required for renewal. To recertify, an applicant must furnish proof, in the manner prescribed by the department, that he or she is currently receiving disability benefits and is a domiciled resident of this State. The department may waive the proof of disability benefit requirement for renewals where the resident is at least sixty-five years of age.

(B) A resident on the date of application for a disability license, with quadriplegia or paraplegia, who is certified as totally disabled, must be issued a lifetime disability combination license or a lifetime disability fishing license at no cost. Disability recertification or renewal of this license is not required.

(C) A resident on the date of application for a disability license who is certified legally blind as defined in Section 43-25-20 must be issued a lifetime disability combination license or a lifetime disability fishing

license at no cost. Disability recertification or renewal of this license is not required.

(D) A resident born after June 30, 1979, who has not completed the required hunter education certification only may obtain a disability fishing license at no cost. Upon completion of the hunter education certification, the licensee may apply to the department for the additional disability hunting privileges at no cost.

(E) A disability license issued to a person who is no longer domiciled in this State is void and the person must obtain the required nonresident licenses, permits, stamps, and tags to hunt and fish in this State.

(F)(1) A disability combination license includes the statewide privileges of hunting big game, hunting migratory waterfowl, hunting on wildlife management area lands, freshwater fishing, and saltwater fishing.

(2) A disability fishing license includes the privileges of freshwater fishing and saltwater fishing.

Time effective

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

Ratified the 11th day of May, 2023

Approved the 12th day of May, 2023

No. 16

(R25, S120)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 24-3-580, RELATING TO THE DISCLOSURE OF THE IDENTITIES OF EXECUTION TEAM MEMBERS AND THE PENALTIES FOR THE UNLAWFUL DISCLOSURE, SO AS TO DEFINE CERTAIN TERMS, TO PROVIDE CERTAIN INFORMATION PERTAINING TO THE IDENTITY OF PERSONS WHO PARTICIPATE IN THE PLANNING OR ADMINISTRATION OF AN EXECUTION OF A DEATH SENTENCE IS CONFIDENTIAL, TO PROVIDE A

CRIMINAL PENALTY FOR A PERSON WHO VIOLATES CERTAIN PROVISIONS OF THIS SECTION, TO MAKE TECHNICAL CHANGES, TO PROVIDE THE PURCHASE OR ACQUISITION OF DRUGS AND MEDICAL SUPPLIES USED IN THE ADMINISTRATION OF A DEATH SENTENCE IS EXEMPT FROM THE STATE PROCUREMENT CODE, TO PROVIDE THE OUT-OF-STATE ACQUISITION OF DRUGS INTENDED FOR USE FOR THE ADMINISTRATION OF THE DEATH PENALTY IS EXEMPT FROM ALL STATE LICENSING PROCESSES AND REQUIREMENTS ADMINISTERED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL OR ANY OTHER AGENCY, AS WELL AS REGULATIONS PROMULGATED BY THE BOARD OF PHARMACY, TO PROVIDE PHARMACIES OR PHARMACISTS THAT ARE INVOLVED IN THE SUPPLYING, MANUFACTURING, OR COMPOUNDING OF DRUGS INTENDED FOR USE IN THE ADMINISTRATION OF THE DEATH PENALTY ARE EXEMPT FROM CERTAIN LICENSING PROCESSES AND REQUIREMENTS OF THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, THE BOARD OF PHARMACY, OR ANY OTHER STATE AGENCY UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE, UNDER CERTAIN CIRCUMSTANCES, NO GOVERNMENTAL AGENCY SHALL DISCLOSE IDENTIFYING INFORMATION OF MEMBERS OF EXECUTION TEAMS OR THE DETAILS REGARDING THE PROCUREMENT OF CERTAIN DRUGS USED IN THE ADMINISTRATION OF THE DEATH PENALTY, TO PROVIDE THE COMPTROLLER GENERAL AND STATE TREASURER SHALL WORK WITH THE DEPARTMENT OF CORRECTIONS TO ENSURE CERTAIN FINANCIAL RECORDS RELATING TO AN EXECUTION ARE KEPT IN A DE-IDENTIFIED CONDITION, TO PROVIDE THE INTENT OF THIS SECTION IS TO ENSURE THE ABSOLUTE CONFIDENTIALITY OF IDENTIFYING INFORMATION OF PERSONS OR ENTITIES INVOLVED IN THE PLANNING OR EXECUTION OF A DEATH SENTENCE, TO PROVIDE THE DEPARTMENT OF CORRECTIONS SHALL COMPLY WITH FEDERAL REGULATIONS REGARDING THE IMPORTATION OF EXECUTION DRUGS, AND TO PROVIDE MEMBERS OF THE GENERAL ASSEMBLY MUST NOT OFFER NOR PROVIDE DRUGS, MEDICAL SUPPLIES, OR MEDICAL EQUIPMENT TO

EXECUTE A DEATH SENTENCE.

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

Nondisclosure of identity of members of an execution team and the acquisition of drugs to administer a death sentence

SECTION 1. Section 24-3-580 of the S.C. Code is amended to read:

Section 24-3-580. (A) As used in this section, the term:

(1) "Execution team" shall be construed broadly to include any person or entity that participates in the planning or administration of the execution of a death sentence, including any person or entity that prescribes, compounds, tests, uses, manufactures, imports, transports, distributes, supplies, prepares, or administers the drugs, medical supplies, or medical equipment utilized in the execution of a death sentence.

(2) "Identifying information" shall be construed broadly to include any record or information that reveals a name, date of birth, social security number, personal identifying information, personal or business contact information, or professional qualifications. The term "identifying information" also includes any residential or business address; any residential, personal, or business telephone number; any residential, personal, or business facsimile number; any residential, personal, or business email address; and any residential, personal, or business social media account or username.

(3) "De-identified condition" means data, records, or information from which identifying information is omitted or has been removed.

(B) Notwithstanding any other provision of law, any identifying information of a person or entity that participates in the planning or administration of the execution of a death sentence shall be confidential. For all members of the execution team, identifying information shall not be subject to discovery, subpoena, or any other means of legal compulsion or process for disclosure to any person or entity in any administrative, civil, or criminal proceeding in the courts, administrative agencies, boards, commissions, legislative bodies, or quasilegislative bodies of this State, or in any other similar body that exercises any part of the sovereignty of the State.

(C) A person shall not knowingly disclose the identifying information of a current or former member of an execution team or disclose a record that would identify a person as being a current or former member of an execution team. Any person and his immediate family, or entity whose

identity is disclosed in violation of this section shall have a civil cause of action against the person who is in violation of this section and may recover actual damages and, upon a showing of a wilful violation of this section, punitive damages. A person who violates the provisions of this subsection also must be imprisoned not more than three years.

(D) Any purchase or acquisition of drugs, medical supplies, and medical equipment necessary to execute a death sentence shall be exempt from the entirety of the South Carolina Procurement Code and all of its attendant regulations.

(E) The out-of-state acquisition of any drug intended for use by the department in the administration of the death penalty shall be exempt from all licensing processes and requirements administered by the Department of Health and Environmental Control or by any other department or agency of the State of South Carolina. Furthermore, the out-of-state acquisition of any drug intended for use by the department in the administration of the death penalty shall be exempt from all regulations promulgated by the Board of Pharmacy.

(F) Any pharmacy or pharmacist, whether located within or without the State, that is involved in the supplying, manufacturing, or compounding of any drug intended for use by the department in the administration of the death penalty shall be exempt from all licensing, dispensing, and possession laws, processes, regulations, and requirements of or administered by the Department of Labor, Licensing and Regulation, the Board of Pharmacy, or any other state agency or entity, found anywhere in the South Carolina Code of Laws or South Carolina Code of Regulations, only to the extent that the licensing, dispensing, and possession laws, processes, regulations, and requirements pertain to the drugs intended for use in the administration of the death penalty, and no prescription from any physician shall be required for any pharmacy or pharmacist to supply, manufacture, or compound any drug intended for use in the administration of the death penalty. This exemption shall not apply to any licensure or permitting requirements for the supply, manufacture, or compounding of any other legend drug or pharmaceutical device.

(G) Notwithstanding any other provision of law, including the South Carolina Freedom of Information Act, Section 30-4-10, et seq., no department or agency of this State, no political subdivision, and no other government or quasigovernment entity shall disclose the identifying information of any member of an execution team or any details regarding the procurement and administrative processes referenced in subsections (D) through (F).

(H) The Office of the Comptroller General and the Office of the State

Treasurer shall work with the South Carolina Department of Corrections to develop a means to ensure that the state's accounting and financial records related to any transaction for the purchase, delivery, invoicing, etc. of or for supplies, compounds, drugs, medical supplies, or medical equipment utilized in the execution of a death sentence are kept in a de-identified condition.

(I) This section shall be broadly construed by the courts of this State so as to give effect to the General Assembly's intent to ensure the absolute confidentiality of the identifying information of any person or entity directly or indirectly involved in the planning or execution of a death sentence within this State.

(J) The Department of Corrections shall comply with federal regulations regarding the importation of any execution drugs.

(K) A member of the General Assembly, a member's immediate family, or any business with which a member or the member's immediate family member has a controlling interest as an owner, director, officer, or majority shareholder that has voting rights regarding the business' financial decisions must not offer nor provide drugs, medical supplies, or medical equipment necessary to execute a death sentence.

Severability clause

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

Time effective

SECTION 3. This act takes effect upon approval by the Governor and applies to persons sentenced to death as provided by law prior to and after the effective date of this act.

Ratified the 11th day of May, 2023

Approved the 12th day of May, 2023

No. 17

(R53, H3908)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 8-11-151 SO AS TO DEFINE TERMS AND TO PROVIDE PAID PARENTAL LEAVE UPON A QUALIFYING EVENT FOR ELIGIBLE SCHOOL DISTRICT EMPLOYEES; AND BY ADDING SECTION 8-11-156 SO AS TO DEFINE TERMS AND TO PROVIDE PAID PARENTAL LEAVE UPON THE INITIAL PLACEMENT OF A CHILD BY ADOPTION FOR ELIGIBLE SCHOOL DISTRICT EMPLOYEES.

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

Paid parental leave for eligible school district employees, birth of child or placement of foster child

SECTION 1. Article 1, Chapter 11, Title 8 of the S.C. Code is amended by adding:

Section 8-11-151. (A) For the purposes of this section:

(1) "Child" means a newborn biological child or foster of a child in state custody and under the age of eighteen. No child can have more than two parents eligible for paid parental leave.

(2) "Eligible school district employee" means an employee defined by the Department of Education using the Professional Certified Staff system or any full-time equivalent position categorized as classified staff.

(3) "Paid parental leave", for the purpose of duration and percentage of base pay covered, has the same meaning as Section 8-11-150(3) for eligible school district employees.

(4) "Qualifying event" means the birth of a newborn biological child to an eligible school district employee or after a coparent's birth of a newborn child or fostering a child in state custody.

(B) Eligible school district employees who experience a qualifying

event are entitled to paid parental leave to the same extent available to employees of the State pursuant to Section 8-11-150.

(C) Paid parental leave usage includes the following:

(1) The entitlement to leave pursuant to subsection (B) expires at the end of the twelve-month period beginning on the date of such birth or initial legal placement. An eligible school district employee shall receive no more than one occurrence of paid parental leave for any twelve-month period, even if more than one qualifying event occurs. However, nothing in this item prohibits a foster parent from requesting and receiving approval for parental leave in nonconsecutive one-week time periods.

(2) If the leave is not used by the eligible school district employee before the end of the twelve-month period after the qualifying event, such leave does not accumulate for subsequent use. Paid parental leave may not be donated. Any leave remaining at the end of the twelve-month period or at separation of employment is forfeited.

(3) Days of paid parental leave taken under this section must be taken consecutively, except that foster parents may request and receive approval for parental leave in nonconsecutive one-week time periods.

(4) If both parents are eligible school district employees, paid parental leave may be taken concurrently, consecutively, or a different time as the other eligible school district employee.

(5) School district holidays and vacation on the district calendar must not be counted against paid parental leave. Where an employee's entitlement to leave under this section extends beyond their designated term of employment for their contractual term, a school district may enact policies to allow the affected employee to continue their period of leave in the subsequent contractual term, provided that the employee remains an eligible school district employee.

(6) Paid parental leave must run concurrently with leave taken pursuant to the Family Medical Leave Act and any other unpaid leave to which the eligible school district employee may be entitled as a result of the qualifying event. However, leave granted under this section is with pay and is not annual leave or sick leave and therefore does not deduct from the eligible school district employee's accrued leave balance. An eligible school district employee does not have to exhaust all other forms of leave before being eligible to take leave granted under this section. Eligible school district employees shall accrue annual and sick leave at the normal rate while on this leave, if applicable.

(7) The use of paid parental leave by an eligible school district employee shall not prevent the eligible school district employee from earning a STEP increase the following year.

(8) Paid parental leave is considered paid leave and the time must count toward the eligible school district employee's years of service.

(D) All paid parental leave benefits shall be funded by the eligible school district employee's school district.

(E) The State Board of Education shall promulgate regulations, guidance, and procedures to implement this section.

Paid parental leave for eligible school district employees, adoption

SECTION 2. Article 1, Chapter 11, Title 8 of the S.C. Code is amended by adding:

Section 8-11-156. (A) For the purposes of this section:

(1) "Child" means a child initially legally placed for adoption and under the age of eighteen. No child can have more than two parents eligible for paid parental leave.

(2) "Eligible school district employee" means an employee defined by the Department of Education using the Professional Certified Staff system or any full-time equivalent position categorized as classified staff.

(3) "Paid parental leave", for the purpose of duration and percentage of base pay covered, has the same meaning as Section 8-11-155(3) for eligible school district employees.

(B) Eligible school district employees are entitled to paid parental leave to the same extent as employees of the State pursuant to Section 8-11-155.

(C) Paid parental leave usage includes the following:

(1) The entitlement to leave pursuant to subsection (B) expires at the end of the twelve-month period beginning on the date of such birth or initial legal placement. An eligible school district employee shall receive no more than one occurrence of paid parental leave for any twelve-month period, even if more than one qualifying event occurs. However, nothing in this item prohibits a foster parent from requesting and receiving approval for parental leave in nonconsecutive one-week time periods.

(2) If the leave is not used by the eligible school district employee before the end of the twelve-month period after the qualifying event, such leave does not accumulate for subsequent use. Paid parental leave may not be donated. Any leave remaining at the end of the twelve-month period or at separation of employment is forfeited.

(3) Days of paid parental leave taken under this section must be taken consecutively, except that foster parents may request and receive

approval for parental leave in nonconsecutive one-week time periods.

(4) If both parents are eligible school district employees, paid parental leave may be taken concurrently, consecutively, or a different time as the other eligible school district employee.

(5) School district holidays and vacation on the district calendar must not be counted against paid parental leave. Where an employee's entitlement to leave under this section extends beyond their designated term of employment for their contractual term, a school district may enact policies to allow the affected employee to continue their period of leave in the subsequent contractual term, provided that the employee remains an eligible school district employee.

(6) Paid parental leave must run concurrently with leave taken pursuant to the Family Medical Leave Act and any other unpaid leave to which the eligible school district employee may be entitled as a result of the qualifying event. However, leave granted under this section is with pay and is not annual leave or sick leave and therefore does not deduct from the eligible school district employee's accrued leave balance. An eligible school district employee does not have to exhaust all other forms of leave before being eligible to take leave granted under this section. Eligible school district employees shall accrue annual and sick leave at the normal rate while on this leave, if applicable.

(7) The use of paid parental leave by an eligible school district employee shall not prevent the eligible school district employee from earning a STEP increase the following year.

(8) Paid parental leave is considered paid leave and the time must count toward the eligible school district employee's years of service.

(D) All paid parental leave benefits shall be funded by the eligible school district employee's school district.

(E) The State Board of Education shall promulgate regulations, guidance, and procedures to implement this section.

Time effective

SECTION 3. This act takes effect forty-five days after approval by the Governor.

Ratified the 11th day of May, 2023

Approved the 12th day of May, 2023

No. 18

(R23, S92)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 7-17-110 SO AS TO PROVIDE FOR THE EXTENSION OF AN ELECTION PROTEST FILING DEADLINE WHICH FALLS ON A LEGAL HOLIDAY.

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

Election protest deadlines

SECTION 1. Article 1, Chapter 17, Title 7 of the S.C. Code is amended by adding:

Section 7-17-110. If the deadline for filing an election protest provided in this chapter falls on a legal holiday, then the deadline extends to the next regular business day that is not a legal holiday. For purposes of this section, "next regular business day" means a day that is not a Saturday, Sunday, or legal holiday.

Time effective

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

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 19

(R26, S146)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTIONS 44-48-115 AND 44-48-180 SO AS TO PROVIDE FOR THE RIGHT TO CHALLENGE COMMITMENT TO THE SEXUALLY VIOLENT PREDATOR TREATMENT PROGRAM BASED ON INEFFECTIVE ASSISTANCE OF COUNSEL AND TO GIVE PRIORITY STATUS TO SEXUALLY VIOLENT PREDATOR CASES FOR PURPOSES OF SCHEDULING COURT PROCEEDINGS, RESPECTIVELY; BY AMENDING SECTIONS 44-48-30, 44-48-40, 44-48-50, 44-48-80, 44-48-90, 44-48-100, 44-48-110, 44-48-120, 44-48-130, 44-48-150, AND 44-48-160, ALL RELATING TO THE SEXUALLY VIOLENT PREDATOR ACT, SO AS TO ADD DEFINITIONS FOR "QUALIFIED EVALUATOR" AND "RESIDENT" AND CHANGE THE DEFINITION OF "LIKELY TO ENGAGE IN ACTS OF SEXUAL VIOLENCE", TO ESTABLISH EFFECTIVE DATES FOR THE GRANTING OF SUPERVISED REENTRY, TO REQUIRE MULTIDISCIPLINARY TEAMS TO DETERMINE WHETHER THERE IS PROBABLE CAUSE TO BELIEVE A PERSON IS A SEXUALLY VIOLENT PREDATOR, TO PROVIDE FOR THE USE OF COURT-APPOINTED QUALIFIED EVALUATORS AND TO ESTABLISH CERTAIN TIMELINES FOR EVALUATIONS, TO ALLOW FOR THE USE OF INDEPENDENT, QUALIFIED EVALUATORS IN CERTAIN CIRCUMSTANCES, TO REQUIRE COURTS TO CONDUCT A NONJURY HEARING BEFORE RELEASE OF A PERSON FOUND INCOMPETENT TO STAND TRIAL, TO ESTABLISH CERTAIN BENCHMARKS FOR ADDITIONAL REVIEWS OF MENTAL CONDITIONS, TO ESTABLISH CERTAIN REQUIREMENTS REGARDING EVALUATORS IN PROCEEDINGS ON PETITIONS FOR RELEASE, TO ALLOW ACCESS TO SEALED COURT RECORDS BY THE ATTORNEY GENERAL AND OTHER COUNSEL OF RECORD, TO MAKE CONFORMING CHANGES, AND FOR OTHER PURPOSES; AND BY AMENDING SECTION 24-21-32, RELATING TO REENTRY SUPERVISION, SO AS TO MAKE INMATES DETERMINED TO BE SEXUALLY VIOLENT PREDATORS INELIGIBLE FOR REENTRY SUPERVISION.

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

Definitions

SECTION 1. Section 44-48-30 of the S.C. Code is amended by adding:

(13) "Qualified evaluator" means an individual who has education, training, and experience in sex offender evaluations and who is:

(a) a licensed psychiatrist or psychologist; or

(b) a trainee of the Department of Mental Health Fellowship Program who is working under the supervision and license of a Department of Mental Health psychiatrist or psychologist and who is approved for exemption by the Department of Mental Health Fellowship Program.

(14) "Resident" means a person who has been committed as a sexually violent predator for the purposes of long-term control, care, and treatment.

Definition

SECTION 2. Section 44-48-30(9) of the S.C. Code is amended to read:

(9) "Likely to engage in acts of sexual violence" means that a person is predisposed to engage in acts of sexual violence and more probably than not will engage in acts of sexual violence to such a degree as to pose a menace to the health and safety of others.

Supervised reentry

SECTION 3. Section 44-48-40(B) of the S.C. Code is amended to read:

(B) If a person has been convicted of a sexually violent offense and the Board of Probation, Parole and Pardon Services or the Board of Juvenile Parole intends to grant the person a parole or the South Carolina Department of Corrections or the Board of Juvenile Parole intends to grant the person a conditional release or supervised reentry, then the parole, conditional release, or supervised reentry must be granted to be effective one hundred eighty days after the date of the order of parole, conditional release, or supervised reentry. The Board of Probation, Parole and Pardon Services, the Board of Juvenile Parole, or the South Carolina Department of Corrections immediately must send notice of the parole, conditional release, or supervised reentry of the person to the

multidisciplinary team, the victim, and the Attorney General. If the person is determined to be a sexually violent predator pursuant to this chapter, then the person is subject to the provisions of this chapter even though the person has been released on parole, conditional release, or supervised reentry. If at any time the person is determined to not be a sexually violent predator pursuant to this chapter, then the person shall be released pursuant to the order granting parole, or the order for conditional release or supervised reentry.

Multidisciplinary team

SECTION 4. Section 44-48-50 of the S.C. Code is amended to read:

Section 44-48-50. (A) The Director of the Department of Corrections must appoint a multidisciplinary team to review the records of each person referred to the team pursuant to Section 44-48-40. These records may include, but are not limited to, the person's criminal offense record, any relevant medical and psychological records, treatment records, victim's impact statement, and any disciplinary or other records formulated during confinement or supervision. The team, within thirty days of receiving notice as provided for in Section 44-48-40, must assess whether or not there is probable cause to believe the person satisfies the definition of a sexually violent predator. If it is determined that probable cause does exist, then the multidisciplinary team must forward a report of the assessment to the prosecutor's review committee and notify the victim. The assessment must be accompanied by all records relevant to the assessment. Membership of the team must include:

(1) a representative from the Department of Corrections;

(2) a representative from the Department of Probation, Parole and Pardon Services;

(3) a representative from the Department of Mental Health who is a trained, qualified mental health clinician with education, training, or experience in assessing, examining, or treating sex offenders;

(4) a retired judge appointed by the Chief Justice who is eligible for continued judicial service pursuant to Section 2-19-100; and

(5) an attorney with substantial experience in the practice of criminal defense law to be appointed by the Chief Justice to serve a term of one year.

(B) The Director of the Department of Corrections or his designee appointed pursuant to subsection (A)(1) shall be the chairman of the team.

Probable cause determination and evaluations

SECTION 5. Section 44-48-80(D) of the S.C. Code is amended to read:

(D) If the probable cause determination is made, then the court must direct that, upon completion of the criminal sentence, the person must be transferred to a local or regional detention facility pending the conclusion of the proceedings under this chapter. The court must further direct that the person be transported to an appropriate facility of the South Carolina Department of Mental Health for an evaluation as to whether the person is a sexually violent predator and must order the person to comply with all reasonable testing and assessments deemed necessary by a court-appointed qualified evaluator. The court-appointed qualified evaluator must complete the evaluation within ninety days after the Department of Mental Health provides written certification to the Attorney General's Office and the person's legal counsel that it has received all medical, psychological, criminal offense, and disciplinary records and reports concerning the person but not greater than one hundred eighty days after the probable cause order is filed. The court may grant one extension upon the request of the court-appointed qualified evaluator and a showing of extraordinary circumstances. After the evaluation by the court-appointed qualified evaluator, if the person or the Attorney General seeks an independent evaluation by an independent qualified evaluator, pursuant to Section 44-48-90(C), then that evaluation must be completed within ninety days after receipt of the report by the court-appointed qualified evaluator. The court may grant an extension upon the request of the independent qualified evaluator and a showing of extraordinary circumstances. Any qualified evaluator who will be submitted as an expert at either a hearing or trial must submit a written report available to both parties.

Trial proceedings

SECTION 6. Section 44-48-90(B) and (C) of the S.C. Code is amended to read:

(B) Within thirty days after the determination of probable cause by the court pursuant to Section 44-48-80, the person or the Attorney General may request, in writing, that the trial be before a jury. If no request is made, the trial must be before a judge in the county where the offense was committed within ninety days of the date the independent qualified evaluator requested by the person or Attorney General pursuant to

Section 44-48-90(C) issues a report as to whether the person is a sexually violent predator, pursuant to Section 44-48-80(D), or, if there is no term of court, the next available date thereafter, and the case shall be treated as a priority case. If neither party seeks an independent evaluation, then the trial must be before a judge, or a jury if a jury trial is requested, in the county where the offense was committed within ninety days of the date the court appointed qualified evaluator issues the report as to whether the person is a sexually violent predator, pursuant to Section 44-48-80(D), or, if there is no term of court, the next available date thereafter. The trial may be continued upon the request of either party and a showing of good cause, or by the court on its own motion in the due administration of justice, and only if the respondent will not be substantially prejudiced. The Attorney General must notify the victim, in a timely manner, of the time, date, and location of the trial. At all stages of the proceedings under this chapter, a person subject to this chapter is entitled to the assistance of counsel, and if the person is indigent, the court must appoint counsel designated by the Office of Indigent Defense to handle sexual predator cases to assist the person.

(C) If the court appointed qualified evaluator determines that the person is not a sexually violent predator, then the Attorney General, with notice to the person, may seek an independent evaluation pursuant to this section. If the court appointed qualified evaluator determines that the person is a sexually violent predator, then the person, with notice to the Attorney General, may seek an opinion by an independent qualified evaluator pursuant to this section. In the case of an indigent person who requests an independent qualified evaluator, the indigent person must file and serve upon the Attorney General and the Commission on Indigent Defense a motion requesting payment and costs. The Attorney General shall have ten days from the date of service to file a response to the motion. If the court determines that the services are necessary and the requested compensation for the independent qualified evaluator is reasonable, then the court must authorize, in a written order prior to any fees or expenses being incurred, the person’s attorney to obtain the services of an independent qualified evaluator to perform an evaluation or participate in the trial on the person's behalf and must authorize the payment from funds available to the Commission on Indigent Defense. All qualified evaluators are permitted to have reasonable access to the person for the purpose of the evaluation, as well as reasonable access to all relevant medical, psychological, criminal offense, and disciplinary records and reports. The court shall order the person to comply with any reasonable testing and assessments deemed necessary by the qualified evaluator for a thorough evaluation.

Persons incompetent to stand trial

SECTION 7. Section 44-48-100(B) of the S.C. Code is amended to read:

(B) If the person charged with a sexually violent offense has been found incompetent to stand trial and is about to be released and the person's commitment is sought pursuant to subsection (A), then the court first shall conduct a non-jury hearing, where it will hear evidence and determine whether the person committed the act or acts with which he is charged. The hearing on this issue must comply with all the procedures specified in this section. In addition, the rules of evidence applicable in criminal cases apply, and all constitutional rights available to defendants at criminal hearings, except the right not to be tried while incompetent and the right to a jury trial, apply. After hearing evidence on this issue, the court must make specific findings on whether the person committed the act or acts with which he is charged; the extent to which the person's incompetence or developmental disability affected the outcome of the hearing, including its effect on the person's ability to consult with and assist counsel and to testify on the person's own behalf; the extent to which the evidence could be reconstructed without the assistance of the person; and the strength of the prosecution's case. If, after the conclusion of the hearing on this issue, the court finds beyond a reasonable doubt that the person committed the act or acts with which he is charged, then the court must enter a final order, appealable by the person, on that issue, and may proceed to consider whether the person should be committed pursuant to this chapter.

Evaluation of mental condition and related proceedings

SECTION 8. Section 44-48-110 of the S.C. Code is amended to read:

Section 44-48-110. (A)(1) A resident committed pursuant to this chapter must have an evaluation of his mental condition performed by a Department of Mental Health-designated qualified evaluator within one year from the filing date of the initial commitment order. Thereafter, a Department of Mental Health-designated qualified evaluator will evaluate the resident's mental condition within one year after a pending review is resolved by a filed court order indicating:

(a) a finding of no probable cause;

(b) a waiver by the resident; or

(c) an order of continued commitment after a periodic review

trial.

(2) The designated qualified evaluator's report must be provided to the clerk of the court in the jurisdiction that committed the resident pursuant to this chapter, the Attorney General, the solicitor who prosecuted the resident, and the resident. The resident is entitled to the assistance of counsel, and if the person is indigent, the court must appoint counsel designated by the Office of Indigent Defense to handle sexual predator cases to assist the person.

(B) The resident may retain or, if the resident is indigent and so requests, the court may appoint a qualified evaluator to evaluate the resident, and the resident's qualified evaluator must have reasonable access to all medical, psychological, criminal offense, disciplinary, and treatment records and reports concerning the resident. In the case of an indigent resident who seeks to retain a qualified evaluator, the indigent resident must file and serve upon the Attorney General and the Commission on Indigent Defense a motion requesting payment and costs. The Attorney General shall have ten days from the date of service to file a response to the motion. If, after considering the number and dates of the resident's prior requests for funding, the court determines the resident's request is reasonable, then the court must approve all reasonable expenses associated with the evaluation.

(C) The Attorney General must serve upon the resident a copy of the annual report along with a notice of the right to request a hearing within sixty days of service. The resident must request a hearing in writing for the court to review the resident's status. If no request is made within sixty days of service, the resident's right to a hearing pursuant to this chapter is deemed waived.

(D) The Department of Mental Health must provide the resident with written notice of the resident's right to petition the court for release without the Department of Mental Health's authorization and a waiver of rights form, within one year of the last periodic review order or waiver of rights. The department must forward the designated qualified evaluator's report with the notice and waiver form to the clerk of court in the jurisdiction that committed the resident pursuant to this chapter, the Attorney General, and the solicitor who prosecuted the resident.

(E) The resident has a right to have an attorney represent him at the periodic review hearing, but the resident is not entitled to be present at the hearing. The resident may only be present at the hearing upon the issuance of a transport order received by the Department of Mental Health within not less than fifteen days of the hearing date. The Department of Mental Health-designated qualified evaluator will only be required to be present at the hearing if subpoenaed by the resident's

attorney or the Attorney General in accordance with the South Carolina Rules of Civil Procedure. The Department of Mental Health must accept service of subpoenas for the appearance of the Department of Mental Health-designated qualified evaluator at the periodic review hearing.

(F) If the court determines that probable cause exists to believe that the resident's mental abnormality or personality disorder has so changed that the resident is safe to be at large and, if released, is not likely to commit acts of sexual violence, the court must schedule a trial on the issue. At the trial, the resident is entitled to the benefit of all constitutional protections that were afforded the resident at the initial commitment proceeding. The Attorney General must notify the victim of all proceedings. The Attorney General must represent the State and has the right to have the resident evaluated by a qualified evaluator chosen by the State. The trial must be before a jury if requested in writing by either the resident, the Attorney General, or the solicitor. If no request is made, the trial must be before a judge in the county where the offense was committed. The resident also has the right to have a qualified evaluator evaluate the resident on the resident's behalf, and the court must appoint a qualified evaluator if the resident is indigent and requests the appointment. The burden of proof at the trial is upon the State to prove beyond a reasonable doubt that the resident's mental abnormality or personality disorder remains such that the resident is not safe to be at large and, if released, is likely to engage in acts of sexual violence.

Ineffective assistance of counsel

SECTION 9. Chapter 48, Title 44 of the S.C. Code is amended by adding:

Section 44-48-115. (A) A resident committed to the South Carolina Sexually Violent Predator Treatment Program shall have the right to challenge the commitment and subsequent periodic reviews based on the ineffective assistance of counsel during the resident's commitment trial or periodic review proceedings. The resident shall have the burden of proof to establish ineffective assistance of counsel in accordance with the applicable law.

(B) Petitions shall be filed in the original jurisdiction of the South Carolina Supreme Court under the South Carolina Appellate Court Rules within one hundred eighty days of the date that any appeals from the commitment or periodic review proceedings are final. Upon the receipt of the petition, the Clerk of Court of the Supreme Court shall issue an order designating a circuit court or appellate court judge as a referee to

make appropriate findings of fact and conclusions of law and shall report the findings and conclusions to the Supreme Court. The designated judge shall have the statewide authority to issue orders as necessary.

(C) Except as provided in this chapter, the South Carolina Rules of Civil Procedure and the South Carolina Rules of Evidence apply to cases filed pursuant to this section, in evidentiary hearings before the designated hearing judge.

(D) The named respondent shall be the Department of Mental Health. A copy of the petition shall be served on the Department of Mental Health and the South Carolina Attorney General's Office.

(E) Upon the filing of a petition alleging that the resident is indigent and desires appointed counsel, the designated judge shall appoint an attorney to represent the resident. Counsel shall be appointed from the contract attorney list of post-conviction counsel maintained by the South Carolina Commission on Indigent Defense, or such other list of attorneys as the Executive Director of the South Carolina Commission on Indigent Defense shall designate. If no attorney is available from this list, then the designated circuit court judge shall appoint an attorney from the Appointment of Lawyers for Indigents. The designated judge shall not appoint an attorney who previously represented the resident in any prior criminal proceedings underlying the commitment or state post-conviction relief proceedings or appeals from those proceedings, in the original sexually violent predator civil commitment proceeding or appeal from that proceeding, or in any previous or present periodic reviews or appeals therefrom.

(F) The designated judge shall authorize by court order to the particular county clerks of court the disclosure of any pleadings, evidence, transcripts, or other documents filed in any circuit court or appellate court clerk's office of this State in any case in which the resident was a defendant, respondent, or party to a criminal action or an action under the Sexually Violent Predator Act that was ordered sealed. These materials shall be unsealed for the limited purpose of providing items to the appointed counsel for the resident or the resident himself, if he elects to proceed pro se, and to the Department of Mental Health and its attorneys.

(G) Regardless of whether the resident indicates that he has served the Department of Mental Health, the Clerk of Court of the South Carolina Supreme Court shall forward the filed petition and all accompanying papers to the Department of Mental Health's Office of General Counsel, as the agent for the service of process for the Department of Mental Health, and a copy to the Attorney General's Office. The Department of Mental Health, through the Attorney General's Office acting as its

representative, shall file its responsive pleading within thirty days of the receipt of the order appointing counsel, or within thirty days of the receipt of the petition, if counsel is retained, or the receipt of the petition, if the resident is proceeding pro se without a request for counsel at the time of the filing.

(H) In the event that a habeas petition alleging ineffective assistance of counsel claims relating to the resident's commitment or periodic review is filed before the conclusion of the resident's appeal from such proceeding, the Clerk of the Supreme Court shall dismiss the petition without prejudice and without requiring a response from the Department of Mental Health.

(I) Within thirty days of an assignment, the designated judge shall issue a scheduling order, including a discovery schedule, and shall set a hearing within not more than one hundred eighty days from the filing of the petition. A final report to the Supreme Court shall be submitted within thirty days from the conclusion of the hearing, including findings of fact and conclusions of law supporting the designated judge's recommendation. This does not preclude the designated judge from recommending to the Supreme Court that the petition be denied on the basis of the pleadings without a hearing. The recommendation shall set forth the basis for dismissal.

(J) Upon receipt by the Supreme Court of the findings and conclusions of the designated judge, the Clerk of the Supreme Court may set forth an appropriate briefing schedule. The clerk may consider expediting the matter to determine whether the writ of habeas corpus should be granted and the appropriate relief. The court may also issue, as appropriate, orders relating to whether intervening and on-going statutory status review proceedings or appeals from the proceedings are affected in any manner by the habeas corpus actions in its original jurisdiction.

Petition for release

SECTION 10. Section 44-48-120 of the S.C. Code is amended to read:

Section 44-48-120. (A) If the Director of the Department of Mental Health determines that the resident's mental abnormality or personality disorder has so changed that the resident is safe to be at large and, if released, is not likely to commit acts of sexual violence, the director must certify such determination in writing with the specific basis thereof, authorize the resident to petition the court for release, and notify the Attorney General of the certification and authorization. Upon receipt of the certification and authorization, the resident or the Attorney General

may file a petition for release, which must be served upon the court and the Attorney General, or on opposing counsel if filed by the Attorney General. The Attorney General must notify the victim of the proceeding.

(B) The court, upon receipt of the petition for release filed pursuant to subsection (A), must order a hearing within thirty days unless the Attorney General, with notice to the resident, requests an evaluation by a qualified evaluator as to whether the resident's mental abnormality or personality disorder has so changed that the resident is safe to be at large and, if released, is not likely to commit acts of sexual violence, or the resident or the Attorney General requests a trial before a jury. The Attorney General must represent the State and has the right to have the resident examined by a qualified evaluator chosen by the State. If the Attorney General retains a qualified expert who concludes that the petitioner's mental abnormality or personality disorder remains such that the petitioner is not safe to be at large and, if released, is likely to commit acts of sexual violence, the petitioner may retain a qualified expert of his own choosing to perform a subsequent examination. In the case of an indigent petitioner who would request an independent qualified evaluator, the indigent petitioner must file and serve upon the Attorney General and the Commission on Indigent Defense a motion requesting payment and costs for the evaluator. If the court determines that the services are necessary and the requested compensation is reasonable, then the court must authorize, in written order prior to any fees or expenses being incurred, the petitioner's attorney to obtain the services of an independent qualified evaluator to perform an evaluation or participate in the trial on the petitioner's behalf and authorize the payment from funds available to the Commission on Indigent Defense. All qualified evaluators are permitted to have reasonable access to the resident for the purpose of the examination, as well as reasonable access to all relevant medical, psychological, criminal offense, and disciplinary records and reports, and the court shall order the resident to comply with any reasonable testing and assessments deemed necessary by a qualified evaluator. The burden of proof is upon the Attorney General to show beyond a reasonable doubt that the resident's mental abnormality or personality disorder remains such that the resident is not safe to be at large and, that if released, is likely to commit acts of sexual violence.

Grounds for denial of petition for release

SECTION 11. Section 44-48-130 of the S.C. Code is amended to read:

Section 44-48-130. Nothing in this chapter prohibits a resident from

filing a petition for release pursuant to this chapter. However, if a resident has previously filed a petition for release without the approval of the Director of the Department of Mental Health, and the court determined either upon review of the petition or following a hearing that the resident's petition was frivolous or that the resident's condition had not changed so that the resident continued to be a threat and, if released, would commit acts of sexual violence, the court must deny the subsequent petition unless the petition contains facts upon which a court could find the condition of the resident had so changed that a hearing was warranted. Upon receipt of a first or subsequent petition from a resident without the director's approval, the court must, whenever possible, review the petition and determine if the petition is based upon frivolous grounds and, if so, must deny the petition without a hearing.

Evidentiary records

SECTION 12. Section 44-48-150 of the S.C. Code is amended to read:

Section 44-48-150. Psychological reports, drug and alcohol reports, treatment records, reports of the diagnostic center, medical records, or victim impact statements which have been submitted to the court or admitted into evidence under this chapter must be part of the record, but must be sealed and opened only on order of the court. Nothing in this section prohibits the release of records to the Attorney General and the counsel of record for a person.

Registration requirements

SECTION 13. Section 44-48-160 of the S.C. Code is amended to read:

Section 44-48-160. A resident released from commitment pursuant to this chapter must register pursuant to and comply with the requirements of Article 7, Chapter 3 of Title 23.

Reentry supervision

SECTION 14. Section 24-21-32(C) of the S.C. Code is amended to read:

(C) The individual terms and conditions of reentry supervision shall be developed by the department using an evidence-based assessment of the inmate's needs and risks. An inmate placed on reentry supervision must be supervised by a probation agent of the department. The

department shall promulgate regulations for the terms and conditions of reentry supervision. Until such time as regulations are promulgated, the terms and conditions shall be based on guidelines developed by the director. However, if, under the Sexually Violent Predator Act, the multidisciplinary team finds probable cause to believe that an inmate is a sexually violent predator pursuant to Section 44-48-50, then the inmate is not eligible for the supervised reentry program until the resolution of the proceedings pursuant to the Sexually Violent Predator Act.

Priority hearing status

SECTION 15. Chapter 48 of Title 44 of the S.C. Code is amended by adding:

Section 44-48-180. All cases pursuant to this chapter shall be given priority status for the purposes of scheduling any hearings or trials.

Time effective

SECTION 16. This act takes effect upon approval by the Governor.

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 20

(R27, S164)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY RENAMING ARTICLE 3, CHAPTER 7, TITLE 44 AS THE "STATE HEALTH FACILITY LICENSURE ACT"; BY AMENDING SECTIONS 44-7-110, 44-7-120, 44-7-130, 44-7-150, AND 44-7-320, ALL RELATING TO THE REGULATION OF HEALTH CARE FACILITIES IN THE STATE, SO AS TO ELIMINATE REFERENCES TO CERTIFICATE OF NEED; BY AMENDING SECTION 44-7-160, RELATING TO CERTIFICATE OF NEED REQUIREMENTS, SO AS TO APPLY

ONLY TO NURSING HOMES; BY ADDING SECTION 44-7-161 SO AS TO PROVIDE THAT THE MEDICAL UNIVERSITY OF SOUTH CAROLINA MUST APPEAR BEFORE THE JOINT BOND REVIEW COMMITTEE AND OBTAIN APPROVAL FROM THE STATE FISCAL ACCOUNTABILITY AUTHORITY PRIOR TO TAKING CERTAIN ACTIONS; BY ESTABLISHING THE CERTIFICATE OF NEED STUDY COMMITTEE TO ASSESS HEALTH CARE IN RURAL SOUTH CAROLINA; BY ADDING SECTION 44-7-266 SO AS TO REQUIRE AMBULATORY SURGICAL FACILITIES TO PROVIDE UNCOMPENSATED INDIGENT CARE AND FOR OTHER PURPOSES; BY AMENDING SECTION 44-7-170, RELATING TO CERTIFICATE OF NEED EXEMPTIONS, SO AS TO MAKE CONFORMING CHANGES TO CERTAIN EXEMPTIONS; BY AMENDING SECTION 44-7-190, RELATING TO PROJECT REVIEW CRITERIA, SO AS TO REQUIRE THE PRIORITIZATION OF TIMELY ACCESS TO HEALTH CARE SERVICES; BY AMENDING SECTION 44-7-200, RELATING TO THE CERTIFICATE OF NEED APPLICATION PROCESS, SO AS TO CHANGE THE TIMELINE FOR THE APPLICATION PROCESS; AND BY AMENDING SECTIONS 44-7-210 AND 44-7-220, RELATING TO CERTIFICATE OF NEED ADMINISTRATIVE AND JUDICIAL PROCEEDINGS, SO AS TO SHORTEN CERTAIN TIME FRAMES OF THESE PROCEEDINGS AND ELIMINATE THE ROLE OF THE COURT OF APPEALS.

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

Citation

SECTION 1.A. (A) Article 3, Chapter 7, Title 44 of the S.C. Code is renamed the “State Health Facility Licensure Act”.

B. Section 44-7-110 of the S.C. Code is amended to read:

Section 44-7-110. This article may be cited as the “State Health Facility Licensure Act”.

Purpose

SECTION 2. Section 44-7-120 of the S.C. Code is amended to read:

Section 44-7-120. The purpose of this article is to ensure that high quality services are provided in health facilities in this State. To achieve these purposes, this article requires the licensure of facilities rendering medical, nursing, and other health care.

Definitions

SECTION 3. Section 44-7-130 of the S.C. Code is amended to read:

Section 44-7-130. As used in this article:

(1) "Affected person" means the applicant, a person residing within the geographic area served or to be served by the applicant, persons located in the health service area in which the project is to be located and who provide similar services to the proposed project, persons who before receipt by the department of the proposal being reviewed have formally indicated an intention to provide similar services in the future, persons who pay for health services in the health service area in which the project is to be located and who have notified the department of their interest in Certificate of Need applications, the State Consumer Advocate, and the State Ombudsman. Persons from another state who would otherwise be considered "affected persons" are not included unless that state provides for similar involvement of persons from South Carolina in its certificate of need process.

(2) "Ambulatory surgical facility" means a facility organized and administered for the purpose of performing surgical procedures for which patients are scheduled to arrive, receive surgery, and be discharged on the same day. The owner or operator makes the facility available to other providers who comprise an organized professional staff.

(3) "Birthing center" means a facility or other place where human births are planned to occur. This does not include the usual residence of the mother, any facility that is licensed as a hospital, or the private practice of a physician who attends the birth.

(4) "Board" means the State Board of Health and Environmental Control.

(5) "Children, adolescents, and young adults in need of mental health treatment in a residential treatment facility" means a child, adolescent, or young adult under age twenty-one who manifests a substantial disorder of cognitive or emotional process that lessens or impairs to a marked degree that child's, adolescent's, or young adult's capacity either to develop or to exercise age-appropriate or age-adequate behavior

including, but not limited to, marked disorders of mood or thought processes; severe difficulties with self-control and judgment, including behavior dangerous to himself or others; and serious disturbances in a child's, adolescent's, or young adult's ability to care for and relate to others.

(6) "Community residential care facility" means a facility which offers room and board and provides a degree of personal assistance for two or more persons eighteen years old or older.

(7) "Competing applicants" means two or more persons or health care facilities as defined in this article who apply for Certificates of Need to provide similar services or facilities in the same service area within a time frame as established by departmental regulations and whose applications, if approved, would exceed the need for services or facilities.

(8) "Crisis stabilization unit facility" means a facility, other than a health care facility, operated by the Department of Mental Health or operated in partnership with the Department of Mental Health that provides a short-term residential program, offering psychiatric stabilization services and brief, intensive crisis services to individuals eighteen and older, twenty-four hours a day, seven days a week.

(9) "Daycare facility for adults" means a facility for adults eighteen years or older that:

(a) offers in a group setting a program of individual and group activities and therapies;

(b) is directed toward providing community-based care for those in need of a supportive setting for less than twenty-four hours a day, in order to prevent unnecessary institutionalization; and

(c) provides a minimum of four and a maximum of fourteen hours of operation a day.

(10) "Department" means the Department of Health and Environmental Control.

(11) "Facility for chemically dependent or addicted persons" means a facility organized to provide outpatient or residential services to chemically dependent or addicted persons and their families based on an individual treatment plan including diagnostic treatment, individual and group counseling, family therapy, vocational and educational development counseling, and referral services.

(12) "Facility wherein abortions are performed" means a facility, other than a hospital, in which any second trimester or five or more first trimester abortions are performed in a month.

(13) "Freestanding emergency service" or "off-campus emergency service" means an extension of an existing hospital emergency

department that is intended to provide comprehensive emergency service but does not include a service that does not provide twenty-four hour, seven day per week operation or that is not capable of providing basic services as defined for hospital emergency departments. A service that does not qualify as a freestanding emergency service must not be classified as a freestanding emergency service and must not advertise, or display or exhibit any signs or symbols, that would identify the service as a freestanding emergency service.

(14) "Freestanding or mobile technology" means medical equipment owned or operated by a person other than a health care facility for which the total cost is in excess of that prescribed by regulation and for which specific standards or criteria are prescribed in the State Health Plan.

(15) "Health care facility" means, at a minimum, acute care hospitals, psychiatric hospitals, alcohol and substance abuse hospitals, nursing homes, ambulatory surgical facilities, hospice facilities, radiation therapy facilities, rehabilitation facilities, residential treatment facilities for children and adolescents, intermediate care facilities for persons with intellectual disability, or narcotic treatment programs.

(16) "Health service" means clinically related, diagnostic, treatment, or rehabilitative services and includes alcohol, drug abuse, and mental health services.

(17) "Hospital" means a facility that is organized and administered to provide overnight medical or surgical care or nursing care for an illness, injury, or infirmity and must provide on-campus emergency services; that may provide obstetrical care; and in which all diagnoses, treatment, or care is administered by or under the direction of persons currently licensed to practice medicine, surgery, or osteopathy.

"Hospital" may include a residential treatment facility for children, adolescents, or young adults in need of mental health treatment that is physically a part of a licensed psychiatric hospital. This definition does not include facilities that are licensed by the Department of Social Services. A residential treatment facility for children, adolescents, or young adults in need of mental health treatment that is physically part of a licensed psychiatric hospital is not required to provide on-campus emergency services.

(18) "Intermediate care facility for persons with intellectual disability" means a facility that serves four or more persons with intellectual disability or persons with related conditions and provides health or rehabilitative services on a regular basis to individuals whose mental and physical conditions require services including room, board, and active treatment for their intellectual disability or related conditions.

(19) "Like equipment with similar capabilities" means medical

equipment in which functional and technological capabilities are identical to the equipment to be replaced; and the replacement equipment is to be used for the same or similar diagnostic, therapeutic, or treatment purposes as currently in use; and does not constitute a material change in service or a new service.

(20) "Nursing home" means a facility with an organized nursing staff to maintain and operate organized facilities and services to accommodate two or more unrelated persons over a period exceeding twenty-four hours which is operated either in connection with a hospital or as a freestanding facility for the express or implied purpose of providing intermediate or skilled nursing care for persons who are not in need of hospital care.

(21) "Person" means an individual, a trust or estate, a partnership, a corporation including an association, joint stock company, insurance company, and a health maintenance organization, a health care facility, a state, a political subdivision, or an instrumentality including a municipal corporation of a state, or any legal entity recognized by the State.

(22) "Radiation therapy facility" means a person or a health care facility that provides or seeks to provide mega-voltage therapeutic services to patients through the use of high energy radiation.

(23) "Residential treatment facility for children and adolescents" means a facility operated for the assessment, diagnosis, treatment, and care of two or more "children and adolescents in need of mental health treatment" which provides:

(a) a special education program with a minimum program defined by the South Carolina Department of Education;

(b) recreational facilities with an organized youth development program; and

(c) residential treatment for a child or adolescent in need of mental health treatment.

(24) "Solely for research" means a service, procedure, or equipment which has not been approved by the Food and Drug Administration (FDA) but which is currently undergoing review by the FDA as an investigational device. FDA research protocol and any applicable Investigational Device Exemption (IDE) policies and regulations must be followed by a facility proposing a project "solely for research".

Duties, Department of Health and Environmental Control

SECTION 4. Section 44-7-150 of the S.C. Code is amended to read:

Section 44-7-150. (A) In carrying out the purposes of this article, the department shall:

(1) require reports and make inspections and investigations as considered necessary;

(2) to the extent that is necessary to effectuate the purposes of this article, enter into agreements with other departments, commissions, agencies, and institutions, public or private;

(3) adopt in accordance with Article I of the Administrative Procedures Act substantive and procedural regulations considered necessary by the department and approved by the board to carry out the department's licensure duties under this article;

(4) accept on behalf of the State and deposit with the State Treasurer, any grant, gift, or contribution made to assist in meeting the cost of carrying out the purpose of this article and expend it for that purpose; and

(5) promulgate regulations, in accordance with the Administrative Procedures Act, that establish fees as authorized by this article.

(B) Fee schedules authorized by Article 3, Chapter 7, Title 44 that are in effect as of January 1, 2023, shall remain in effect until further regulations are promulgated pursuant to Section 44-7-150(5), as amended by this act.

Licensing, grounds for sanctions

SECTION 5. Section 44-7-320 of the S.C. Code is amended to read:

Section 44-7-320. (A)(1) The department may deny, suspend, or revoke licenses or assess a monetary penalty, or both, against a person or facility for:

(a) violating a provision of this article or departmental regulations;

(b) engaging in conduct or practices detrimental to the health or safety of patients, residents, clients, or employees of a facility or service. This provision does not refer to health practices authorized by law;

(c) refusing to admit and treat alcoholic and substance abusers, the mentally ill, or persons with intellectual disability, whose admission or treatment has been prescribed by a physician who is a member of the facility's medical staff, or discriminating against alcoholics, the mentally ill, or persons with intellectual disability solely because of the alcoholism, mental illness, or intellectual disability; or

(d) failing to allow a team advocacy inspection of a community residential care facility by the South Carolina Protection and Advocacy

System for the Handicapped, Inc., as allowed by law.

(2) Consideration to deny, suspend, or revoke licenses or assess monetary penalties, or both, is not limited to information relating to the current licensing period but includes consideration of all pertinent information regarding the facility and the applicant.

(3) If in the department's judgment conditions or practices exist in a facility that pose an immediate threat to the health, safety, and welfare of the residents, the department immediately may suspend the facility's license and shall contact the appropriate agencies for placement of the residents. Within five calendar days of the suspension a preliminary hearing must be held to determine if the immediate threatening conditions or practices continue to exist. If they do not, the license must be immediately reinstated. Whether the license is reinstated or suspension remains due to the immediate threatening conditions or practices, the department may proceed with the process for permanent revocation pursuant to this section.

(B) Should the department determine to assess a penalty, deny, suspend, or revoke a license, it shall send to the appropriate person or facility, by certified mail, a notice setting forth the particular reasons for the determination. The determination becomes final thirty days after the mailing of the notice, unless the person or facility, within such thirty-day period, requests in writing a contested case hearing before the board, or its designee, pursuant to the Administrative Procedures Act. On the basis of the contested case hearing, the determination involved must be affirmed, modified, or set aside. Judicial review may be sought in accordance with the Administrative Procedures Act.

(C) The penalty imposed by the department for violation of this article or its regulations must be not less than one hundred nor more than five thousand dollars for each violation of any of the provisions of this article. Each day's violation is considered a subsequent offense.

(D) Failure to pay a penalty within thirty days is grounds for suspension, revocation, or denial of a renewal of a license. A license must not be issued, reissued, or renewed until all penalties finally assessed against a person or facility have been paid.

(E) All penalties collected pursuant to this article must be deposited in the state treasury and credited to the general fund of the State.

Certificate of Need requirements

SECTION 6. Section 44-7-160 of the S.C. Code is amended to read:

Section 44-7-160. (A) A person or nursing home as defined in this

article is required to obtain a Certificate of Need from the department before undertaking any of the following:

(1) the construction or other establishment of a new nursing home;

(2) a change in the existing bed complement of a nursing home through the addition of one or more beds or change in the classification of licensure of one or more beds;

(3) an expenditure by or on behalf of a nursing home in excess of an amount to be prescribed by regulation which, under generally acceptable accounting principles consistently applied, is considered a capital expenditure except those expenditures exempted in Section 44-7-170(B)(1). The cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the development, acquisition, improvement, expansion, or replacement of any plant or equipment must be included in determining if the expenditure exceeds the prescribed amount;

(4) a capital expenditure by or on behalf of a nursing home which is associated with the addition or substantial expansion of a health service for which specific standards or criteria are prescribed in the South Carolina Health Plan;

(5) the offering of a health service by or on behalf of a nursing home which has not been offered by the facility in the preceding twelve months and for which specific standards or criteria are prescribed in the South Carolina Health Plan;

(6) the acquisition of medical equipment by or on behalf of a nursing home which is to be used for diagnosis or treatment if the total project cost is in excess of that prescribed by regulation.

(B) A person or health care facility, as defined in this article, is required to obtain a Certificate of Need from the department before undertaking the following:

(1) the construction or other establishment of a hospital;

(2) a change in the existing bed complement of a hospital through the addition of one or more beds or change in the classification of licensure of one or more beds.

(C) Effective January 1, 2027, Section 44-7-160(B) is repealed.

Medical University of South Carolina

SECTION 7. Article 3, Chapter 7, Title 44 of the S.C. Code is amended by adding:

Section 44-7-161. (A) Notwithstanding any provision of law to the contrary and prior to obtaining a Certificate of Need or licensure

pursuant to this article for acquiring a hospital facility, the Medical University of South Carolina shall:

(1) submit details of the proposed acquisition for review and comment of the Joint Bond Review Committee;

(2) receive approval of proposed acquisition by the Fiscal Accountability Authority; and

(3) apply for a Certificate of Need or licensure.

(B) For purposes of this section:

(1) "Medical University of South Carolina" means the Medical University of South Carolina, the Medical University Hospital Authority, or any affiliate thereof.

(2) "Acquiring" means purchasing, leasing, acceptance of a gift, or otherwise, whether by obtaining options for the acquisition of existing hospital facilities, by new construction, or by the acquisition of any property, real or personal, improved or unimproved, including interests in land in fee or less than fee for any hospital facility.

Certificate of Need Study Committee

SECTION 8. (A) There is created the Certificate of Need study committee to examine the effect of the repeal of the Certificate of Need program on the quality and quantity of access to health care in rural portions of South Carolina. For the purposes of the study committee, "rural" means those areas considered "rural" by the United States Census Bureau, using factors including, but not limited to, population and population density.

(B)(1) The study committee shall be composed of six members to include three members of the Senate, as appointed by the President of the Senate, and three members of the House of Representatives, as appointed by the Speaker of the House of Representatives.

(2) The study committee shall meet as soon as practicable to organize and elect a cochairman from the Senate and the House of Representatives. The cochairmen shall be elected by a majority vote of the study committee members.

(3) The study committee shall consult with a nonvoting advisory board as needed. The nonvoting advisory board shall include one representative from the South Carolina Hospital Association, the South Carolina Medical Association, the Department of Health and Environmental Control, and the Department of Health and Human Services.

(C)(1) The study committee shall:

(a) examine the effect that the repeal of the Certificate of Need

program has on the quality and quantity of access to health care in rural portions of the State;

(b) prepare a report of its work and findings to the General Assembly that may include recommendations for action on any of the rural health care access measures studied. Recommendations may include legislative, regulatory, or policy changes to address any identified trends associated with the decrease in the quality and quantity of access to health care in the rural portions of the State. A recommendation for action shall be based upon a finding by a majority of the voting members that one or more measures would promote the quality and quantity of health care access to rural areas; and

(c) draft any recommended legislation.

(2) The study committee shall provide a report to the General Assembly of its findings and recommendations by January 1, 2024. The study committee shall dissolve upon providing its report to the General Assembly, or on January 1, 2024, whichever occurs first.

(D) The study committee may obtain data or other information it deems necessary from state agencies that is relevant to the purposes of the study committee, including from the Department of Health and Environmental Control, the Department of Health and Human Services, and the Department of Employment and Workforce. Agencies are required to respond promptly and provide requested information.

(E) The Senate Medical Affairs Committee and the House Medical, Military, Public and Municipal Committee shall provide staff for the study committee.

Uncompensated indigent care requirements, ambulatory surgical facilities

SECTION 9. Article 3, Chapter 7, Title 44 of the S.C. Code is amended by adding:

Section 44-7-266. (A) In order to be licensed by the department, a hospital is prohibited from using economic criteria unrelated to quality of care or professional competency in determining an individual's qualifications for initial or continuing hospital medical staff membership or privileges.

(B) The requirements of this section shall apply to new contracts or renewals of contracts entered into on or after the effective date of this section.

(C) In order to be licensed by the department, any ambulatory surgical facility established or constructed after the effective date of this section

and which does not require a Certificate of Need under this chapter, shall provide indigent/charity care in one of the amounts below after it has been in operation for two calendar years:

(1) if the ambulatory surgical facility provides care to Medicaid beneficiaries, it must provide uncompensated indigent/charity care to the underinsured or medically indigent in an amount equal to or greater than two percent of its adjusted gross revenue; or

(2) if the ambulatory surgical facility does not provide care to Medicaid beneficiaries, it must provide uncompensated indigent/charity care to the underinsured or medically indigent in an amount equal to or greater than three percent of its adjusted gross revenue.

(3) For purposes of this section, "medically indigent" is defined as in Section 44-6-5(5).

(4) An ambulatory surgical facility subject to this provision must provide annual reports to the department to demonstrate its compliance. Noncompliance of this provision shall result in a monetary penalty in the amount of the difference between the services which the facility is required to provide and the amount actually provided.

(D) The department shall promulgate regulations within one year of the effective date of this act setting forth the necessary duties to comply with this provision.

Certificate of Need exemptions

SECTION 10. Section 44-7-170 of the S.C. Code is amended to read:

Section 44-7-170. (A) The following are exempt from Certificate of Need review:

(1) the relocation of a licensed hospital in the same county in which the hospital is currently located, as long as:

(a) any Certificate of Need issued to the hospital for a project to be located at the hospital's existing location has been fulfilled, withdrawn, or has expired in accordance with Section 44-7-230 and the department's implementing regulations; and

(b) the proposed site of relocation is utilized in a manner that furthers health care delivery and innovation for the citizens of the State of South Carolina;

(2) the purchase, merger, or otherwise the acquisition of an existing hospital by another person or health care facility;

(3) crisis stabilization unit facilities. Notwithstanding subsection (C), crisis stabilization unit facilities will not require a written exemption from the department.

(B) This article does not apply to:

(1) construction of a new hospital with up to fifty beds in any county currently without a hospital;

(2) hospitals owned and operated by the South Carolina Department of Mental Health and the South Carolina Department of Disabilities and Special Needs, except an addition of one or more beds to the total number of beds of the departments' health care facilities existing on July 1, 1988;

(3) any federal hospital sponsored and operated by this State;

(4) hospitals owned and operated by the federal government.

(C) Before undertaking a project enumerated in subsection (A), a person shall obtain a written exemption from the department as may be more fully described in regulation.

Project review criteria

SECTION 11. Section 44-7-190 of the S.C. Code is amended by adding:

(C) Project review criteria must prioritize timely access to health care services and seek a balance between competition in the marketplace and regulation in the provision of health care and must support reasonable patient choice in health care facilities and services. The department shall promulgate regulations within one year of the effective date of this act identifying how the department will incorporate these considerations in reviewing Certificate of Need applications.

Certificate of Need application

SECTION 12. Section 44-7-200(D) of the S.C. Code is amended to read:

(D) After receipt of an application with proof of publication and payment of the initial application fee, the department shall publish in the State Register a notice that an application has been accepted for filing. Within fifteen days of acceptance of the application, the department may request additional information as may be necessary to complete the application. The applicant has fifteen days from the date of the request to submit the additional information. If the applicant fails to submit the requested information within the fifteen-day period, the application is considered withdrawn.

Certificate of Need application review process

SECTION 13. Section 44-7-210(A), (F), and (G) of the S.C. Code is amended to read:

Section 44-7-210. (A) After the department has determined that an application is complete, affected persons must be notified in accordance with departmental regulations. The notification to affected persons that the application is complete begins the review period; however, in the case of competing applications, the review period begins on the date of notice to affected persons that the last of the competing applications is complete and notice is published in the State Register. The staff shall issue its decision to approve or deny the application no earlier than thirty calendar days, but no later than ninety calendar days, from the date affected persons are notified that the application is complete, unless a public hearing is timely requested as may be provided for by department regulation. If a public hearing is properly requested, the staff's decision must not be made until after the public hearing, but in no event shall the decision be issued more than one hundred twenty calendar days from the date affected persons are notified that the application is complete. The staff may reorder the relative importance of the project review criteria no more than one time during the review period. The staff's reordering of the relative importance of the project review criteria does not extend the review period provided for in this section.

(F) Notwithstanding any other provision of law, including Section 1-23-650(C), in a contested case arising from the department's decision to grant or deny a Certificate of Need application, grant or deny a request for exemption under Section 44-7-170, or the issuance of a determination regarding the applicability of Section 44-7-160, the following apply:

(1) each party may name no more than five witnesses who may testify at the contested case hearing;

(2) each party is permitted to take only the deposition of a person listed by an opposing party as a witness who may testify at the contested case hearing and one Federal Rules of Civil Procedure Rule 30(b)(6) deposition;

(3) each party is permitted to serve only ten interrogatories pursuant to Rule 33 of the South Carolina Rules of Civil Procedure;

(4) each party is permitted to serve only ten requests for admission, including subparts;

(5) each party is permitted to serve only fifteen requests for production, including subparts; and

(6) the parties shall complete discovery within one hundred twenty days after the assignment of the administrative law judge.

(G) Notwithstanding any other provision of law, in a contested case arising from the department's decision to grant or deny a Certificate of Need application, grant or deny a request for exemption under Section 44-7-170, or the issuance of a determination regarding the applicability of Section 44-7-160, the Administrative Law Court shall file a final decision no later than twelve months after the contested case is filed with the Clerk of the Administrative Law Court. An affected person who was a party to the contested case has a right to appeal to the Supreme Court final decisions issued by the Administrative Law Court for a contested case arising from the department's decision to grant or deny a Certificate of Need application, grant or denial of a request for exemption under Section 44-7-170, or the issuance of a determination regarding the applicability of Section 44-7-160.

Judicial review

SECTION 14. Section 44-7-220 of the S.C. Code is amended to read:

Section 44-7-220. (A) A party who is aggrieved by the Administrative Law Court's final decision may seek judicial review of the final decision in accordance with Section 1-23-380.

(B)(1) If a party does not prevail in a contested case at the Administrative Law Court when requesting the reversal of the department's decision concerning a Certificate of Need application, when claiming an exemption under Section 44-7-170, or when claiming that the article is not applicable pursuant to Section 44-7-160, the Administrative Law Court shall award the party whose project is the subject of the appeal reasonable attorney's fees and costs incurred in the contested case.

(2) If a party does not prevail in an appeal to the Supreme Court when requesting the reversal of the Administrative Law Court's decision concerning a Certificate of Need application, when claiming an exemption under Section 44-7-170, or when claiming that the article is not applicable pursuant to Section 44-7-160, the Supreme Court shall award the party whose project is the subject of the contested case reasonable attorney's fees and costs incurred in the appeal.

(C) If the relief requested in the appeal is the reversal of the Administrative Law Court's decision to approve the Certificate of Need application or approve the request for exemption under Section 44-7-170 or approve the determination that Section 44-7-160 is not applicable, the

party filing the appeal shall deposit a bond with the Clerk of the Supreme Court within five calendar days after filing the petition to appeal. The bond must be secured by cash or a surety authorized to do business in this State in an amount equal to five percent of the total cost of the project or one hundred thousand dollars, whichever is greater, up to a maximum of one million five hundred thousand dollars. If the Supreme Court affirms the Administrative Law Court's decision or dismisses the appeal, the Supreme Court shall award to the party whose project is the subject of the appeal all of the bond. If a party appeals the denial of its own Certificate of Need application or of an exemption request under Section 44-7-170 or appeals the determination that Section 44-7-160 is applicable and there is no competing application involved in the appeal, the party filing the appeal is not required to deposit a bond with the Supreme Court.

(D)(1) If at the conclusion of the contested case or judicial review the Administrative Law Court or the Supreme Court finds that the contested case or a subsequent appeal was frivolous, the Administrative Law Court or the Supreme Court shall award damages incurred as a result of the delay, as well as reasonable attorney's fees and costs, to the party whose project is the subject of the contested case or judicial review.

(2) As used in this subsection, “frivolous appeal” means a reasonable person in the same circumstances would believe that:

(a) the contested case or subsequent appeal was clearly not warranted under existing law and that a good faith or reasonable argument did not exist for the extension, modification, or reversal of existing law;

(b) the procurement, initiation, or continuation of the contested case or subsequent appeal was intended merely to harass or injure the other party; or

(c) the contested case or subsequent appeal was not reasonably founded in fact or was interposed merely for delay or was merely brought for a purpose other than securing proper discovery or adjudication of the claim upon which the proceedings are based.

(3) This subsection must not be construed to prohibit any party from seeking sanctions pursuant to the South Carolina Frivolous Civil Proceedings Sanctions Act pursuant to Section 15-36-10, et. seq.

(E)(1) The court must not assess attorney’s fees or costs awarded against or to the department in any contested case or appeal involving a Certificate of Need application or an exemption request pursuant to Section 44-7-170 or a request for a determination as to the applicability of Section 44-7-160.

(2) This subsection must not be interpreted to abrogate the

contractual rights of any party concerning the recovery of attorney's fees or other monies in accordance with the provisions of any written contract between the parties to the action.

Severability

SECTION 15. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, then such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 16. This act takes effect upon approval by the Governor.

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 21

(R28, S256)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 59-63-85 SO AS TO PROVIDE PUBLIC SCHOOLS SHALL NOT PROHIBIT THE POSSESSION OR PERSONAL USE OF SUNSCREEN, AND TO DEFINE NECESSARY TERMS.

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

Sunscreen use in public schools, definitions

SECTION 1. Article 1, Chapter 63, Title 59 of the S.C. Code is amended by adding:

Section 59-63-85. (A) As used in this section:

(1) "School" means a public or charter school.

(2) "Sunscreen" means a topical, non-aerosol product regulated by the United States Food and Drug Administration for over-the-counter use for the purpose of limiting ultraviolet light-induced skin damage. Sunscreen does not include prescription medication.

(B) Public schools shall not prohibit the possession or personal use of sunscreen.

Time effective

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

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 22

(R29, S259)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 15-50-20, RELATING TO DEFINITIONS FOR PURPOSES OF THE STRUCTURED SETTLEMENT PROTECTION ACT, SO AS TO PROVIDE ADDITIONAL DEFINITIONS; BY ADDING SECTION 15-50-25 SO AS TO PROVIDE A LIST OF ACTS IN WHICH A STRUCTURED SETTLEMENT PURCHASE COMPANY CANNOT ENGAGE; BY AMENDING SECTION 15-50-30, RELATING TO DISCLOSURE STATEMENTS, SO AS TO ADD TO THE LIST OF ITEMS WHICH MUST BE DISCLOSED TO THE PAYEE BY THE STRUCTURED SETTLEMENT PURCHASE COMPANY; BY AMENDING SECTION 15-50-40, RELATING TO APPROVAL BY FINAL COURT ORDER, SO AS TO ADD FACTORS WHICH THE COURT MUST CONSIDER IN

DETERMINING IF THE TRANSFER OF THE STRUCTURED SETTLEMENT PAYMENT RIGHTS IS IN THE BEST INTEREST OF THE PAYEE; BY AMENDING SECTION 15-50-50, RELATING TO RIGHTS AND OBLIGATIONS OF A STRUCTURED SETTLEMENT OBLIGOR, ANNUITY ISSUER, AND TRANSFEREE, SO AS TO PROVIDE WHEN CERTAIN PARTIES WILL BE DISCHARGED FROM LIABILITY; BY AMENDING SECTION 15-50-60, RELATING TO THE NOTICE OF AN APPROVAL HEARING, SO AS TO PROVIDE THAT A HEARING MUST BE HELD IN THE CIRCUIT COURT IN A COUNTY IN WHICH THE PAYEE RESIDES, A HEARING MUST BE HELD IN THE COUNTY IN WHICH THE AGREEMENT WAS APPROVED IF THE PAYEE IS A NONRESIDENT OF THE STATE, AND FURTHER REQUIRE THAT THE PAYEE MUST ATTEND THE HEARING IN PERSON UNLESS GOOD CAUSE EXISTS TO EXCUSE THE IN-PERSON ATTENDANCE; BY AMENDING SECTION 15-50-70, RELATING TO THE SCOPE OF TRANSFER AGREEMENTS, SO AS TO MAKE CONFORMING CHANGES; BY ADDING SECTION 15-50-80 SO AS TO PROVIDE THAT THE COURT MAY APPOINT AN ATTORNEY TO SERVE AS A GUARDIAN AD LITEM TO ADVISE THE COURT IN CERTAIN CASES; BY ADDING SECTION 15-50-90 SO AS TO PROVIDE THAT A STRUCTURED SETTLEMENT PURCHASE COMPANY WHO WANTS TO DO BUSINESS IN THIS STATE MUST REGISTER WITH THE SECRETARY OF STATE; BY ADDING SECTION 15-50-100 SO AS TO PROVIDE THAT REGISTRATION IS VALID FOR ONE YEAR AND A RENEWED APPLICATION MUST BE FILED EVERY YEAR THEREAFTER; BY ADDING SECTION 15-50-110 SO AS TO PROVIDE THAT A STRUCTURED SETTLEMENT PURCHASE COMPANY MUST POST A BOND WITH THE SECRETARY OF STATE OR PAY A CASH BOND IN THE AMOUNT OF FIFTY THOUSAND DOLLARS; BY ADDING SECTION 15-50-120 SO AS TO PROVIDE THAT A STRUCTURED SETTLEMENT PURCHASE COMPANY MUST FILE A NOTICE OF JUDGMENT WITH THE SECRETARY OF STATE AND PROVIDE A COPY OF THE JUDGMENT SECURED AGAINST THE COMPANY; BY ADDING SECTION 15-50-130 SO AS TO PROVIDE THAT LIABILITY IS NOT AFFECTED BY A BREACH OF CONTRACT, BREACH OF WARRANTY, OR ANY OTHER ACT OR OMISSION OF THE BONDED STRUCTURED

SETTLEMENT PURCHASE COMPANY; BY ADDING SECTION 15-50-140 SO AS TO PROVIDE THAT THE SECRETARY OF STATE MUST RECEIVE WRITTEN NOTICE OF THE CANCELLATION OR MODIFICATION OF A SURETY BOND WITHIN TWENTY DAYS PRIOR TO THE CANCELLATION OR MODIFICATION; BY ADDING SECTION 15-50-150 SO AS TO PROVIDE THAT AN ASSIGNEE IS NOT REQUIRED TO REGISTER AS A STRUCTURED SETTLEMENT PURCHASE COMPANY TO ACQUIRE STRUCTURED SETTLEMENT PAYMENT RIGHTS; BY ADDING SECTION 15-50-160 SO AS TO PROVIDE THAT THE SECRETARY OF STATE MAY ASSESS AN ADMINISTRATIVE FINE IF A PERSON WHO IS REQUIRED TO REGISTER DOES NOT DO SO WITHIN FIFTEEN DAYS AFTER RECEIPT OF NOTICE TO REGISTER; AND BY ADDING SECTION 15-50-170 SO AS TO PROVIDE THAT A TRANSFER ORDER DOES NOT CONSTITUTE A QUALIFIED ORDER PURSUANT TO FEDERAL LAW IF THE TRANSFEREE IS NOT REGISTERED AS A STRUCTURED SETTLEMENT PURCHASE COMPANY PURSUANT TO THIS ACT AT THE TIME THE ORDER IS SIGNED.

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

Definitions

SECTION 1. Section 15-50-20 of the S.C. Code is amended to read:

Section 15-50-20. As used in this chapter:

(1) “Annuity issuer” means an insurer that has issued a contract to fund periodic payments under a structured settlement.

(2) “Assignee” means a person acquiring or proposing to acquire structured settlement payments from a structured settlement purchase company or transferee after, or concurrently with, the transfer of the structured settlement payment rights by the payee to the structured settlement purchase company or transferee.

(3) “Dependents” include a payee's spouse and minor children and all other persons for whom the payee legally is obligated to provide support, including alimony.

(4) “Discounted present value” means the present value of future payments determined by discounting the payments to the present using the most recently published applicable federal rate for determining the

present value of an annuity, as issued by the United States Internal Revenue Service.

(5) "Effective annual interest rate" means the effective rate of interest per year the payee will be paying the transferee based on the net advance amount that a payee will receive from the transferee and the amounts and timing of the structured settlement payments that the payee is transferring to the transferee.

(6) "Gross advance amount" means the sum payable to the payee or for the payee's account as consideration for a transfer of structured settlement payment rights before a reduction for transfer expenses or other deduction is made from the consideration.

(7) "Independent professional advice" means advice of an attorney, certified public accountant, actuary, or other licensed professional advisor.

(8) "Interested parties" means, with respect to a structured settlement, the payee, a beneficiary irrevocably designated under the annuity contract to receive payments following the payee's death, the annuity issuer, the structured settlement obligor, and any other party to the structured settlement that has continuing rights or obligations to receive or make payments under the structured settlement.

(9) "Net advance amount" means the gross advance amount less the aggregate amount of the actual and estimated transfer expenses that must be disclosed pursuant to Section 15-50-30(5).

(10) "Payee" means an individual who is receiving tax-free payments under a structured settlement and who proposes to make a transfer of payment rights under the settlement.

(11) "Periodic payments" includes recurring payments and scheduled future lump-sum payments.

(12) "Prospective payee" means an individual who is receiving tax-free payments under a structured settlement pursuant to United States Code, Title 26, Section 130, and who has been personally and individually solicited by and has not yet proposed to transfer all or a portion of the structured settlement payment rights to a structured settlement purchase company.

(13) "Qualified assignment agreement" means an agreement providing for a qualified assignment within the meaning of Section 130 of the United States Internal Revenue Code, United States Code Title 26.

(14) "Secretary" means the Secretary of State.

(15) "Settled claim" means the original tort claim resolved by a structured settlement.

(16) "Structured settlement" means an arrangement for periodic payment of damages for personal injuries or sickness established by

settlement or judgment in resolution of a tort claim. Notwithstanding another provision of law, a structured settlement is not a consumer loan or otherwise subject to Title 37.

(17) "Structured settlement agreement" means the agreement, judgment, stipulation, or release embodying the terms of a structured settlement.

(18) "Structured settlement obligor" means, with respect to a structured settlement, the party that has the continuing obligation to make periodic payments to the payee under a structured settlement agreement or a qualified assignment agreement.

(19) "Structured settlement payment rights" means rights to receive periodic payments under a structured settlement, whether from the structured settlement obligor or the annuity issuer, if the:

(a) payee is domiciled in, or the domicile or principal place of business of the structured settlement obligor or the annuity issuer is located in, this State; or

(b) structured settlement agreement was approved by a court in this State; or

(c) structured settlement agreement is governed expressly by the laws of this State.

(20) "Structured settlement purchase company" means a person who acts as a transferee in the State and who is registered with the Secretary pursuant to Section 15-50-80 through Section 15-50-150.

(21) "Structured settlement transfer proceeding" means a court proceeding initiated by the filing of an application by a structured settlement purchase company seeking court approval of a transfer in accordance with this chapter.

(22) "Terms of the structured settlement" include the terms of the structured settlement agreement, the annuity contract, a qualified assignment agreement, and an order or other approval of a court that approved a structured settlement agreement.

(23) "Transfer" means the sale, assignment, pledge, hypothecation, or other alienation or encumbrance of structured settlement payment rights made by a payee for consideration; except that the term "transfer" does not include the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution, in the absence of an action to redirect the structured settlement payments to the insured depository institution, or an agent or successor in interest of it, or otherwise to enforce the blanket security interest against the structured settlement payment rights.

(24) "Transfer agreement" means the agreement providing for a

transfer of structured settlement payment rights.

(25) "Transfer expenses" means all expenses of a transfer that are required under the transfer agreement to be paid by the payee or deducted from the gross advance amount including, without limitation, court filing fees, attorneys' fees, escrow fees, lien recordation fees, judgment and lien search fees, finder's fees, commissions, and other payments to a broker or other intermediary. "Transfer expenses" do not include preexisting obligations of the payee payable for the payee's account from the proceeds of a transfer.

(26) "Transfer order" means an order approving a transfer in accordance with this chapter.

(27) "Transferee" means a party acquiring or proposing to acquire structured settlement payment rights through a transfer.

Structured settlement purchase company prohibitions

SECTION 2. Chapter 50, Title 15 of the S.C. Code is amended by adding:

Section 15-50-25. (A) A transferee or structured settlement purchase company and an employee or other representative of a transferee or structured settlement purchase company must not engage in the following actions:

(1) pursue or complete a transfer with a payee without complying with all applicable provisions in this chapter;

(2) refuse or fail to fund a transfer after court approval of the transfer;

(3) acquire structured settlement payment rights from a payee without complying with all applicable provisions in this chapter, including obtaining court approval of the transfer;

(4) intentionally file a structured settlement transfer proceeding in any court other than the court specified in Section 15-50-60;

(5) except as otherwise provided in this chapter, pay a commission or finder's fee to any person for facilitating or arranging a structured settlement transfer with a payee. The provisions of this subsection do not prevent a structured settlement purchase company from paying:

(a) a commission or finder's fee to a person who is a structured settlement purchase company or is an employee of a structured settlement purchase company;

(b) to third parties, any routine transfer expenses including, without limitation, court filing fees, escrow fees, lien recordation fees, judgment and lien search fees, attorney's fees and other similar types of

fees relating to a transfer;

(6) intentionally advertise materially false or misleading information regarding its products or services;

(7) attempt to coerce, bribe, or intimidate a payee seeking to transfer structured settlement payment rights, including providing any gift, loan, extension of credit, advance, or other forms of consideration paid to or given to the payee as an inducement to enter a transfer agreement;

(8) attempt to defraud a payee or any party to a structured settlement transfer or any interested party in a structured settlement transfer proceeding by any means including, but not limited to, forgery or false identification;

(9) except as otherwise provided in this chapter, intervene in a pending structured settlement transfer proceeding if the transferee or structured settlement purchase company is not a party to the proceeding or an interested party relative to the proposed transfer which is the subject of the pending structured settlement transfer proceeding. The provisions of this chapter do not prevent a structured settlement purchase company from intervening in a pending structured settlement transfer proceeding if the payee has signed a transfer agreement with the structured settlement purchase company within sixty days before the filing of the pending structured settlement transfer proceeding and the structured settlement purchase company which filed the pending structured settlement transfer proceeding violated any provision of this chapter in connection with the proposed transfer that is the subject of the pending structured settlement transfer proceeding;

(10) except as otherwise provided in this chapter, knowingly contact a payee who has signed a transfer agreement and is pursuing a proposed transfer with another structured settlement purchase company for the purpose of inducing the payee into canceling the proposed transfer or transfer agreement with the other structured settlement purchase company if a structured settlement transfer proceeding has been filed by the other structured settlement purchase company and is pending. The provisions of this subsection do not apply if a hearing has not been held in the pending structured settlement transfer proceeding within ninety days after the filing of the pending structured settlement transfer proceeding;

(11) fail to dismiss a pending structured settlement transfer proceeding at the request of the payee. A dismissal of a structured settlement proceeding after a structured settlement purchase company has violated the provisions of this clause does not exempt the structured settlement purchase company from any liability under this section;

(12) solicit a prospective payee through the conveyance of a

document which resembles a check or other form of payment;

(13) provide a transfer agreement or related document that purports to give the transferee the first choice or option to purchase any remaining structured settlement payment rights belonging to the payee which are not subject to the structured settlement transfer proceeding; or

(14) communicate with a payee, a prospective payee, or a person associated with the payee:

(a) after the payee, a prospective payee, or a person associated with the payee has informed the structured settlement purchase company to cease further communication;

(b) at any unusual time, or at a time that the structured settlement purchase company knows is inconvenient to the consumer. In the absence of the structured settlement purchase company's knowledge of circumstances to the contrary, a time before 8:00 a.m. and after 9:00 p.m. local time at the consumer's location is inconvenient. This subsection will not apply to any payee, prospective payee, or person associated with the payee who has opted in and agreed to allow the structured settlement purchase company to contact the person when necessary; or

(c) repeatedly or continuously with intent to annoy, abuse, or harass a payee, prospective payee, or a person associated with the payee.

(B) A transferee or structured settlement purchase company and an employee or other representative of a transferee or structured settlement purchase company shall not instruct a payee to hire, or directly refer a payee or a prospective payee to seek independent professional advice from, a specific person, except that a structured settlement purchase company may refer a payee to a state or local referral service, bar association, legal aid, or any other entity unrelated to the structured settlement purchase company. A person rendering independent professional advice to a payee or prospective payee is not to be affected by whether a transfer occurs or does not occur and must not in any manner be affiliated with or compensated by the transferee or a structured settlement purchase company unless ordered by the court.

(C) A payee may file a motion in the court in which the structured settlement transfer proceeding is pending alleging a violation of subsection (A) and may pursue all rights and remedies to which the payee may be entitled under this chapter or any other applicable law.

(D) A structured settlement purchase company may file a motion in the court in which the structured settlement transfer proceeding is pending to enforce items in subsection (A) and may pursue all remedies to which the structured settlement purchase company may be entitled pursuant to this chapter or any other applicable law.

(E) If a court finds that a structured settlement purchase company or

transferee is in violation of this section, the court may:

(1) revoke the registration of the structured settlement purchase company;

(2) suspend the registration of the structured settlement purchase company for a period to be determined at the discretion of the court; and

(3) enjoin the structured settlement purchase company or transferee from filing new structured settlement transfer proceedings in this State or otherwise pursuing transfers in this State.

Transfer agreements, disclosures to payees

SECTION 3. Section 15-50-30 of the S.C. Code is amended to read:

Section 15-50-30. Not less than ten days before the date on which a payee signs a transfer agreement, the transferee shall provide to the payee a separate disclosure statement, in bold type no smaller than fourteen points, including:

(1) amounts and due dates of the structured settlement payments being transferred;

(2) aggregate amount of the payments;

(3) discounted present value of the payments being transferred, which must be identified as the "calculation of current value of the transferred structured settlement payments under federal standards for valuing annuities", and the amount of the applicable federal rate used in calculating the discounted present value;

(4) gross advance amount;

(5) itemized listing of all applicable transfer expenses, other than attorney's fees and related disbursements payable in connection with the transferee's application for approval of the transfer, and the transferee's best estimate of the amount of the fees and disbursements;

(6) the effective annual interest rate, which must be disclosed in a statement in the following form: "On the basis of the net amount that you will receive from us and the amounts and timing of the structured settlement payments that you are transferring to us, you will, in effect be paying interest to us at a rate of ___ percent per year.";

(7) net advance amount;

(8) amount of penalties or liquidated damages payable by the payee if the payee breaches the transfer agreement;

(9) a statement that the payee has the right to cancel the transfer agreement, without penalty or further obligation, not later than the third business day after the date the agreement is signed by the payee;

(10) that the payee has the right to seek and receive independent

professional advice regarding the proposed transfer and should consider doing so before agreeing to the transfer of any structured settlement payment rights. The notice must also contain: "It is prohibited for us to refer you to a specific independent professional adviser. We may refer you to a state or local referral service, bar association, legal aid, or any other entity unrelated to us which assists people with locating independent professional advice, if requested"; and

(11) that the payee has the right to seek out and consider additional offers for transferring the structured settlement payment rights and should do so.

Transfer agreements, approval by final court order

SECTION 4. Section 15-50-40 of the S.C. Code is amended to read:

Section 15-50-40. (A) A direct or indirect transfer of structured settlement payment rights is not effective and a structured settlement obligor or annuity issuer is not required to make a payment directly or indirectly to a transferee of structured settlement payment rights unless the transfer has been approved in advance in a final court order based on express findings by the court that the:

(1) transfer is in the best interest of the payee;

(2) payee has been advised in writing by the transferee to seek independent professional advice regarding the legal, tax, and financial implications of the transfer and has knowingly and in writing waived receipt of that advice; and

(3) transfer does not contravene an applicable statute or the order of any court or other government authority.

(B) In determining whether a proposed transfer is in the best interest of the payee pursuant to subsection (A)(1), the courts must take into consideration the welfare and support of the payee and the payee's dependents, if any. The court must also consider:

(1) the reasonable preference of the payee, in light of the payee's age, mental capacity, maturity level, understanding of the terms of the agreement, and stated purpose for the transfer;

(2) if the periodic payments were intended to cover future income or losses or future medical expenses, whether the payee has means of support aside from the structured settlement to meet these obligations;

(3) whether the payee can meet the financial needs of, and obligations to, the payee's dependents if the transfer is allowed to proceed, including child support and spousal maintenance;

(4) whether the payee completed previous transactions involving

the payee's structured settlement payment rights, and the timing, amount, stated purpose, and actual use of the proceeds;

(5) the impact of the proposed transfer on current or future eligibility of the payee or the payee's dependents for public benefits; and

(6) any other factors or facts the court determines to be relevant.

(C) No direct or indirect transfer of a payee's structured settlement payment rights by a payee's conservator, if a conservator has been appointed, shall be effective and no structured settlement obligor or annuity issuer shall be required to make a payment directly or indirectly to a transferee or assignee of structured settlement payment rights unless, in addition to the findings required under this section, the court also finds that the proceeds of the proposed transfer would be applied solely for the benefit of the payee.

(D) No direct or indirect transfer of a minor's structured settlement payment rights by a parent, conservator, or guardian shall be effective and no structured settlement obligor or annuity issuer shall be required to make a payment directly or indirectly to a transferee or assignee of structured settlement payment rights unless, in addition to the findings required under this section, the court also finds that:

(1) the proceeds of the proposed transfer would be applied solely for support, care, education, health, and welfare of the minor payee; and

(2) any excess proceeds would be preserved for the future support, care, education, health, and welfare of the minor payee and transferred to the minor payee upon emancipation.

(E) The final court order must expressly state that the best interest factors enumerated in subsection (B) have been considered, and if the court approves the transfer of payment rights, the order must state that the court finds that it is in the best interest of the payee to approve the transfer.

Rights and obligations of obligors, discharge of liability

SECTION 5. Section 15-50-50 of the S.C. Code is amended to read:

Section 15-50-50. Following a transfer of structured settlement payment rights pursuant to this chapter:

(1) the structured settlement obligor and the annuity issuer may rely on the court order approving the transfer in redirecting periodic payments to an assignee or transferee in accordance with the order approving the transfer and shall, as to all parties except the transferee or an assignee designated by the transferee, be discharged and released from liability for the redirected payments. Such discharge and release

shall not be affected by the failure of any party to the transfer to comply with this chapter or with the court order approving the transfer;

(2) the transferee is liable to the structured settlement obligor and the annuity issuer:

(a) for taxes incurred by the parties as a consequence of the transfer if the transfer contravenes the terms of the structured settlement; and

(b) for other liabilities or costs, including reasonable costs and attorney's fees, arising from compliance by the parties with the requirements of this chapter, with the order of the court, or for costs arising as a consequence of the transferee's failure to comply with this chapter;

(3) neither the annuity issuer nor the structured settlement obligor is required to divide a periodic payment between the payee and any transferee or assignee or between two or more transferees or assignees; and

(4) any further transfer of structured settlement payment rights by the payee may be made only after compliance with all the requirements of this chapter.

Notice of an approval hearing

SECTION 6. Section 15-50-60 of the S.C. Code is amended to read:

Section 15-50-60. (A) An application pursuant to this chapter for approval of a transfer of structured settlement payment rights may be made by the transferee and must be brought in the circuit court in the county in which the payee resides. If the payee is not a resident of this State the application must be brought in the circuit court in the county in which the structured settlement agreement was approved.

(B) For applications made on or after January 1, 2024, for the approval of a transfer of structured settlement payment rights pursuant to this chapter, the application of the transferee must include evidence that the transferee is registered to do business in this State as a structured settlement purchase company.

(C) A timely hearing must be held on an application for approval of a transfer of structured settlement payment rights. The payee must appear in person at the hearing unless the court determines that good cause exists to excuse the payee from appearing in person.

(D) Not less than twenty days before the scheduled hearing on an application for approval of a transfer of structured settlement payment rights pursuant to Section 15-50-40, the transferee must file with the court and serve on all interested parties a notice of the proposed transfer

and the application for its authorization. The notice must include:

(1) a copy of the transferee's application;

(2) a copy of the transfer agreement;

(3) a copy of the disclosure statement required pursuant to Section 15-50-30;

(4) the payee’s name, age, and county of domicile;

(5) a listing of each of the payee's dependents, and each dependent's age;

(6)(a) any prior transfers by the payee to the transferee or an affiliate, or through the transferee or an affiliate to an assignee which were approved; (b) any proposed transfers by the payee to the transferee or an affiliate, or through the transferee or an affiliate; (c) and any applications for approval made by the transferee or an affiliate, or through the transferee or an affiliate to an assignee, which were denied;

(7) a sworn affidavit from the transferee listing any prior transfers by the payee that includes the details of the reasonable measures taken to search for and identify prior transfers to any person or entity other than the transferee or an affiliate or an assignee of the transferee and any prior proposed transfer applications by the payee to any person or entity other than the transferee or an affiliate or an assignee of a transferee or affiliate which were denied;

(8) an affidavit from the payee disclosing all prior transfers by the payee to any person or entity;

(9) notification that an interested party may support, oppose, or otherwise respond to the transferee's application, in person or by counsel, by submitting written comments to the court, or by participating in the hearing; and

(10) notification of the time and place of the hearing and notification of the manner and the time for filing written responses to the application, which must be not less than fifteen days after service of the transferee's notice, for consideration by the court.

(E) If the payee cancels a transfer agreement or if the transfer agreement otherwise terminates, after an application for approval of a transfer of structured settlement payment rights has been filed and before it has been granted or denied, the transferee must promptly request the dismissal of the application.

Scope of transfer agreements, conforming changes

SECTION 7. Section 15-50-70 of the S.C. Code is amended to read:

Section 15-50-70. (A) The provisions of this chapter may not be

waived by a payee.

(B) A transfer agreement entered into by a payee who resides in this State must provide that disputes under the transfer agreement, including a claim that the payee has breached the agreement, must be determined pursuant to the laws of this State. A transfer agreement shall not authorize the transferee or another party to confess judgment or consent to entry of judgment against the payee.

(C) Transfer of structured settlement payment rights do not extend to payments that are life-contingent unless, before the date on which the payee signs the transfer agreement, the transferee has established and has agreed to maintain procedures reasonably satisfactory to the annuity issuer and the structured settlement obligor for:

(1) periodically confirming the payee's survival; and

(2) giving the annuity issuer and the structured settlement obligor prompt written notice if the payee dies.

(D) A payee who proposes to make a transfer of structured settlement payment rights does not incur any penalty, forfeit any application fee or other payment, or otherwise incur a liability to the proposed transferee or an assignee based on a failure of the transfer to satisfy the conditions of this chapter.

(E) This chapter does not authorize a transfer of structured settlement payment rights in contravention of law.

(F) Compliance with the requirements of Section 15-50-30 and fulfillment of the conditions in Section 15-50-40 are the sole responsibility of the transferee in a transfer of structured settlement payment rights, and neither the structured settlement obligor nor the annuity issuer bears responsibility for, or liability arising from, noncompliance with the requirements or failure to fulfill the conditions.

Attorney guardian ad litems to advise the court

SECTION 8. Chapter 50, Title 15 of the S.C. Code is amended by adding:

Section 15-50-80. (A) The court may appoint an attorney to serve as a guardian ad litem to make an independent assessment, and to advise the court whether the proposed transfer is in the best interest of the payee, taking into consideration the factors enumerated in Section 15-50-40(B). The guardian ad litem may consult with a certified public accountant, actuary, or other licensed professional for independent professional advice, if necessary. All costs and reasonable fees for the guardian shall be borne by the transferee in an amount determined by the court.

(B) The court must appoint an attorney to serve as a guardian ad litem in any case involving:

(1) a proposed transfer of a minor's structured settlement payment rights by a conservator or by a parent or guardian if a conservator has not been appointed. The guardian ad litem must advise the court on whether the proposed transfer is of direct benefit to the minor; or

(2) a proposed transfer of structured settlement payment rights involving a payee who appears to the court to suffer from a mental or cognitive impairment.

(C) The transferee must file a motion for the appointment of an attorney to serve as a guardian ad litem prior to a hearing on the proposed transfer if the transferee is aware that:

(1) the underlying structured settlement arose from a case in which a finding was made in a court record of a mental or cognitive impairment on the part of the payee;

(2) a conservator or guardian has been appointed for the payee; or

(3) a finding has been made in a court record, other than that of the underlying structured settlement case, of a mental or cognitive impairment on the part of the payee.

(D) In conjunction with the motion filed pursuant to subsection (C), the transferee shall provide to the court, either in-camera or as directed by the court in a way to protect the privacy of the payee, any such findings known to the transferee that describe the nature, extent, or consequences of the payee's mental or cognitive impairment.

(E) An attorney appointed to serve as a guardian ad litem by the court must report to the court the guardian ad litem’s assessment and advice at a time determined by the court.

(F) Nothing in this section affects the rights and protections of persons subject to guardianship or conservatorship under the laws of this State.

Structured settlement purchase companies to register with the Secretary of State

SECTION 9. Chapter 50, Title 15 of the S.C. Code is amended by adding:

Section 15-50-90. A person shall not act as a transferee, attempt to acquire structured settlement payment rights through a transfer from a payee who resides in this State, or file a structured settlement transfer proceeding unless the person is registered with the Secretary to do business in this State as a structured settlement purchase company.

Registration valid for one year

SECTION 10. Chapter 50, Title 15 of the S.C. Code is amended by adding:

Section 15-50-100. A person may apply with the Secretary for registration to do business in this State as a structured settlement purchase company. An application for an initial or renewed registration must be submitted on a form prescribed by the Secretary. An initial or renewed registration is valid for one year from the date it is issued and shall expire one year after the date it was issued. The registration may be renewed annually by the registrant on or before the expiration date. If a structured settlement purchase company fails to file with the Secretary a renewal application on or before the expiration date, then it will be required to file another initial application with the Secretary and pay the application fee for an initial application pursuant to this chapter.

Registration applications, bond

SECTION 11. Chapter 50, Title 15 of the S.C. Code is amended by adding:

Section 15-50-110. (A) Each initial or renewal application must contain a sworn certification by an owner, officer, director, or manager of the applicant, if the applicant is not a natural person, or by the applicant, if the applicant is a natural person, certifying that:

(1) the applicant has secured a surety bond payable to the State or has posted a cash bond in the amount of fifty thousand dollars. The bond must be in a form satisfactory to the Secretary and must run to the State for the benefit of any payee claimant to secure the faithful performance of the obligation of the structured settlement purchase company under the law; and

(2) the applicant must comply with this chapter when acting as a structured settlement purchase company and filing structured settlement transfer proceedings.

(B) The surety bond or cash bond is payable to the State of South Carolina.

(C) The surety bond or cash bond is effective concurrently with the applicant’s registration with the Secretary and remains in effect for not less than three years after expiration or termination of that registration. The bond must be renewed each year when the registration of the applicant is renewed.

(D) The applicant must submit to the Secretary a copy of the surety bond or cash bond with its initial or renewal application.

(E) The surety bond or cash bond is intended to ensure that the structured settlement purchase company will comply with the provisions of this chapter relative to the payee and perform its obligations to the payee under this chapter, and to provide a source for recovery for the payee should a payee recover a judgment against a structured settlement purchase company for a violation of this chapter.

(F) An applicant must remit to the Secretary a fee of one thousand two hundred and fifty dollars for an initial registration and two hundred dollars for a renewed registration. This fee must be retained by the Secretary to offset the costs of processing and maintaining the registration of structured settlement purchase companies required by the chapter.

Notice of judgments required to be filed

SECTION 12. Chapter 50, Title 15 of the S.C. Code is amended by adding:

Section 15-50-120. Within ten days after a judgment is secured against a structured settlement purchase company by a payee, the structured settlement purchase company must file a notice with the Secretary and the surety providing a copy of the judgment and the name and address of the judgment creditor; and include the status of the matter, including whether the judgment will be appealed, or has been paid or satisfied.

Exclusions for breaches or omissions

SECTION 13. Chapter 50, Title 15 of the S.C. Code is amended by adding:

Section 15-50-130. The liability of the surety under the bond is not affected by any breach of contract, breach of warranty, failure to pay a premium or other act or omission of the bonded structured settlement purchase company, or by any insolvency or bankruptcy of the structured settlement purchase company.

Notice of modification or cancellation of bond

SECTION 14. Chapter 50, Title 15 of the S.C. Code is amended by

adding:

Section 15-50-140. (A) Neither the bonded structured settlement purchase company nor the surety shall cancel or modify the bond during the term for which it is issued, except with written notice to the Secretary at least twenty days prior to the effective date of such cancellation or modification.

(B) In the event of a cancellation of the bond, the registration of the structured settlement purchase company automatically expires unless a new surety bond, or cash bond, which complies with this chapter, is filed with the Secretary. The cancellation or modification of a bond does not affect any liability of the bonded surety company incurred before the cancellation or modification of the bond.

Assignees not required to register

SECTION 15. Chapter 50, Title 15 of the S.C. Code is amended by adding:

Section 15-50-150. (A) An assignee is not required to register as a structured settlement purchase company to acquire structured settlement payment rights or to take a security interest in structured settlement payment rights that were transferred by the payee to a structured settlement purchase company.

(B) An employee of a structured settlement purchase company, if acting on behalf of the structured settlement purchase company in connection with a transfer, is not required to register with the Secretary as provided under this chapter.

Fines for failure to register before the deadline

SECTION 16. Chapter 50, Title 15 of the S.C. Code is amended by adding:

Section 15-50-160. (A) If a person fails to file with the Secretary an application for registration as a structured settlement purchase company as required by this chapter, the Secretary must notify the person of this delinquency by mailing a notice by certified mail, with return receipt requested, to the person’s last known address. If the required registration application is not filed within fifteen days after the receipt of the notice, the Secretary may assess an administrative fine of ten thousand dollars against the person.

(B) If the person does not claim a notice sent by certified mail, or the notice is returned to the Secretary by the United States Postal Service as undeliverable, then the Secretary shall serve the notice upon the person as provided by law.

(C) A registration application required to be filed with the Secretary pursuant to this chapter which contains false or misleading statements, or which is incomplete, may be rejected by the Secretary and returned to the submitting party without being filed.

(D) A person who is assessed an administrative fine or who is denied registration has thirty days from receipt of certified notice or formal service of the notice from the Secretary to pay the fine or request an evidentiary hearing before the administrative law court. If a person fails to remit fines or request a hearing after the required notice is given and after thirty days from the date of receipt of certified notice or service of the notice has elapsed, then the Secretary may bring an action before the administrative law court to enjoin the person from engaging in further activities related to the purchase or transfer of structured settlements in this State. The decision of the Administrative Law Court may be appealed as provided in Section 1-23-610.

(E) Any administrative fine revenue received pursuant to this chapter in a fiscal year may be retained by the Secretary to offset the expenses of enforcing this chapter.

Transfer orders, applicability to federal law

SECTION 17. Chapter 50, Title 15 of the S.C. Code is amended by adding:

Section 15-50-170. Except as otherwise provided, a transfer order signed by a court of competent jurisdiction pursuant to this act constitutes a qualified order under 26 U.S.C. Section 5891. If a transferee to which the transfer order applies is not registered as a structured settlement purchase company pursuant to this act at the time the transfer order is signed, the transfer order does not constitute a qualified order under 26 U.S.C. Section 5891.

Savings clause

SECTION 18. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under

the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Severability clause

SECTION 19. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 20. SECTION 9 through SECTION 16 take effect on January 1, 2024. All other SECTIONS take effect on July 1, 2023, and apply to applications filed on or after the effective date.

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 23

(R30, S342)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 63-1-40, RELATING TO CHILDREN'S CODE DEFINITIONS, SO AS TO RESTATE THE EXISTING DEFINITIONS; AND BY ADDING SECTION 63-1-45 SO AS TO DEFINE "UNACCOMPANIED HOMELESS YOUTH", "HOMELESS CHILD OR YOUTH", AND "YOUTH AT RISK OF HOMELESSNESS".

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

Definitions, Children's Code

SECTION 1. Section 63-1-40 of the S.C. Code is amended to read:

Section 63-1-40. When used in this title and unless otherwise defined or the specific context indicates otherwise:

(1) "Child" means a person under the age of eighteen.

(2) "Court" means the family court.

(3) "Guardian" means a person who legally has the care and management of a child.

(4) "Judge" means the judge of the family court.

(5) "Parent" means biological parent, adoptive parents, step-parent, or person with legal custody.

(6) "Status offense" means any offense which would not be a misdemeanor or felony if committed by an adult, such as, but not limited to, incorrigibility (beyond the control of parents), truancy, running away, playing or loitering in a billiard room, playing a pinball machine or gaining admission to a theater by false identification.

(7) "Child caring facility" means a campus with one or more staffed residences and with a total population of twenty or more children who are in care apart from their parents, relatives, or guardians on a continuing full-time basis for protection and guidance.

(8) "Foster home" means a household of one or more persons who are licensed or approved to provide full-time care for one to five children living apart from their parents or guardians.

(9) "Residential group care home" means a staffed residence with a population fewer than twenty children who are in care apart from their parents, relatives, or guardians on a full-time basis.

Definitions, homeless children and youth

SECTION 2. Chapter 1, Title 63 of the S.C. Code is amended by adding:

Section 63-1-45. For purposes of developing an accurate statewide count of homeless children and youth in this State, the following statewide definitions shall be used:

(1) "Unaccompanied homeless youth" means an unaccompanied individual twenty-four years of age or younger who is not in the physical custody of a parent or guardian and lacks a fixed, regular, and adequate nighttime residence and includes:

(a) children and youth who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals;

(b) children and youth who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, such as a car, a park, public spaces, an abandoned building, a bus or train station, or similar settings; or

(c) children and youth who live in a supervised publicly or privately owned shelter designated to provide temporary living arrangements or in a transitional housing program or other time-limited housing.

"Unaccompanied homeless youth" does not include any individual imprisoned or otherwise detained pursuant to a federal or state law except when a youth is exiting an institution having resided there for ninety days or fewer and meets the criteria in subitems (a), (b), or (c) immediately prior to entering the institution.

(2) "Homeless child or youth" means children and youth from birth through twenty-four years of age who lack a fixed, regular, and adequate nighttime residence and includes:

(a) children and youth who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals;

(b) children and youth who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, such as a car, a park, public spaces, an abandoned building, a bus or train station, or similar settings;

(c) children and youth who live in a supervised publicly or privately owned shelter designated to provide temporary living arrangements or in a transitional housing program or other time-limited housing; or

(d) migratory children as defined in 20 U.S.C. Section 6399, who are legally in the United States, and who qualify as homeless because they are living in circumstances described in subsections (a) through (c).

"Homeless youth" does not include any individual imprisoned or otherwise detained pursuant to a federal or state law except when a youth is exiting an institution having resided there for ninety days or less and met the criteria in subitems (a), (b), or (c) immediately prior to entering the institution.

(3) "Youth at risk of homelessness" means an individual twenty-four years of age or younger whose status or circumstances indicate a significant danger of experiencing homelessness in the near future and includes:

(a) children and youth exiting a publicly funded institution or system of care;

(b) children and youth who have previously experienced homelessness;

(c) children and youth whose primary caregivers are currently homeless or have previously been homeless; or

(d) children and youth who experience serious or sustained conflict with the individual's caregivers that is likely to result in family separation.

Time effective

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

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 24

(R31, S363)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 56-5-4445, RELATING TO RESTRICTIONS ON ELEVATING OR LOWERING MOTOR VEHICLES, SO AS TO MAKE TECHNICAL CHANGES, TO PROHIBIT MOTOR VEHICLE MODIFICATIONS THAT RESULT IN THE MOTOR VEHICLES' FRONT FENDERS BEING RAISED OR LOWERED FOUR OR MORE INCHES GREATER THAN THE HEIGHT OF THE REAR FENDERS, TO PROVIDE FOR THE MANNER OF MEASURING THE HEIGHT OF THE FENDERS, TO DEFINE THE TERM "FENDER", AND TO PROVIDE PENALTIES FOR VIOLATIONS.

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

Restrictions on elevating and lowering motor vehicles

SECTION 1. Section 56-5-4445 of the S.C. Code is amended to read:

Section 56-5-4445. (A) It shall be unlawful for any person to drive a passenger motor vehicle on the highways of this State which has been elevated or lowered, yet still leveled, more than six inches by a modification, alteration, or change in the physical structure of the vehicle. Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, shall be fined not less than twenty-five dollars nor more than fifty dollars. Provided, however, the provisions in this subsection shall not apply to motor vehicles commonly referred to as "pickup trucks".

(B)(1) It shall be unlawful for any person to drive a passenger motor vehicle, including vehicles commonly referred to as pickup trucks, on the highways of this State if, by alteration of the suspension, frame, or chassis, the height of the front fender is raised or lowered four or more inches greater than the height of the rear fender. For purposes of this subsection, the height of the fender shall be a vertical measurement from and perpendicular to the ground, through the centerline of the wheel, and to the bottom of the fender. As contained in this item, "fender" means the pressed and formed part mounted over the road wheels of a motor vehicle to reduce the splashing of mud, water, or similar substances.

(2) A person who violates the provisions of this subsection is guilty

of a misdemeanor and, upon conviction:

(a) for a first offense, shall be fined one hundred dollars;

(b) for a second offense, shall be fined two hundred dollars; and

(c) for a third or subsequent offense, shall be fined three hundred dollars and have his license suspended by the Department of Motor Vehicles for twelve months from the date of conviction.

(3) Only offenses which occur within five years of each other, including and immediately preceding the date of the last offense, shall constitute a prior offense within the meaning of this subsection.

Time effective

SECTION 2. This act takes effect one hundred eighty days after approval by the Governor. For a period of one hundred eighty days after the effective date of this act, only warning tickets may be issued for a violation of the provisions of this act.

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 25

(R32, S380)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 63-7-20, RELATING TO CHILDREN'S CODE DEFINITIONS, SO AS TO DEFINE "LEGAL GUARDIANSHIP" AND "LEGAL GUARDIAN"; BY AMENDING SECTION 63-7-1700, RELATING TO PERMANENCY PLANNING, SO AS TO PROVIDE FOR PROCEDURES TO ESTABLISH LEGAL GUARDIANSHIP WITH SUPPLEMENTAL BENEFITS WHEN ADOPTION IS NOT AN OPTION AND BY MAKING CONFORMING CHANGES; BY ADDING SECTION 63-7-1705 SO AS TO ESTABLISH PROCEDURES FOR INITIATING THE JUDICIAL ESTABLISHMENT OF LEGAL GUARDIANSHIP WITH SUPPLEMENTAL BENEFITS; BY ADDING ARTICLE 9 TO

CHAPTER 7, TITLE 63 SO AS TO REQUIRE THE DEPARTMENT OF SOCIAL SERVICES TO ESTABLISH AND ADMINISTER A PROGRAM OF SUPPLEMENTAL BENEFITS FOR LEGAL GUARDIANSHIP, TO DEFINE TERMS, TO PROVIDE ELIGIBILITY REQUIREMENTS FOR PROGRAM BENEFITS, TO REQUIRE THE DEPARTMENT TO PROMULGATE REGULATIONS, AND FOR OTHER PURPOSES; BY AMENDING SECTION 63-1-20, RELATING TO THE STATE'S CHILDREN'S POLICY, SO AS TO INCLUDE LEGAL GUARDIANSHIP WHEN ADOPTION IS NOT APPROPRIATE; AND BY AMENDING SECTION 63-7-2350, RELATING TO RESTRICTIONS ON FOSTER CARE OR ADOPTION PLACEMENTS, SO AS TO APPLY ALSO TO PLACEMENT OF A CHILD IN A LEGAL GUARDIAN'S HOME.

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

Definitions

SECTION 1. Section 63-7-20 (12) and (13) of the S.C. Code is amended to read:

When used in this chapter or Chapter 9 or 11 and unless the specific context indicates otherwise:

(12)(a) "Emergency protective custody" means the right to physical custody of a child for a temporary period of no more than twenty-four hours to protect the child from imminent danger.

(b) Emergency protective custody may be taken only by a law enforcement officer pursuant to this chapter.

(13) "Legal Guardianship" means:

(a) a judicially established relationship between a child and caretaker that is intended to be permanent and self-sustaining and transfers to the caretaker the following parental rights and responsibilities with respect to the child:

(i) the duty to provide protection, support, food, clothing, shelter, supervision, education, and care;

(ii) physical custody of the child;

(iii) legal custody when family court has not awarded legal custody to another person, agency, or institution;

(iv) the right to consent to marriage, enlistment in the armed forces, and medical and surgical treatment;

(v) the duty and authority to represent the child in legal actions

and to make decisions of substantial legal significance affecting the child;

(vi) the right to determine the nature and extent of the child's contact with other persons; and

(vii) the right to manage the child's income and assets.

(b) Unless the court so orders, legal guardianship does not terminate the parent-child relationship, including the right of the child to inherit from his parent, the parent's right to consent to the child's adoption, and the parent's obligation to provide financial, medical, or other support for the child as the court may order.

Definitions

SECTION 2. Section 63-7-20 of the S.C. Code is amended by adding:

(32) "Legal Guardian" means a person appointed by the court through the judicial establishment of a legal guardianship to become the caretaker of a child.

Permanency planning, legal guardianship

SECTION 3. Section 63-7-1700(G) of the S.C. Code is amended to read:

(G)(1) If after assessing the viability of adoption, the department demonstrates that termination of parental rights is not in the child's best interests, the court may award custody or legal guardianship, or both, to a suitable, fit, and willing relative, nonrelative, or fictive kin if the court finds this to be in the best interest of the child; however, a home study on the individual whom the department is recommending for custody or legal guardianship of the child must be submitted to the court for consideration before custody or legal guardianship, or both, are awarded. If the child's plan is legal guardianship with a relative or fictive kin with supplemental benefits, the requirements of Section 63-7-1705 and Article 9 must be met. The supplemental report and child's case plan must address:

(a) how the child meets the eligibility requirements for legal guardianship with supplemental benefits;

(b) the steps the department has taken to determine that the child's return home and termination of parental rights and adoption are not appropriate;

(c) the department's efforts to discuss adoption with the relative

or fictive kin, and the reasons why adoption is not an option;

(d) the department's efforts to discuss legal guardianship with supplemental benefits with the child's parents or reason why efforts were not made;

(e) the reason why legal guardianship and receipt of supplemental benefits is in the child's best interests;

(f) if the child's placement with the relative or fictive kin does not include siblings, the reason why the child is separated from siblings during placement;

(g) if the child is fourteen years or older, that the child has been consulted regarding the legal guardianship arrangement; and

(h) that the relative or fictive kin meets all requirements for licensure as a kinship foster parent.

(2) The court may order a specified period of supervision and services not to exceed twelve months, and the court may authorize a period of visitation or trial placement prior to receiving a home study.

Permanency planning hearings

SECTION 4. Section 63-7-1700(I) of the S.C. Code is amended to read:

(I) If after the permanency planning hearing, the child is retained in foster care, future permanency planning hearings must be held as follows:

(1) If the child is retained in foster care and the agency is required to initiate termination of parental rights proceedings, the termination of parental rights hearing may serve as the next permanency planning hearing, but only if it is held no later than one year from the date of the previous permanency planning hearing.

(2) If the court ordered extended foster care for the purpose of reunification with the parent, the court must select a permanent plan for the child other than another extension for reunification purposes at the next permanency planning hearing. The hearing must be held on or before the date specified in the plan for expected completion of the plan; in no case may the hearing be held any later than six months from the date of the last court order.

(3) After the termination of parental rights hearing, the requirements of Section 63-7-2580 must be met. Permanency planning hearings must be held annually, starting with the date of the termination of parental rights hearing. No further permanency planning hearings may be required after filing a decree of adoption of the child or an order establishing legal guardianship.

(4) If the court places custody or guardianship with the parent, extended family member, or suitable nonrelative and a period of services and supervision is authorized, services and supervision automatically terminate on the date specified in the court order. Before the termination date, the department or the guardian ad litem may file a petition with the court for a review hearing on the status of the placement. Filing of the petition stays termination of the case until further order from the court. If the court finds clear and convincing evidence that the child will be threatened with harm if services and supervision do not continue, the court may extend the period of services and supervision for a specified time. The court's order must specify the services and supervision necessary to reduce or eliminate the risk of harm to the child.

(5) If the child is retained in foster care pursuant to a plan other than one described in items (1) through (4), future permanency planning hearings must be held at least annually.

Legal guardianship proceedings

SECTION 5. Subarticle 11, Article 3, Chapter 7, Title 63 of the S.C. Code is amended by adding:

Section 63-7-1705. (A) Upon motion by the department or any party in interest at any hearing held pursuant to this article, the court may establish legal guardianship with supplemental benefits.

(1) The department or any party in interest may request that the court establish legal guardianship with supplemental benefits by filing and service of a motion setting forth:

(a) the following case plan requirements:

(i) how the child meets the eligibility requirements for legal guardianship with supplemental benefits;

(ii) the steps the department has taken to determine that the child’s return home and termination of parental rights and adoption are not appropriate;

(iii) the department’s efforts to discuss adoption with the relative or fictive kin, and the reasons why adoption is not an option;

(iv) the department’s efforts to discuss legal guardianship with supplemental benefits with the child’s parents or reason why efforts were not made;

(v) the reason why legal guardianship and receipt of supplemental benefits is in the child’s best interests;

(vi) if the child’s placement with the relative or fictive kin does not include siblings, the reason why the child is separated from siblings

during placement;

(vii) if the child is fourteen years or older, that the child has been consulted regarding the legal guardianship arrangement; and

(viii) that the relative or fictive kin meets all requirements for licensure as a kinship foster parent;

(b) the movant's intention to join as a party to the action, a successor legal guardian who is identified in the legal guardianship with supplemental benefits agreement.

(B) The motion must be filed with the court and served on:

(1) the department, unless the department is the moving party;

(2) the child, if the child is fourteen years of age or older;

(3) the child's guardian ad litem;

(4) the child's parents;

(5) the relative or fictive kin; and

(6) the prospective successor legal guardian.

(C) The court shall order legal guardianship with supplemental benefits upon finding by a preponderance of evidence that the department has entered a written agreement with a relative or fictive kin for legal guardianship with supplemental benefits and that placement is in the child's best interests. The court shall issue a separate order establishing that the relative or fictive kin is the child's legal guardian, and the court shall specify in its order:

(1) return home and adoption are not in the child's best interests;

(2) the relative or fictive kin commits to providing the child permanency and stability until the child reaches age eighteen and to preparing the child for adulthood and independence;

(3) the child has resided in the home of the relative or fictive kin for six consecutive months, during which the child was in the legal custody of the department, and the relative was licensed as a kinship foster parent;

(4) the child and the relative share a strong attachment;

(5) the duties, rights, and responsibilities of the relative or fictive kin to the child;

(6) the child meets eligibility requirements for supplemental benefits;

(7) the date on which the department and the relative or fictive kin entered a written agreement for supplemental legal guardianship benefits;

(8) an adult who shall become the successor legal guardian and who is bound by the duties, rights, and responsibilities of the legal guardian stated in the order in the event of the death or incapacity of the legal guardian;

(9) that the relative, fictive kin, and the adult identified as the successor legal guardian received a copy of the supplemental legal guardianship benefits agreement; and

(10) the court's order shall further specify:

(a) the frequency and nature of any parental or sibling visitation;

(b) the frequency and nature of any parental contact;

(c) the effect the order has on other parental rights and responsibilities, including inheritance, child support, and medical decisions; and

(d) that the legal guardian is prohibited from returning the child to the care, custody, and control of the child's parents, except upon issuance of a court order finding clear and convincing evidence that there has been a material change in circumstances.

Legal guardianship, supplemental benefits

SECTION 6. Chapter 7, Title 63 of the S.C. Code is amended by adding:

Article 9

Legal Guardianship with Supplemental Benefits

Section 63-7-2810. The purpose of this article is to supplement the South Carolina legal guardianship law by making possible through public supplemental benefits the most appropriate placement of a child with a legal guardian certified by the Department of Social Services as requiring a supplemental benefit to assure legal guardianship.

Section 63-7-2820. When used in this article:

(1) "Child" means a person under the age of twenty-one.

(2) "Department" means the Department of Social Services.

(3) "Fictive kin" means an individual who is not related by birth, adoption, or marriage to a child but has an emotionally significant relationship with the child or the child's family.

(4) "Relative" means an individual within the first, second, or third degree to a parent or stepparent of a child who may be related through blood, marriage, or adoption or through the establishment of a fictive kin relationship.

(5) "Supplemental legal guardianship benefits" means monthly payments made by the department to a legal guardian pursuant to and after entering a written agreement with a relative or fictive kin to provide

support for a child who without supplemental support may not achieve permanency through legal guardianship.

Section 63-7-2830. The department shall establish and administer an ongoing program of supplemental benefits for legal guardianship. Supplemental benefits and services for children under this program must be provided with funds appropriated to the department for these purposes.

Section 63-7-2840. (A) In order for a child to be eligible for supplemental legal guardianship benefits, the department shall determine that the following provisions apply:

(1) the child is in the legal custody of the department by a removal action under Section 63-7-1660;

(2) the child resided in the home of the relative for a consecutive, six-month period during which the child was in the legal custody of the department and the relative was licensed as a kinship foster parent;

(3) the department determined that return home and adoption are not in the child's best interests;

(4) the child and the relative share a strong attachment, and the relative has a strong commitment to permanently caring for the child; and

(5) if the child is fourteen years of age or older, the department consulted the child regarding the legal guardianship; or

(6) due to the death or incapacity of the legal guardian, the child has been placed with the successor legal guardian named in the supplemental legal guardianship benefits agreement.

(B) Death or incapacity of the legal guardian does not affect the child's eligibility for supplemental legal guardianship benefits if the child is placed with the successor legal guardian named in the supplemental legal guardianship agreement, and the need for supplemental legal guardianship benefits still exists.

Section 63-7-2850. (A) When the department determines that a child is eligible for supplemental legal guardianship benefits, the department and relative must execute a written agreement before the court may order legal guardianship. The department must provide a copy of the written agreement to the relative. At a minimum, the written agreement must specify:

(1) the amount of supplemental legal guardianship benefits the department will provide;

(2) when and how the department will provide the payment;

(3) the manner in which the payment may be adjusted based upon the circumstances of the legal guardian or child, and that prior to making an adjustment, the department must consult with the legal guardian;

(4) any additional services or assistance for which the child and legal guardian will be eligible;

(5) when and how the legal guardian may request additional services;

(6) that the agreement remains in effect regardless of the legal guardian's state of residency; and

(7) that the amount of the payment cannot exceed the amount of the foster care board payment the child would have received if the child remained in foster care.

(B) The agreement terminates upon the occurrence of the following events:

(1) the department determines that the legal guardian is no longer responsible for a child under the age of eighteen;

(2) the department determines that the legal guardian is no longer providing support for the child; or

(3) the child attains the age of eighteen or twenty-one, if the child meets the department's requirements for extended assistance under the agreement.

Section 63-7-2860. A decision regarding supplemental legal guardianship benefits by the department that is adverse to the relative, fictive kin, or legal guardian is reviewable according to the department's fair hearing regulations, unless there is an action pending in family court that can dispose of the issue.

Section 63-7-2870. The department may promulgate regulations as necessary to implement the provisions of this article, including regulations targeting certain age groups for participation in this program, conditions for legal guardians, and child support enforcement regarding the child's parents.

State children's policy

SECTION 7. Section 63-1-20(D) of the S.C. Code is amended to read:

(D) When children or their families request help, state and local government resources shall be utilized to compliment community efforts to help meet the needs of children by aiding in the prevention and resolution of their problems. The State shall direct its efforts first to

strengthen and encourage family life as the most appropriate environment for the care and nurturing of children. To this end, the State shall assist and encourage families to utilize all available resources. For children in need of services, care, and guidance the State shall secure those services as are needed to serve the emotional, mental, and physical welfare of children and the best interests of the community, preferably in their homes or the least restrictive environment possible. When children must be placed in care away from their homes, the State shall insure that they are protected against any harmful effects resulting from the temporary or permanent inability of parents to provide care and protection for their children. It is the policy of this State to reunite the child with his family in a timely manner, whether or not the child has been placed in the care of the State voluntarily. When children must be permanently removed from their homes, they shall be placed in adoptive homes so that they may become members of a family by legal adoption or, when adoption is not appropriate, in the legal guardianship of relatives or fictive kin to preserve family connections, or absent that possibility, other permanent settings.

Foster care and adoption home placement restrictions

SECTION 8. Section 63-7-2350 of the S.C. Code is amended to read:

Section 63-7-2350. (A) No child in the custody of the Department of Social Services may be placed in a foster home, adoptive home, legal guardian's home, qualified residential treatment program, or residential facility with a person if the person or anyone eighteen years of age or older residing in the home or a person working in the qualified residential treatment program or residential facility:

(1) has a substantiated history of child abuse or neglect; or

(2) has pled guilty or nolo contendere to or has been convicted of:

(a) an "Offense Against the Person" as provided for in Chapter 3, Title 16;

(b) an "Offense Against Morality or Decency" as provided for in Chapter 15, Title 16;

(c) contributing to the delinquency of a minor as provided for in Section 16-17-490;

(d) the common law offense of assault and battery of a high and aggravated nature when the victim was a person seventeen years of age or younger;

(e) criminal domestic violence as defined in Section 16-25-20;

(f) criminal domestic violence of a high and aggravated nature as

defined in Section 16-25-65;

(g) a felony drug-related offense under the laws of this State;

(h) unlawful conduct toward a child as provided for in Section 63-5-70;

(i) cruelty to children as provided for in Section 63-5-80;

(j) child endangerment as provided for in Section 56-5-2947; or

(k) criminal sexual conduct with a minor in the first degree as provided for in Section 16-3-655(A).

(B) A person who has been convicted of a criminal offense similar in nature to a crime enumerated in subsection (A) when the crime was committed in another jurisdiction or under federal law is subject to the restrictions set out in this section.

(C) At a minimum, the department shall require that all persons referenced in subsection (A) undergo a fingerprint review to be conducted by the State Law Enforcement Division and a fingerprint review to be conducted by the Federal Bureau of Investigation. The department also shall check the State Central Registry of Child Abuse and Neglect, department records, the equivalent registry system for each state in which the person has resided for five years preceding an application for licensure as a foster parent, the National Sex Offender Registry, and the state sex offender registry for applicants and all persons twelve years of age and older residing in the home of an applicant.

(D) This section does not prevent placement in a foster home, adoptive home, legal guardian’s home, or residential facility when a conviction or plea of guilty or nolo contendere for one of the crimes enumerated in subsection (A) has been pardoned. However, notwithstanding the entry of a pardon, the department or other entity making placement or licensing decisions may consider all information available, including the person's pardoned convictions or pleas and the circumstances surrounding them, to determine whether the applicant is unfit or otherwise unsuited to provide foster care services.

(E) For the purposes of this section, “residential facility” means a group home, residential treatment center, or other facility that, pursuant to a contract with or a license or permit issued by the department, provides residential services to children in the custody of the department. This includes, but is not limited to, child caring institutions, emergency shelters, group homes, wilderness therapeutic camps, and organizations with supervised individual living facilities.

Time effective

SECTION 9. This act takes effect upon approval by the Governor.

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 26

(R33, S394)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 44-37-30, RELATING TO NEONATAL TESTING OF CHILDREN, SO AS TO PROVIDE FOR CERTAIN NOTIFICATIONS OF ABNORMAL RESULTS.

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

Neonatal testing

SECTION 1. Section 44-37-30(B) of the S.C. Code is amended to read:

(B)(1) Information obtained as a result of the tests conducted pursuant to this section is confidential and may be released only to a parent or legal guardian of the child, the child's physician, and the child when eighteen years of age or older when requested on a form promulgated in regulation by the department.

(2) If the results of the neonatal testing are abnormal, the department may recommend additional testing and, in addition to the notification requirements established in Section 44-37-30(B)(1), notify one or more of the following to ensure timely provision of follow-up services:

(a) the physician or health care provider attending the child's birth or his designee;

(b) the physician or health care provider responsible for newborn care in the hospital; or

(c) the physician or health care provider identified for follow-up care after the newborn's discharge from the hospital.

(3) If the results of the neonatal testing are abnormal, time-sensitive, or time-critical, the department may, in addition to notification requirements established in Section 44-37-30(B)(1) and (2), notify and

provide information about the abnormal, time-sensitive, or time-critical screening results to a qualified pediatric specialist in accordance with guidelines established by the department's Newborn Screening Advisory Committee for the timely provision of the follow-up services.

Time effective

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

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 27

(R34, S405)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 7-19-70, RELATING TO CERTIFICATES OF ASCERTAINMENT OF APPOINTMENT OF ELECTORS, SO AS TO REQUIRE THE GOVERNOR TO TRANSMIT TO THE ARCHIVIST OF THE UNITED STATES A CERTIFICATE OF ASCERTAINMENT OF APPOINTMENT OF ELECTORS AT LEAST SIX DAYS BEFORE THE MEETING OF THE ELECTORS; BY AMENDING SECTION 7-19-90, RELATING TO THE MEETING OF ELECTORS, SO AS TO REVISE THE TIME FIXED FOR THE MEETING; AND BY AMENDING SECTION 7-19-100, RELATING TO THE DISPOSITION OF CERTIFICATES OF ASCERTAINMENT OF APPOINTMENT OF ELECTORS, SO AS TO REVISE THE MANNER OF DISPOSITION.

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

Election of presidential electors

SECTION 1. Section 7-19-70 of the S.C. Code is amended to read:

Section 7-19-70. (A) Unless otherwise provided, the election of presidential electors shall be conducted and the returns made in the manner prescribed by this title for the election of state officers.

(B) The names of candidates for electors of President and Vice President nominated by any political party recognized in this State under Section 7-9-10 or by a valid petition shall be filed with the Secretary of State but shall not be printed on the ballot. In place of their names, in accordance with the provisions of Section 7-13-320, there shall be printed on the ballot the names of the candidates for President and Vice President of each political party recognized in this State and the names of any petition candidates for President and Vice President. A vote for the candidates named on the ballot shall be a vote for the electors of the party by which those candidates were nominated or the electors of petition candidates whose names have been filed with the Secretary of State.

(C) Upon receipt of the certified determination of the Board of State Canvassers and delivered to him in accordance with Section 7-17-300, the Secretary of State, under his hand and the seal of his office, as required by Section 7-17-310, shall certify to the Governor the names of the persons elected to the office of elector for President and Vice President of the United States as stated in the certified determination, who shall be deemed appointed as electors.

(D) It shall be the duty of the Governor, at least six days before the time fixed for the meeting of the electors, to transmit to the Archivist of the United States by the most expeditious method available a certificate of ascertainment of appointment of electors. The certificate must bear the seal of the State, contain at least one security feature, and set forth the names of the electors appointed and the canvass or other determination under the laws of this State of the number of votes given or cast for each person for whose appointment any and all votes have been given or cast. It shall also be the duty of the Governor to transmit to the electors of the State, on or before the day on which they are required by law to meet, six duplicate-originals of the same certificate.

(E) Any certificate of ascertainment of appointment of electors required to be issued or revised by any state or federal judicial relief granted prior to the date of the meeting of electors shall replace and supersede any other certificates submitted pursuant to this section.

Meeting of electors for President and Vice President

SECTION 2. Section 7-19-90 of the S.C. Code is amended to read:

Section 7-19-90. (A) The electors for President and Vice President shall convene at the capitol, in the office of the Secretary of State, at eleven in the forenoon, on the first Tuesday after the second Wednesday in December next following their appointment, and shall proceed to effect a permanent organization by the election of a president and secretary from their own body. The electors shall next proceed to fill by ballot and by plurality of votes all vacancies in the electoral college occasioned by the death, refusal to serve, or neglect to attend, of any elector. The electors shall then and there vote by ballot for President and Vice President, one of whom at least shall not be an inhabitant of the same state with themselves.

(B) The electors shall make and sign six certificates of all the votes given by them for President and Vice President, each of which certificates shall contain two distinct lists, one of the votes for President and the other for Vice President, and shall annex to each of the certificates of votes one of the certificates of ascertainment of appointment of electors which shall have been furnished to them by direction of the Governor.

(C) The electors shall seal up the certificates of votes so made by them, together with the annexed certificates of ascertainment of appointment of electors, and certify upon each that the list of all the votes of the State given for President, and of all of the votes given for Vice President, are contained therein.

Disposition of certificates of electors

SECTION 3. Section 7-19-100 of the S.C. Code is amended to read:

Section 7-19-100. (A) The electors shall immediately transmit at the same time and by the most expeditious method available the certificates of votes so made by them, together with the annexed certificates of ascertainment of appointment of electors, as follows:

(1) One set shall be sent to the to the President of the Senate of the United States at the seat of government.

(2) Two sets shall be sent to the Executive Director of the State Election Commission, one of which shall be held subject to the order of the President of the Senate of the United States, the other to be preserved by the Executive Director of the State Election Commission for one year and shall be a part of the public records of the State Election Commission and shall be open to public inspection.

(3) Two sets shall be sent to the Archivist of the United States at the seat of government.

(4) One set shall be sent to the judge of the district in which the electors shall have assembled.

Time effective

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

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 28

(R35, S449)

AN ACT TO AMEND SECTION 4 OF ACT 71 OF 2021, RELATING TO THE TRANSPORTATION OF LIVE SWINE WITHOUT IDENTIFICATION, SO AS TO REPEAL THE SUNSET CLAUSE.

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

Repeal

SECTION 1. SECTION 4 of Act 71 of 2021 is repealed.

Time effective

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

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 29

(R36, S500)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 38-75-485, RELATING TO THE SOUTH CAROLINA HURRICANE DAMAGE MITIGATION PROGRAM, SO AS TO ESTABLISH GRANT CRITERIA, ESTABLISH A NONMATCHING GRANT FORMULA, AND TO REMOVE A CAP ON THE AMOUNT OF THE GRANT; BY AMENDING SECTION 38-3-110, RELATING TO DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF INSURANCE, SO AS TO ALLOW THE DIRECTOR TO PROVIDE INFORMATION REGARDING FACTORS THAT MAY AFFECT PREMIUM RATES; BY AMENDING SECTION 38-73-1085, RELATING TO THE PUBLICATION OF REPRESENTATIVE SAMPLE PREMIUMS, SO AS TO ALLOW THE DIRECTOR OR HIS DESIGNEE TO MAKE AVAILABLE INFORMATION THAT AFFECTS PRIVATE PASSENGER PREMIUM RATES; BY AMENDING SECTION 38-61-80, RELATING TO WITHDRAWING FROM THE MARKET, SO AS TO REQUIRE NOTICE TO THE DIRECTOR BY THE INSURER; AND BY AMENDING SECTION 38-1-20, RELATING TO THE DEFINITION OF "SURPLUS LINES INSURANCE", SO AS TO INCLUDE A REFERENCE TO COMMERCIAL MOTOR VEHICLE LIABILITY.

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

South Carolina Hurricane Damage Mitigation Program

SECTION 1. Section 38-75-485 of the S.C. Code is amended to read:

Section 38-75-485. (A) There is established within the Department of Insurance, the South Carolina Hurricane Damage Mitigation Program. The advisory committee, established pursuant to Section 38-75-470, shall provide advice and assistance to the program administrator with regard to his administration of the program.

(B) This section does not create an entitlement for property owners or obligate the State in any way to fund the inspection or retrofitting of residential property in this State. Implementation of this program is subject to annual legislative appropriations.

(C) The program shall develop and implement a comprehensive and coordinated approach for hurricane damage mitigation that includes the following:

(1) The program may award matching or nonmatching grants based upon the availability of funds. The program administrator also shall apply for financial grants to be used to assist single-family, site-built or manufactured or modular, owner-occupied, residential property owners to retrofit their primary legal residence to make them less vulnerable to hurricane damage.

(a) To be eligible for a matching grant, a residential property must:

(i) be the applicant's primary legal residence;

(ii) be actually owned and occupied by the applicant;

(iii) be the owner's legal residence as described in Section 12-43-220(c);

(iv) be a single-family, site-built, manufactured, or modular, owner-occupied residential property;

(v) be a residential property covered by a current homeowners or dwelling insurance policy that:

(A) is issued by an insurer licensed in this State or a surplus lines insurer, where the policy is lawfully placed by a broker authorized to do business in this State; and

(B) provides insurance coverage of the residential property equal to or greater than the fair market value of the residential property as defined in Section 12-37-3135(a)(2) and reflected in the county records;

(vi) have undergone an acceptable wind certification and hurricane mitigation inspection in accordance with program requirements.

(b) All matching grants must be matched on a dollar-for-dollar basis up to the maximum allowed depending on the type of retrofit. Grants will be awarded based on the following requirements:

(i) a Resilient Mitigation Award will be awarded for roof retrofits meeting SC Safe Homes Retrofit Guidelines and Institute for Business and Home Safety Fortified Roof Retrofit Guidelines for a residential property and may not exceed seven thousand five hundred dollars for nonmatching grant awards or six thousand dollars for matching grants; and

(ii) a Sustainable Mitigation Award will be awarded for roof retrofits meeting SC Safe Home Retrofit Guidelines only or for Window Replacement and Opening Protection Retrofits meeting SC Safe Home Opening Protection Guidelines for residential property and may not

exceed five thousand dollars for nonmatching grants awards or four thousand dollars for matching grants. For Hurricane Shuttering and Protective Barrier Systems only meeting SC Safe Home Opening Protection Guidelines, grants may not exceed three thousand dollars for both matching and nonmatching grants.

(c) The program must create a process in which mitigation contractors agree to participate and seek reimbursement from the State and homeowners selected from a list of participating contractors. All mitigation projects must be based upon the securing of all required local permits and inspections. Mitigation projects are subject to random reinspection. The program may reinspect up to ten percent of all projects.

(d) Matching fund grants also must be made available to local governments and nonprofit entities, on a first-come, first-served basis, for projects that reduce hurricane damage to single-family, site-built or manufactured or modular owner-occupied, residential property, provided that:

(i) no matching grant for any one local government or nonprofit entity may exceed fifty thousand dollars in any fiscal year;

(ii) the total amount of matching grants awarded to all local governments and nonprofit entities combined may not exceed two hundred fifty thousand dollars in any fiscal year; and

(iii) the difference between two hundred fifty thousand dollars and the total amount of grants awarded to all local governments and nonprofit entities combined in any fiscal year may be applied to grants to individual homeowners who meet the qualifications for a grant described in subitems (a) through (d) or in subitem (g).

(e) Grants may be used for the following improvements:

(i) roof deck attachment;

(ii) secondary water barrier;

(iii) roof covering;

(iv) brace gable ends;

(v) reinforce roof-to-wall connections;

(vi) opening protection;

(vii) exterior doors, including garage doors;

(viii) tie downs;

(ix) problems associated with weakened trusses, studs, and other structural components;

(x) inspection and repair or replacement of manufactured home piers, anchors, and tiedown straps; and

(xi) any other mitigation techniques approved by the advisory committee.

(f) To be eligible for a nonmatching grant, a residential property

must comply with the requirements set forth in subsection (C)(1)(a), (c), and (e).

(i) For nonmatching grants, applicants who otherwise meet the requirements of subitems (a), (c), and (e) may be eligible for a grant of up to seven thousand five hundred dollars for a Resilient Mitigation Grant Award and may not be required to provide a matching amount to receive a Resilient Mitigation Grant Award, up to five thousand dollars for a Sustainable Mitigation Grant Award or up to three thousand dollars for a Sustainable Mitigation Hurricane Shutters and Protective Barrier Systems Award. These grants must be used to retrofit single-family, site-built or manufactured or modular, owner-occupied, residential properties in order to make them less vulnerable to hurricane damage. The grant must be used for the retrofitting measures set forth in Section 38-75-485(C)(1)(e).

(ii) Nonmatching grant award amounts will be determined based on the cost of the mitigation project and a percentage of the total adjusted household income of the applicant according to the most recent federal income tax return. Those applicants with a total annual adjusted gross household income of which does not exceed eighty percent of the median annual adjusted gross income for households within the county in which the person or family resides may be eligible for the maximum grant award amount. Applicants with a higher total annual adjusted household income may be awarded a lower amount. The director or his designee shall issue a bulletin annually that sets forth the maximum grant award amounts based on the total annual adjusted gross household income of the applicant adjusted for family size relative to the county area median income or the state median family income, whichever is higher, as published annually by the United States Department of Housing and Urban Development. If the cost of the mitigation project exceeds the amount of the grant award, the remaining cost is the applicant's responsibility.

(2) The department shall define by regulation the details of the mitigation measures necessary to qualify for the grants described in this section.

(3) Multimedia public education, awareness, and advertising efforts designed to specifically address mitigation techniques must be employed, as well as a component to support ongoing consumer resources and referral services.

(4) The department shall use its best efforts to obtain grants or funds from the federal government to supplement the financial resources of the program. In addition to state appropriations, if any, this program must be implemented by the department through the use of the premium taxes

due to this State by the South Carolina Wind and Hail Underwriting Association, and one percent of the premium taxes collected annually and remitted to the Department of Insurance.

(5) The director or his designee may promulgate regulations necessary to implement the provisions of this article.

Duties of the Director of the Department of Insurance

SECTION 2. Section 38-3-110(5)(b)(iii) of the S.C. Code is amended to read:

(iii) providing information regarding the factors that can affect premium rates;

Publication of representative sample of premiums

SECTION 3. Section 38-73-1085 of the S.C. Code is amended to read:

Section 38-73-1085. The director or his designee shall make available information regarding the factors that can affect private-passenger premium rates.

Withdrawing from the market

SECTION 4. Section 38-61-80 of the S.C. Code is amended to read:

Section 38-61-80. (A) An insurer must not cancel, nonrenew, or otherwise terminate all or substantially all of an entire line or class of business for the purpose of withdrawing from the market in this State unless:

(1) the insurer notified the director, in writing, of the action, including the reasons for such action, and plans for the orderly cessation of business at least one year before the completion of the withdrawal. This item must not be construed to prevent an insurer from canceling, nonrenewing, or terminating policies in the ordinary course of business that are not part of a plan to withdraw from an entire line or class of business or where the insurer, by contract, statute, or otherwise, has the right to take such action; or

(2) the insurer filed a plan of action for the orderly cessation of the insurer's business within a period of time shorter than one year and the plan of action is approved by the director or his designee.

(B) An insurer's rates, rules, and forms filed with the department are

considered no longer on file for use with any new business in the market affected by the insurer's withdrawal plan on and after the date the withdrawal plan goes into effect.

(C) This section does not apply to health insurance issuers offering health insurance coverage as defined in Article 3 or Article 5, Chapter 71, Title 38. Health insurance issuers must comply with other applicable provisions of Chapter 71, Title 38 regarding the discontinuance of all or a significant block of business or withdrawal from the market in this State.

(D) An insurer must not cancel, nonrenew, or otherwise terminate all or substantially all of an entire line or class of business in this State unless the insurer notified the director, in writing, of the action, including the reasons for such action, and plans for the orderly cessation of business at least thirty (30) days before the insurer begins the process of notifying insureds of the decision to nonrenew, cancel, or otherwise terminate the policy. This provision does not apply to action relating to the transfer of risks within a group of insurers with common ownership. This item must not be construed to prevent an insurer from canceling, nonrenewing, or terminating policies provided that the insurer complies with the processes required under Sections 38-75-730, 38-75-740, or 38-77-120.

Definition

SECTION 5. Section 38-1-20(56) of the S.C. Code is amended to read:

(56) “Surplus lines insurance” means insurance in this State of risks located or to be performed in this State, permitted to be placed through a licensed broker, or a licensed broker as provided in Section 38-45-10(8)(b)(ii), with a nonadmitted insurer eligible to accept the insurance, other than reinsurance, wet marine and transportation insurance, insurance independently procured, and life and health insurance and annuities. Excess and stop-loss insurance coverage upon group life, accident, and health insurance or upon a self-insured's life, accident, and health benefits program, disability insurance in excess of any benefit limit available from an admitted insurer, commercial motor vehicle liability, and international major medical insurance may be approved as surplus lines insurance.

Time effective

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

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 30

(R37, S520)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING ARTICLE 18 OF CHAPTER 71, TITLE 38, RELATING TO PHARMACY AUDIT RIGHTS, SO AS TO EXPAND THE RIGHTS AND DUTIES OF PHARMACIES DURING AUDITS; BY AMENDING ARTICLE 21 OF CHAPTER 71, TITLE 38, RELATING TO PHARMACY BENEFITS MANAGERS, SO AS TO DEFINE TERMS AND MAKE CONFORMING CHANGES; BY ADDING ARTICLE 23 TO CHAPTER 71, TITLE 38 SO AS TO DEFINE TERMS AND OUTLINE RESPONSIBILITIES AND DUTIES OF PHARMACY SERVICES ADMINISTRATIVE ORGANIZATIONS; AND BY REPEALING SECTION 38-71-147 RELATING TO FREEDOM OF SELECTION AND PARTICIPATION IN HEALTH INSURANCE POLICIES OR HEALTH MAINTENANCE ORGANIZATION PLANS.

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

Pharmacy audit rights

SECTION 1. Article 18, Chapter 71, Title 38 of the S.C. Code is amended to read:

Article 18

Pharmacy Audit Rights

Section 38-71-1810. (A) For the purposes of this article:

(1) "Insurer" means an entity that provides health insurance coverage in this State as defined in Section 38-71-670(7) and Section

38-71-840(16).

(2) "Responsible party" means the entity responsible for payment of claims for health care services other than:

(a) the individual to whom the health care services were rendered; or

(b) that individual's guardian or legal representative.

(3) "Audit" means an evaluation, investigation, or review of claims paid to a pharmacy that takes place at the pharmacy location and does not include review of claims or claims payments that an insurer conducts as a normal course of business. Nothing in this definition limits the review of claims or claims payments through an electronic or algorithmic system designed to reduce fraud, waste, or abuse, provided that recoupments may not be calculated based on extrapolation pursuant to Section 38-71-1810(21).

(4) "Abuse" means any practice that:

(a)(i) is inconsistent with sound fiscal or business practices; or

(ii) fails to meet professionally recognized standards for pharmacy services; and

(b) directly or indirectly causes financial loss to a responsible party.

(B) If a managed care organization, insurer, third-party payor, or any entity that represents a responsible party conducts an audit of the records of a pharmacy, then, with respect to this audit, the pharmacy has a right to:

(1) not have an audit initiated or scheduled during the first five days of any month without the express consent of the pharmacy, which shall cooperate with the auditor to establish an alternate date if the audit would fall within the excluded days, and no audit may be performed during a state of emergency declared by the Governor that applies to the pharmacy location unless the state of emergency extends beyond ninety days or is agreed to by the pharmacy location;

(2) have an audit that involves clinical judgment be conducted with a pharmacist who is licensed and employed by or working under contract with the auditing entity;

(3) not have clerical or recordkeeping errors, including typographical errors, scrivener's errors, and computer errors, on a required document or record considered fraudulent in the absence of any other evidence or serve as the sole basis of rejection of a claim; however, the provisions of this item do not prohibit recoupment of fraudulent payments;

(4) have the auditing entity to provide the pharmacy, upon request, all records related to the audit in an electronic format or contained in

digital media;

(5) have at least thirty days to respond to an audit notice and to submit records requested by the auditing entity related to the audit in electronic format or by certified mail. If a pharmacy requests an extension during this thirty-day period, it must be granted an additional thirty days to respond. The auditing entity must confirm receipt of all materials and documentation provided by the pharmacy to the auditing entity;

(6) have the properly documented records of a hospital or of a person authorized to prescribe controlled substances for the purpose of providing medical or pharmaceutical care for their patients transmitted by any means of communication approved by the auditing entity in order to validate a pharmacy record with respect to a prescription or refill for a controlled substance or narcotic drug pursuant to federal and state regulations;

(7) have a projection of an overpayment or underpayment based on either the number of patients served with a similar diagnosis or the number of similar prescription orders or refills for similar drugs; however, the provisions of this item do not prohibit recoupments of actual overpayments unless the projection for overpayment or underpayment is part of a settlement by the pharmacy;

(8) prior to the initiation of an audit, if the audit is conducted for an identified problem, have the audit limited to claims that are identified by prescription number or by range of prescription numbers;

(9) if an audit is conducted for a reason other than described in item (8), have the audit limited to one hundred selected prescriptions per pharmacy benefits manager;

(10) if an audit reveals the necessity for a review of additional claims, the audit may be conducted on-site;

(11) except for audits initiated for the reason described in items (8) or (10), be subject to no more than one audit in one calendar year, unless fraud or misrepresentation is reasonably suspected;

(12) be free of recoupments based on either of the following subitems unless defined within the billing, submission, or audit requirements set forth in the pharmacy provider manual not inconsistent with current State Board of Pharmacy Regulations, except for cases of Food and Drug Administration regulation or drug manufacturer safety programs in accordance with federal or state regulations:

(a) documentation requirements in addition to, or exceeding requirements for, creating or maintaining documentation prescribed by the State Board of Pharmacy;

(b) a requirement that a pharmacy or pharmacist perform a

professional duty in addition to, or exceeding, professional duties prescribed by the State Board of Pharmacy unless otherwise agreed to by contract with the auditing entity;

(13) be subject, so long as a claim is made within the contractual claim submission time period, to recoupment only following the correction of a claim and to have recoupment limited to amounts paid in excess of amounts payable under the corrected claim unless a prescription error occurs. For purposes of this subsection, a prescription error includes, but is not limited to, wrong drug, wrong strength, wrong dose, or wrong patient;

(14) be subject to reversals of approval, except for Medicare claims, for drug, prescriber, or patient eligibility upon adjudication of a claim only in cases in which the pharmacy obtained the adjudication by fraud or misrepresentation of claim elements;

(15) be audited under the same standards and parameters as other similarly situated pharmacies audited by the same entity;

(16) have at least thirty days following receipt of the preliminary audit report to produce documentation to address any discrepancy found during an audit;

(17) have the option of providing documentation in electronic format or by certified mail;

(18) have the period covered by an audit limited to twenty-four months from the date a claim was submitted to, or adjudicated by, a managed care organization, an insurer, a third-party payor, or an entity that represents responsible parties, unless a longer period is permitted by or under federal law;

(19) have the preliminary audit report delivered to the pharmacy within one hundred twenty days after conclusion of the audit;

(20) have a final audit report delivered to the pharmacy within ninety days after the end of the appeals period;

(21) not have the accounting practice of extrapolation used in calculating recoupments or penalties for audits, unless otherwise required by federal requirements or federal plans; and

(22) have the right to an external review pursuant to Section 38-71-2240 for any denied appeals of recoupment if the pharmacy believes the recoupment amounts were calculated in violation of this article.

(C) Notwithstanding Section 38-71-1840, the auditing entity shall provide the pharmacy, if requested, a masked list that provides a prescription number range the auditing entity is seeking to audit.

Section 38-71-1820. (A) Each entity that conducts an audit of a

pharmacy shall establish an appeals process under which a pharmacy may appeal an unfavorable preliminary audit report to the entity.

(B) If, following the appeal, the entity finds that an unfavorable audit report or any portion of the unfavorable audit report is unsubstantiated, the entity shall dismiss the unsubstantiated portion of the audit report without any further proceedings.

(C) Each entity conducting an audit shall provide a copy, if required under the terms of the contract with the responsible party, of the audit findings to the plan sponsor after completion of any appeals process.

Section 38-71-1830. (A) Recoupments of any funds disputed on the basis of an audit must occur only after final internal disposition of the audit, including the appeals process as provided for in Section 38-71-1820 or the external review pursuant to Section 38-71-2240, unless fraud or misrepresentation is reasonably suspected.

(B) Recoupment on an audit must be refunded to the responsible party as contractually agreed upon by the parties involved in the audit.

(C) The entity conducting the audit may charge or assess the responsible party, directly or indirectly, based on amounts recouped if both of the following conditions are met:

(1) the responsible party or payor and the entity conducting the audit have entered into a contract that explicitly states the percentage charge or assessment to the responsible party; and

(2) a commission or other payment to an agent or employee of the entity conducting the audit is not based, directly or indirectly, on amounts recouped.

Section 38-71-1840. The provisions of this article do not apply to an audit, review, or investigation:

(1) that involves alleged insurance fraud or abuse, Medicare fraud or abuse, or other fraud or misrepresentation;

(2) conducted by or on the behalf of the Department of Health and Human Services in the performance of its duties in administering Medicaid under Titles XIX and XXI of the Social Security Act; or

(3) notwithstanding the exemptions under subitems (1) and (2) of this section, contracts between the South Carolina Department of Health and Human Services and Medicaid-managed care organizations must include provisions for biannual audits of Medicaid-managed care organizations' pharmacy pricing and include limitations on any pharmacy benefits manager contract arrangements that bill the Medicaid program for more than the total price paid to pharmacies for actual claims.

Pharmacy benefits managers

SECTION 2. Article 21, Chapter 71, Title 38 of the S.C. Code is amended to read:

Article 21

Pharmacy Benefits Managers

Section 38-71-2200. As used in this article:

(1) "Claim" means a request from a pharmacy or pharmacist to be reimbursed for the cost of administering, filling, or refilling a prescription for a drug or for providing a medical supply or device.

(2) "Claims processing services" means the administrative services performed in connection with the processing and adjudicating of claims relating to pharmacist services that include:

(a) receiving payments for pharmacist services;

(b) making payments to pharmacists or pharmacies for pharmacist services; or

(c) both receiving and making payments.

(3) "Health benefit plan" means any individual, blanket, or group plan, policy, or contract for health care services issued or delivered by a health care insurer in this State as defined in Sections 38-71-670(6) and 38-71-840(14), including the state health plan as defined in Section 1-11-710. Notwithstanding this section, the state health plan is not subject to the provisions of this title unless specifically referenced.

(4) "Health care insurer" means an entity that provides health insurance coverage in this State as defined in Section 38-71-670(7) and Section 38-71-840(16).

(5) "Maximum Allowable Cost List" means a listing of generic drugs used by a pharmacy benefits manager to set the maximum allowable cost at which reimbursement to a pharmacy or pharmacist may be made.

(6) "Other prescription drug or device services" means services other than claims processing services, provided directly or indirectly by a pharmacy benefits manager, whether in connection with or separate from claims processing services, including without limitation:

(a) negotiating rebates, discounts, or other financial incentives and arrangements with drug companies;

(b) disbursing or distributing rebates;

(c) managing or participating in incentive programs or arrangements for pharmacist services;

(d) negotiating or entering into contractual arrangements with

pharmacists or pharmacies, or both;

(e) developing formularies;

(f) designing prescription benefit programs; or

(g) advertising or promoting services.

(7) "Pharmacist" has the same meaning as provided in Section 40-43-30(65).

(8) "Pharmacist services" means products, goods, and services, or any combination of products, goods, and services, provided as a part of the practice of pharmacy.

(9) "Pharmacy" has the same meaning as provided in Section 40-43-30(67).

(10) "Pharmacy benefits manager" means an entity that contracts with pharmacists or pharmacies on behalf of an insurer, third-party administrator, or the South Carolina Public Employee Benefit Authority to:

(a) process claims for prescription drugs or medical supplies or provide retail network management for pharmacies or pharmacists;

(b) pay pharmacies or pharmacists for prescription drugs or medical supplies; or

(c) negotiate rebates with manufacturers for drugs paid for or procured as described in this article.

(11) "Pharmacy benefits manager affiliate" means a pharmacy or pharmacist that directly or indirectly, through one or more intermediaries, owns or controls, is owned or controlled by, or is under common ownership or control with a pharmacy benefits manager.

(12) "Pharmacy Services Administrative Organization" (PSAO) means an entity that has contracted with pharmacy clients in the State to conduct business on their behalf with third-party payers or pharmacy benefits managers. PSAOs provide administrative services to pharmacies and negotiate and enter into contracts with third-party payers or pharmacy benefits managers on behalf of pharmacies.

(13) "Specialized delivery drug" means a prescription drug that meets a majority of the following criteria, as set forth by the manufacturer, FDA, or other applicable law or regulatory body and:

(a) requires special handling or storage;

(b) requires complex and extended patient education or counseling;

(c) requires intensive monitoring;

(d) requires clinical oversight; or

(e) requires product support services; and the drug is used to treat chronic and complex, or rare medical conditions:

(i) that can be progressive; or

(ii) that can be debilitating or fatal if left untreated or

undertreated.

Section 38-71-2210. (A)(1) A person or organization may not establish or operate as a pharmacy benefits manager in this State for health benefit plans without obtaining a license from the Director of the Department of Insurance.

(2) The director shall prescribe the application for a license to operate in this State as a pharmacy benefits manager and may charge an initial application fee of one thousand dollars and an annual renewal fee of five hundred dollars, provided the pharmacy benefits manager application form must collect the following information:

(a) the name, address, and telephone contact number of the pharmacy benefits manager;

(b) the name and address of the pharmacy benefits manager's agent for service of process in the State;

(c) the name and address of each person with management or control over the pharmacy benefits manager;

(d) the name and address of each person with a beneficial ownership interest in the pharmacy benefits manager;

(e) a signed statement indicating that, to the best of their knowledge, no officer with management or control of the pharmacy benefits manager has been convicted of a felony or has violated any of the requirements of state law applicable to pharmacy benefits managers, or, if the applicant cannot provide such a statement, a signed statement describing the relevant conviction or violation; and

(f) in the case of a pharmacy benefits manager applicant that is a partnership or other unincorporated association, limited liability company, or corporation, and has five or more partners, members, or stockholders:

(i) the applicant shall specify its legal structure and the total number of its partners, members, or stockholders who, directly or indirectly, own, control, hold with the power to vote, or hold proxies representing ten percent or more of the voting securities of any other person; and

(ii) the applicant shall agree that, upon request by the department, it shall furnish the department with information regarding the name, address, usual occupation, and professional qualifications of any other partners, members, or stockholders who, directly or indirectly, own, control, hold with the power to vote, or hold proxies representing ten percent or more of the voting securities of any other person.

(3) An applicant or a pharmacy benefits manager that is licensed to conduct business in the State shall, unless otherwise provided for in this

chapter, file a notice describing any material modification of this information.

(B) The director may promulgate regulations establishing the licensing and reporting requirements of pharmacy benefits managers consistent with the provisions of this article.

(C) The fees and penalties assessed pursuant to this article must be retained by the department for the administration of this chapter.

Section 38-71-2220. (A) In any participation contracts between pharmacy benefits managers and pharmacists or pharmacies providing prescription drug coverage for health benefit plans, no pharmacy or pharmacist may be prohibited, restricted, or penalized in any way from disclosing to any covered person any health care information that the pharmacy or pharmacist deems appropriate within their scope of practice.

(B) A pharmacy or pharmacist must not be proscribed by a pharmacy benefits manager from discussing information regarding the total cost for pharmacist services for a prescription drug or from selling a more affordable alternative to the insured if a more affordable alternative is available, but a pharmacy benefits manager may proscribe a pharmacy or pharmacist from sharing proprietary or confidential information.

(C) A pharmacy benefits manager contract with a participating pharmacist or pharmacy may not prohibit, restrict, or limit disclosure of information to the director investigating or examining a complaint or conducting a review of a pharmacy benefits manager's compliance with the requirements pursuant to this act. The information or data acquired during an examination or review pursuant to this section is considered proprietary and confidential and is not subject to the South Carolina Freedom of Information Act.

Section 38-71-2230. (A) A pharmacy benefits manager or representative of a pharmacy benefits manager shall not:

(1) cause or knowingly permit the use of any advertisement, promotion, solicitation, representation, proposal, or offer that is untrue, deceptive, or misleading;

(2) charge a pharmacist or pharmacy a fee related to the adjudication of a claim unless the fee is:

(a) agreed to by a Pharmacy Services Administrative Organization acting on behalf of a pharmacy that it represents; or

(b) identified and agreed to in contract and identified and reported on the remittance advice;

(3) engage in an anticompetitive pattern of reimbursing independent

or unaffiliated pharmacies or pharmacists in this State consistently less than the amount that the pharmacy benefits manager reimburses a pharmacy benefits manager affiliate for providing the same pharmacist services or prescription drug unless the difference in reimbursement is justified according to uniform, defined standards that apply to each network provider;

(4) collect or require a pharmacy or pharmacist to collect from an insured a copayment for a prescription drug at the point of sale in an amount that exceeds the lesser of:

(a) the contracted copayment amount;

(b) the amount an individual would pay for a prescription drug if that individual was paying cash; or

(c) the contracted amount for the drug;

(5) require the use of mail order for filling prescriptions unless required to do so by the health benefit plan or the health benefit plan design;

(6) Reserved;

(7) penalize or retaliate against a pharmacist or pharmacy for exercising rights provided pursuant to the provisions of this chapter;

(8) prohibit a pharmacist or pharmacy from offering and providing direct and limited delivery services including incidental mailing services, to an insured as an ancillary service of the pharmacy; or

(9) any combination thereof.

(B) No pharmacy benefits manager shall, directly or indirectly, impose retroactive fees, reductions, or recoupments of the amount paid to a pharmacist or pharmacy for any claim for prescription drugs other than the Medicare Part D Program as set forth in 42 U.S.C. 1395w-102 and 42 C.F.R. 423 or as provided in this subsection.

(C) Notwithstanding subsection (B), a pharmacy benefits manager may make or permit a reduction or recoupment of payment for pharmacist or pharmacy services for:

(1) claims submitted fraudulently;

(2) claims where the pharmacist or pharmacy was previously paid for the same pharmacy goods or services;

(3) claims not properly rendered or billed by the pharmacy or pharmacist; or

(4) otherwise in accordance with state pharmacy audit laws.

(D) This section does not preclude a pharmacy benefits manager from engaging in claims reconciliation activities relating to brand effective rates and generic effective rates if:

(1) such activities are agreed to by a Pharmacy Services Administrative Organization acting on behalf of a pharmacy it represents

and identified in the contract; or

(2) if a pharmacy is not represented by a Pharmacy Services Administrative Organization, such activities are permitted if:

(a) they are agreed to by a pharmacy and identified in a contract;

(b) they do not result in a retroactive reduction or recoupment of payment to a pharmacist or pharmacy for a previously adjudicated covered claim, unless the pharmacy or pharmacist has clearly consented to retroactive reductions as part of participation in the program and the reductions are explained in an annual reconciliation statement; and

(c) a pharmacy is allowed to choose not to participate in programs that include the activities. A pharmacy benefits manager offering different terms and conditions including, but not limited to, differing reimbursement rates, for participation versus nonparticipation in the activities shall not constitute a violation of Section 38-71-2230(A)(7).

(E) This subsection may not be construed to limit overpayment recovery efforts as set forth in Section 38-59-250.

A pharmacy may not be subject to a charge-back or recoupment for a clerical or recordkeeping error in a required document or record, including a typographical or computer error, unless the error resulted in overpayment to the pharmacy.

(F) Termination of a pharmacy or pharmacist from a pharmacy benefits manager network does not release the pharmacy benefits manager from the obligation to make any payment due to the pharmacy or pharmacist for pharmacist services properly rendered according to the contract.

(G) A pharmacy benefits manager must not directly or indirectly engage in patient steering to a pharmacy that is a pharmacy benefits manager affiliate without first making a written disclosure to the patient informing such patient of the pharmacy benefits manager's relationship with the pharmacy and providing the patient with access to information about unaffiliated, in-network pharmacies that are located near the patient. A pharmacy benefits manager must not prohibit a patient from choosing to use an alternative in-network pharmacy.

(H) Nothing in this article abridges the right of a pharmacist to refuse to fill or refill a prescription as referenced in Section 40-43-86(E)(6) of the South Carolina Pharmacy Practice Act.

Section 38-71-2235. (A) A pharmacy benefits manager must perform its duties to a health benefit plan or health care insurer exercising good faith and fair dealing.

(B) A pharmacy benefits manager must provide during normal business hours a phone number through which a pharmacy or pharmacist

can obtain answers within a reasonable time to questions regarding networks, patient benefits, appeals, and other contractual or service issues.

(C) A pharmacy benefits manager may not prohibit a pharmacy services administrative organization or pharmacy from sharing information directly with the department.

Section 38-71-2240. (A) Before a pharmacy benefits manager places or continues to place a particular drug on a Maximum Allowable Cost List, the drug must:

(1) be listed as “A” or “B” rated in the most recent version of the Food and Drug Administration's Approved Drug Products with Therapeutic Equivalence Evaluations, also known as the Orange Book, or has an “NR” or “NA” rating, or a similar rating, by a nationally recognized reference;

(2) be available for purchase in the State from national or regional wholesalers operating in this State; and

(3) not be obsolete.

(B) A pharmacy benefits manager shall:

(1) provide a process for network pharmacy providers to readily access the maximum allowable cost specific to that provider;

(2) update its Maximum Allowable Cost List at least once every seven calendar days;

(3) provide a process for each pharmacy subject to the Maximum Allowable Cost List to access any updates to the Maximum Allowable Cost List;

(4) ensure that dispensing fees are not included in the calculation of maximum allowable cost;

(5) establish a reasonable internal appeal procedure by which a contracted pharmacy can appeal the provider's reimbursement for a drug subject to maximum allowable cost pricing if the reimbursement for the drug is less than the net amount that the network provider paid to the suppliers of the drug. The reasonable internal appeal procedure must include:

(a) a dedicated telephone number and email address or website for the purpose of submitting internal appeals; and

(b) the ability to submit an internal appeal directly to the pharmacy benefits manager regarding the pharmacy benefits plan or program or through a pharmacy service administrative organization if the pharmacy service administrative organization has a contract with the pharmacy benefits manager that allows for the submission of such appeals;

(6) participate in a reasonable external review procedure by which a contracted pharmacy can request an external review of a pharmacy benefits manager's denial of an internal appeal by an independent review organization in accordance with the procedures promulgated by the director in subsection (F) of this section; and

(7) permit an unaffiliated retail pharmacy to participate in programs that reconcile payments with actual cost on the same basis as retail pharmacy benefits manager affiliates.

(C) A pharmacy must be allowed no less than ten calendar days after the applicable fill date to file an internal appeal or request for an external review of a denied internal appeal.

(D) If an internal appeal is initiated, the pharmacy benefits manager shall within ten calendar days after receipt of notice of the appeal either:

(1) if the internal appeal is upheld:

(a) notify the pharmacy or pharmacist or his designee of the decision;

(b) make the change in the maximum allowable cost effective as of the date the internal appeal is resolved;

(c) permit the appealing pharmacy or pharmacist to reverse and rebill the claim in question; and

(d) make the change effective for each similarly situated pharmacy as defined by the payor subject to the Maximum Allowable Cost List effective as of the date the internal appeal is resolved; or

(2) if the internal appeal is denied:

(a) provide the appealing pharmacy or pharmacist the reason for the denial, the National Drug Code number, and the name of the national or regional pharmaceutical wholesalers operating in this State; and

(b) notify the pharmacy or pharmacist in writing of the right to request an external review of the internal appeal and include clear and concise documents describing the external review process.

(E) A pharmacy may request an external review of a denied internal appeal if the pharmacy believes the pharmacy benefits manager erred in denying an internal appeal which resulted in a reimbursement amount inconsistent with the provisions of this section.

(F)(1) The director must promulgate regulations to establish an external review process to facilitate the review of a denied internal appeal. The external review process must be consistent with the Health Carrier External Review Act pursuant to Article 19 of this chapter, to the degree possible, given the unique operations of a pharmacy benefits manager, the prescription drug industry, and the provisions of this section. At a minimum, the director must promulgate regulations regarding the following:

(a) the appropriate time frames for all parties to the external review to submit documentation and respond accordingly;

(b) the qualifications and selection of independent review organizations; and

(c) the time frame for an independent review organization to render its decision.

(2) If the independent review organization determines the pharmacy benefits manager reimbursed a pharmacy or pharmacist in an amount inconsistent with the provisions of this section, the pharmacy benefits manager must:

(a) make the change in the maximum allowable cost effective as of the date the external review is resolved;

(b) permit the appealing pharmacy or pharmacist to reverse and rebill the claim in question; and

(c) make the change effective for each similarly situated pharmacy as defined by the payor subject to the Maximum Allowable Cost List effective as of the date the external review is resolved.

(3) An external review decision is binding on the pharmacy benefits manager and the appealing pharmacy or pharmacist. An appealing pharmacy or pharmacist may not file a subsequent request for an external review involving the same type of prescription drug unless there is an update to the Maximum Allowable Cost List that would change the circumstances of the pharmacy's or pharmacist's reimbursement.

(4) The pharmacy benefits manager must pay for all costs related to the external review. The director must establish a reasonable filing fee associated with a pharmacist's request for an external review, which is to be retained by the department for administration of this chapter. The director may require a pharmacy or pharmacist to pay for costs related to the external review if the director determines the pharmacy or pharmacist has abused the external review process.

(5) The information or data acquired during an appeal pursuant to this section is considered proprietary and confidential and is not subject to the South Carolina Freedom of Information Act.

(G) The provisions of this section:

(1) do not apply to the Maximum Allowable Cost List maintained by the State Medicaid Program, the Medicaid-managed care organizations under contract with the South Carolina Department of Health and Human Services or the South Carolina Public Employee Benefit Authority; and

(2) apply to the pharmacy benefits manager employed by the South Carolina Public Employee Benefit Authority if, at any time, the South Carolina Public Employee Benefit Authority engages the services of a

pharmacy benefits manager to maintain the Maximum Allowable Cost List.

Section 38-71-2245. (A)(1) A pharmacy benefits manager may neither limit an insured from selecting an in-network pharmacy or pharmacist of the insured's choice nor deny the right of a pharmacy or pharmacist to participate in a network if the pharmacy or pharmacist meets the requirements for network participation set forth by the pharmacy benefits manager, and the pharmacy or pharmacist agrees to the contract terms, conditions, and rates of reimbursements.

(2) A pharmacy benefits manager may not impose any pharmacy accreditation standards or recertification requirements for network participation that unreasonably exceed state or federal requirements for licensure as a pharmacy in this State unless authorized under this chapter.

(B) Notwithstanding subsection (A), a pharmacy benefits manager may for specialized delivery drugs specify requirements for network participation that:

(1) directly relate to the ability of the pharmacy or pharmacist to store, handle, or deliver a prescription drug in a manner that ensures the quality, integrity, or safety of the drug, its delivery, or its use; or

(2) relate to quality metrics that affect a pharmacy's or pharmacist's ability to participate, provided that the pharmacy benefits manager applies such terms equally to all network participants.

(C) For prescription drugs that qualify as a high-cost prescription drug, subsection (A) of this section does not apply to a pharmacy benefits manager. A high-cost prescription drug is defined as a prescription drug whose current or prior year's annual average wholesale price exceeded 300 percent of the Federal Poverty Level for a single-member household.

(D) A pharmacy benefits manager must provide notification of any changes to all applicable specialized delivery drug lists and high-cost prescription drug lists and must make such lists available on a website and upon request to participating pharmacies. A pharmacy may appeal a classification determination to the Department of Insurance.

(E) The provisions of this section do not apply to the coverage provided to employees, retirees, and their eligible dependents pursuant to Section 1-11-710 by the South Carolina Public Employee Benefit Authority or through its contracted pharmacy benefits manager.

Section 38-71-2250. (A) The director shall enforce this article.

(B)(1) As often as the director deems appropriate, but not less frequently than once every five years, the director may examine or audit

the books and records of a pharmacy benefits manager providing claims processing services or other prescription drug or device services for a health benefit plan that are relevant to determining if the pharmacy benefits manager is in compliance with this act. The pharmacy benefits manager shall pay the charges incurred in the examination, including the expenses of the director or his designee and the expenses and compensation of his examiners and assistants. The director or his designee promptly shall institute a civil action to recover the expenses of examination against a pharmacy benefits manager which refuses or fails to pay.

(2) The information or data acquired during an examination pursuant to this section is considered proprietary and confidential and is not subject to the South Carolina Freedom of Information Act.

(C) Violations of this article are subject to the penalties provided in Sections 38-2-10 through 38-2-30.

(D) The director may promulgate regulations regarding pharmacy benefits managers that are not inconsistent with this article.

Section 38-71-2260. (A) Nothing in this act is intended or may be construed to be in conflict with existing relevant federal law.

(B) Other than the antisteering provisions contained in Section 38-71-2230(G), this article does not apply to the South Carolina Department of Health and Human Services in the performance of its duties in administering Medicaid under Titles XIX and XXI of the Social Security Act or to the Medicaid-managed care organizations under contract with the South Carolina Department of Health and Human Services.

(C) Notwithstanding the exemption under subsection (B), contracts between the South Carolina Department of Health and Human Services and Medicaid-managed care organizations must include provisions for biannual audits of Medicaid-managed care organizations' pharmacy pricing mechanisms and include limitations on any pharmacy benefits manager contract arrangements that bill the Medicaid program for more than the total price paid to pharmacies for actual claims.

Pharmacy services administrative organizations

SECTION 3. Chapter 71, Title 38 of the S.C. Code is amended by adding:

Article 23

Pharmacy Services Administrative Organizations

Section 38-71-2310. As used in this article:

(1) "Pharmacist" has the same meaning as provided in Section 40-43-30(65).

(2) "Pharmacy" has the same meaning as provided in Section 40-43-30(67).

(3) "Pharmacy services" has the same meaning as provided in Section 38-71-2200(8).

(4) "Pharmacy benefits manager" or "PBM" has the same meaning as provided in Section 38-71-2200(10).

(5) "Pharmacy Services Administrative Organization" (PSAO) means an entity that has contracted with pharmacy clients in the State to conduct business on their behalf with third-party payers or pharmacy benefits managers. PSAOs provide administrative services to pharmacies and negotiate and enter into contracts with third-party payers or pharmacy benefits managers on behalf of pharmacies.

(6) "PSAO-pharmacy contract" means a contractual agreement between a PSAO and a pharmacy by which a PSAO agrees to negotiate with third-party payers or pharmacy benefits managers on behalf of a pharmacy.

Section 38-71-2320. (A)(1) A person or organization may not establish or operate as a pharmacy services administrative organization in this State for prescription drug coverage or benefits without obtaining a license from the director.

(2) The director shall prescribe the application for a license to operate in this State as a pharmacy services administrative organization and may charge an initial application fee of one thousand dollars and an annual renewal fee of five hundred dollars, provided the pharmacy services administrative organization application form must collect the following information:

(a) the name, address, and telephone contact number of the pharmacy services administrative organization;

(b) the name and address of the pharmacy services administrative organization's agent for service of process in the State;

(c) the name and address of each person with management or control over the pharmacy services administrative organization;

(d) the name and address of each person with a beneficial ownership interest in the pharmacy services administrative organization;

(e) a signed statement indicating that, to the best of their knowledge, no officer with management or control of the pharmacy

services administrative organization has been convicted of a felony or has violated any of the requirements of state law applicable to pharmacy services administrative organization, or, if the applicant cannot provide such a statement, a signed statement describing the relevant conviction or violation; and

(f) in the case of a pharmacy services administrative organization applicant that is a partnership or other unincorporated association, limited liability company, or corporation, and has five or more partners, members, or stockholders:

(i) the applicant shall specify its legal structure and the total number of its partners, members, or stockholders who, directly or indirectly, own, control, hold with the power to vote, or hold proxies representing ten percent or more of the voting securities of any other person; and

(ii) the applicant shall agree that, upon request by the department, it shall furnish the department with information regarding the name, address, usual occupation, and professional qualifications of any other partners, members, or stockholders who, directly or indirectly, own, control, hold with the power to vote, or hold proxies representing ten percent or more of the voting securities of any other person.

(3) An applicant or a pharmacy services administrative organization that is licensed to conduct business in the State shall, unless otherwise provided for in this chapter, file a notice describing any material modification of this information.

(B) The director may promulgate regulations establishing the licensing and reporting requirements of pharmacy services administrative organizations consistent with the provisions of this article.

(C) The fees and penalties assessed pursuant to this article must be retained by the department for the administration of this chapter.

Section 38-71-2330. (A) A pharmacy service administrative organization must:

(1) act as a fiduciary to a pharmacy and perform its duties to a pharmacy exercising good faith and fair dealing;

(2) in the event of a dispute between a pharmacy and a pharmacy benefits manager or third-party payer, ensure and facilitate timely communication from the pharmacy to the pharmacy benefits manager or third-party payer;

(3) forward any and all notices of appeals from a pharmacy to the pharmacy benefits manager or third-party payer in a timely manner and provide in a timely manner information that has been requested as part

of an appeal to the external review organization and, upon request, the department;

(4) provide during normal business hours a phone number through which a pharmacy or pharmacist can obtain answers within a reasonable time to questions regarding networks, contracts, appeals, and other contractual or service issues; and

(5) provide a detailed breakdown of the prescription numbers, amounts, and contractual basis for each recoupment and regular updates on the status of appeals.

(B) In connection with any appeal, a third-party payer or pharmacy benefits manager's notice or provision of information to a PSAO is deemed to be notice or provision of information to the pharmacy on whose behalf the PSAO has contracted.

(C) A PSAO-pharmacy contract must include a provision that requires the PSAO to provide to the pharmacy a copy of any contract, amendments, payment schedules, or reimbursement rates within three calendar days after the execution of a contract, or an amendment to a contract, signed on behalf of the pharmacy.

(D) Prior to entering into a PSAO-pharmacy contract, a PSAO must furnish to a pharmacy a written disclosure of ownership or control. This disclosure must include the extent of any ownership or control by any parent company, subsidiary, or other organization that:

(1) provides pharmacy services;

(2) provides prescription drug or devices services; or

(3) manufactures, sells, or distributes prescription drugs, biologicals, or medical devices.

(E) Any PSAO-pharmacy contract must provide that the PSAO must notify the pharmacy in writing within five calendar days of any material change in its ownership or control related to any company, subsidiary, or other organization outlined in subsection (D).

(F) A PSAO that owns or is owned by, in whole or in part, any entity that manufactures, sells, or distributes prescription drugs, biologicals, or medical devices must not, as a condition of entering into a PSAO-pharmacy contract, require that the pharmacy purchase any drugs or medical devices from the entity with which the PSAO has an ownership interest, or an entity with an ownership interest in the PSAO.

(G) A PSAO that owns or is owned by, in whole or in part, any entity that manufactures, sells, or distributes prescription drugs, biologicals, or medical devices must disclose to the Department of Insurance any agreement with a pharmacy in which the pharmacy purchases prescription drugs, biologicals, or medical devices from a PSAO or any entity that owns or is owned by, in whole or in part, the PSAO.

Section 38-71-2340. (A) The director shall enforce this article.

(B)(1) As often as the director deems appropriate, but not less frequently than once every five years, the director may examine or audit the books and records of a pharmacy services administrative organization providing prescription drug coverage or benefits on behalf of pharmacies or pharmacy benefits managers that are relevant to determining if the pharmacy services administrative organization is in compliance with this act. The pharmacy services administrative organization must pay the charges incurred in the examination, including the expenses of the director or his designee and the expenses and compensation of his examiners and assistants. The director or his designee promptly must institute a civil action to recover the expenses of examination against a pharmacy services administrative organization which refuses or fails to pay.

(2) The information or data acquired during an examination pursuant to this section is considered proprietary and confidential and is not subject to the South Carolina Freedom of Information Act.

(C) Violations of this article are subject to the penalties provided in Sections 38-2-10 through 38-2-30.

(D) The director may promulgate regulations regarding pharmacy services administrative organizations that are not inconsistent with this article.

Section 38-71-2350. (A) Nothing in this act is intended or may be construed to be in conflict with existing relevant federal law.

(B) This article does not apply to the South Carolina Department of Health and Human Services in the performance of its duties in administering Medicaid under Titles XIX and XXI of the Social Security Act or to the Medicaid-managed care organizations under contract with the South Carolina Department of Health and Human Services.

Repeal

SECTION 4. Section 38-71-147 of the S.C. Code is repealed.

Department of Insurance study

SECTION 5. The Department of Insurance must commission a study of the cost of applying the provisions of Articles 18, 21, and 23 of this chapter to payors that are not currently included in the definition of pharmacy benefits manager. This study must be delivered to the Senate and House of Representatives before January 1, 2024.

Severability

SECTION 6. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 7. This act takes effect January 1, 2024, but the recurring examinations by the Department of Insurance provided for in Sections 38-71-2250(B)(1) and 38-71-2340(B)(1) must not begin before January 1, 2025.

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 31

(R38, S566)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE "SOUTH CAROLINA CRAFT BEER ECONOMIC DEVELOPMENT ACT"; BY AMENDING SECTION 61-4-1515, RELATING TO THE SALE OF BEER BY BREWERIES, SO AS TO PROVIDE THAT CERTAIN BEER SOLD FOR ON-PREMISES CONSUMPTION MUST BE PRODUCED BY THE BREWERY ON ITS PERMITTED PREMISES OR TRANSFERRED TO THE BREWERY AND TO DELETE THE CONDITION THAT SALES TO CONSUMERS MUST BE HELD IN CONJUNCTION WITH A TOUR.

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

Citation

SECTION 1. This act may be cited as the "South Carolina Craft Beer Economic Development Act".

South Carolina Craft Beer Economic Development Act

SECTION 2. Section 61-4-1515 of the S.C. Code is amended to read:

Section 61-4-1515. (A) A brewery permitted in this State is authorized to sell beer to consumers on its permitted premises with an alcoholic content of twelve percent by weight, or less, subject to the following conditions:

(1) beer sold for on-premises consumption must be produced by the brewery on its permitted premises or transferred to the brewery, subject to the following conditions: (a) the transferring and receiving breweries operate under one hundred percent identical ownership, and (b) the annual volume of beer received by a brewery does not exceed the annual volume of beer produced by such brewery on its permitted premises;

(2) sales to consumers must be held in conjunction with a tour by the consumer of the permitted premises and the entire brewing process utilized at the permitted premises;

(3) sales shall not be offered or made to, or allowed to be offered, made to, or consumed by an intoxicated person or a person who is under the age of twenty-one;

(4)(a) no more than a total of forty-eight ounces of beer brewed at or transferred to the permitted premises shall be sold to a consumer for on-premises consumption within a twenty-four hour period; and

(b) of that forty-eight ounces of beer available to be sold to a consumer within a twenty-four hour period, no more than sixteen ounces of beer with an alcoholic weight of above eight percent, including any samples offered and consumed with or without cost, shall be sold to a consumer for on-premises consumption within a twenty-four hour period;

(5) a brewery must report in a manner required by the department the amounts, types, and brewing locations of beer sampled or sold to a consumer for on-premises consumption;

(6) a brewery must sell the beer at the permitted premises at a price approximating retail prices generally charged for identical beverages in the county where the permitted premises are located;

(7) a brewery must remit appropriate taxes to the Department of Revenue for beer sales in an amount equal to and in a manner required for excise taxes assessed by the department. A brewery also must remit appropriate sales and use taxes and local hospitality taxes;

(8) a brewery must post information that states the alcoholic content by weight of the various types of beer available in the brewery and the penalties for convictions for:

(a) driving under the influence;

(b) unlawful transport of an alcoholic container; and

(c) unlawful transfer of alcohol to minors.

And, the information shall be in signage that must be posted at each entrance, each exit, and in places in a brewery seen during a tour;

(9) a brewery must provide department or DAODAS approved alcohol enforcement training for the employees who serve beer on the permitted premises to consumers for on-premises consumption, so as to prevent and prohibit unlawful sales, transfer, transport, or consumption of beer by persons who are under the age of twenty-one or who are intoxicated; and

(10) a brewery must maintain a liquor liability insurance policy or a general liability insurance policy with a liquor liability endorsement in the amount of at least one million dollars for the biennial period for which it is permitted. Within ten days of receiving its biennial permit, a brewery must send proof of this insurance to the State Law Enforcement Division and to the Department of Revenue, where the proof of insurance information shall be retained with the department's alcohol beverage licensing section.

(B)(1) In addition to the sales provisions set forth in subsection (A) and subject to this subsection (B), a brewery permitted in this State is authorized to sell beer to consumers on-site for on-premises consumption within an area of its permitted and licensed premises approved by the rules and regulations of the Department of Health and Environmental Control governing eating and drinking establishments and other food service establishments. These establishments also may apply for a retail on-premises consumption permit for the sale of beer and wine that has been purchased from a wholesaler through the three-tier distribution chain set forth in Section 61-4-735 and Section 61-4-940.

(2) In addition to a retail on-premises consumption permit for the sale of beer and wine as authorized in this subsection, a brewery that has a Department of Health and Environmental Control approved and licensed food establishment on its premises as provided in subsection (B)(1) may apply for a license to sell alcoholic liquor by the drink for

on-premises consumption within a specified area of its licensed or permitted premises physically partitioned from the brewing operation and designated for the purpose of engaging substantially and primarily in the preparation and serving of meals. The brewery must:

(a) maintain compliance with all provisions of Section 61-6-1610 and all other provisions of Chapter 6 regulating the purchase and sale by food establishments of alcoholic liquor by the drink for on-premises consumption not inconsistent with other provisions of this section;

(b) not sell or allow the consumption of alcoholic liquor by the drink on that part of the brewery's premises designated and permitted for the brewing operation;

(c) maintain the books, records, and bank accounts of the restaurant operation separately from the books, records, and bank accounts of the brewing operation, and allocate expenses common to both operations in a manner the brewery considers reasonable, when applicable; and

(d) maintain a physical partition between the brewing and food establishment operations. The physical partition may be a permanent wall or a divider permanently affixed to the premises in a manner that the general public may not freely enter the brewing operation, and may contain a door or doors which remain locked during hours when the brewery is not in operation.

(C) The department shall terminate and a brewery shall surrender each permit and license issued to the brewery pursuant to subsection (B) immediately following inspection, determination, and report by the division to the department that brewing operations have ceased on the brewery's permitted premises. This includes the food establishment permits and licenses. Following reinstitution of brewing operations on the formerly permitted premises, a brewery may re-apply for the applicable permits and licenses authorized by subsection (B).

(D) The sale of beer for on-premises consumption pursuant to subsection (B) must comply with the following provisions:

(1) all provisions of subsection (A) shall apply to sales under subsection (B) and this subsection, except subsection (A)(2),(4), and (5);

(2) the brewery must comply with all state and local laws concerning hours of operation applicable to eating and drinking establishments and other food service establishments holding permits to sell beer and wine for on-premises consumption;

(3) the brewery must comply with the discount pricing provisions of Section 61-4-160, applicable to persons holding permits to sell beer and wine for on-premises consumption;

(4) the brewery must sell the beer at a price approximating retail

prices generally charged for identical beverages by on-premises retailers in the county where the licensed premises are located; and

(5) a wholesaler must not provide and a brewery must not accept services, equipment, fixtures, or free beer prohibited by Section 61-4-940(B), except those items authorized by Section 61-4-940(C). Changes to the brewery laws pursuant to subsection (B) and this subsection do not alter or amend the structure of the three-tier laws of this State, and the wholesalers and the breweries must not discriminate in pricing at the producer or wholesaler levels.

(E) A brewery located in this State is authorized to sell beer to consumers on its permitted premises for off-premises consumption, provided that the sealed beer was brewed on the brewery's permitted premises or received pursuant to subsection (A) with an alcohol content of fourteen percent by weight or less, subject to the following conditions:

(1) the maximum amount of beer that may be sold to an individual per day for off-premises consumption shall be equivalent to eight hundred sixty-four ounces in total;

(2) the beer only shall be sold in conjunction with a tour by the consumer of the permitted premises and the entire brewing process utilized at the permitted premises;

(3) the beer sold is for personal use only and must not be resold;

(4) the beer must not be sold to anyone holding a retail beer and wine license for the purpose of resale in their establishment;

(5) the brewery must sell the beer at the permitted premises at a price approximating retail prices generally charged for identical beverages in the county where the permitted premises are located;

(6) the brewery must remit taxes to the Department of Revenue for beer sales in an amount equal to and in a manner required for taxes assessed by Section 12-21-1020 and Section 12-21-1030. The brewery also must remit appropriate sales and use taxes and local hospitality taxes; and

(7) beer sold in kegs must comply with the requirements of Article 19, entitled “Keg Registration”.

(F) A brewery must report monthly in a manner required by the department the amounts and brands of beer present on its licensed premises at the month’s beginning, brewed on its licensed premises, transferred to and received from a separate licensed brewery under identical ownership, sold to wholesalers for resale, sold to consumers for off-premises consumption, sold to consumers for on-premises consumption, lost to spillage and spoilage, removed for owner consumption, and present on its licensed premises at the month’s end.

(G) A brewpub permitted pursuant to Article 17, which is a retailer for

purposes of Sections 61-4-735(D) and 61-4-940(D), may make application to the department for a brewery permit and the permits and licenses authorized pursuant to subsection (B) for the brewpub's existing permitted premises. For these applications, the department shall waive newspaper notice and sign posting requirements, except the requirements shall not be waived for an alcoholic liquor by the drink application if the brewpub does not possess this license at the time of application. Excluding operations authorized pursuant to subsection (B), the department must not approve an application if the applicant or any principal or person acting directly or indirectly on behalf of the applicant would have ownership or financial interest in a wholesale or retail beer, wine, or alcoholic liquor operation following the issuance of the brewery permit. Contemporaneous with obtaining the brewery and applicable permits or licenses authorized pursuant to subsection (B), the applicant shall surrender the brewpub permit and the alcoholic liquor by the drink license previously issued for the premises.

(H) In addition to other applicable fines or penalties, a person permitted as a brewery in this State who violates the provisions of this section must be assessed a fine of five hundred dollars for a first violation. For a second violation that occurs within three years of the first violation, a person must be assessed an additional five hundred dollars. For subsequent violations within a three-year period, the department must suspend the brewery permit for a period of not less than thirty days. The revenue from the fines established in this section must be directed to the State Law Enforcement Division for supplementing funds required for the regulation and enforcement of this section.

Time effective

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

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 32

(R39, S603)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 46-41-230, RELATING TO THE SOUTH CAROLINA GRAIN AND COTTON PRODUCERS GUARANTY FUND'S AMOUNT AND CLAIMS, SO AS TO PROVIDE THAT, IF THERE IS AN INSUFFICIENT AMOUNT OF MONEY TO COVER ALL CLAIMS, THEN PAYMENTS MUST BE MADE ON A PRO RATA BASIS, AND THE PRO RATA DETERMINATION SHALL BE BASED UPON THE PRODUCER'S TOTAL LOSS AMOUNT AS WELL AS THE TOTAL NUMBER OF EXEMPTIONS GRANTED TO THE PRODUCER; AND BY AMENDING SECTION 46-41-250, RELATING TO THE SOUTH CAROLINA GRAIN AND COTTON PRODUCERS GUARANTY FUND, SO AS TO INCLUDE COTTON.

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

Insufficiency in fund

SECTION 1. Section 46-41-230(D) of the S.C. Code is amended to read:

(D) If there is an insufficient amount of money in the fund to cover all claims, payments must be made on a pro rata basis up to one hundred percent of the total loss of each producer. The pro rata determination shall be based upon the producer's total loss amount as well as the total number of exemptions granted to the producer as set forth in Section 46-41-250. The more exemptions granted to a producer, the lower the share the producer will receive. Claims against the fund must be paid in the order in which they have been verified and approved.

Application for exemption

SECTION 2. Section 46-41-250(C) and (D) of the S.C. Code is amended to read:

(C) Upon filing of the application, the department must issue the applicant an exemption certificate specifying the producer, commodity

exempted, and period of exemption. The certificate, when presented to the grain or cotton dealer upon delivery of the grain or cotton, entitles the specified producer to an exemption from the dealer's and handler's assessment on the specified commodity.

(D) When an exemption is granted under this section, the grain or cotton dealer must retain a copy of the exemption certificate for a period of no less than two years. Any producer who elects not to participate in the fund is not eligible to be reimbursed for any loss for the commodity exempted for that calendar year.

Time effective

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

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 33

(R40, S612)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 63-7-10, RELATING TO THE PURPOSE OF THE SOUTH CAROLINA CHILDREN'S CODE, SO AS TO REVISE STATED CHILD WELFARE SERVICE PRINCIPLES AND REQUIRE CERTAIN REPORTING; AND BY AMENDING SECTION 63-7-920, RELATING TO INVESTIGATIONS AND CASE DETERMINATION, SO AS TO CHANGE GUIDELINES FOR INVESTIGATION AND REPORTING IN THE CASE OF A REPORT OF SUSPECTED CHILD ABUSE OR NEGLECT.

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

Child welfare service principles

SECTION 1. Section 63-7-10 of the S.C. Code is amended to read:

Section 63-7-10. (A) Any intervention by the State into family life on behalf of children must be guided by law, by strong philosophical underpinnings, and by sound professional standards for practice. Child welfare services must be based on these principles:

(1) Parents have the primary responsibility for and are the primary resource for their children.

(2) Children should have the opportunity to grow up in a family unit if at all possible.

(3) State and community agencies have a responsibility to implement prevention programs aimed at identifying high risk families and to provide supportive intervention to reduce occurrence of maltreatment.

(4) Services for families should be accessible and designed to encourage and enable families to adequately deal with their problems within their own family system.

(5) Child welfare intervention into a family's life should be structured so as to avoid a child's entry into the protective service and foster care systems if at all possible.

(6) The state's child welfare system must be designed to be child-centered, family-focused, community-based, and culturally competent in its prevention and protection efforts.

(7) Neighborhoods and communities are the primary source of opportunities and supports for families and have a primary responsibility in assuring the safety and vitality of their members.

(8) The Department of Social Services shall collaborate with the community to identify, support, and treat families in a nonthreatening manner, in both investigative and family assessment situations.

(9) A family assessment approach, stressing the safety of the child, building on the strengths of the family, and identifying and treating the family's needs is the appropriate approach for cases not requiring law enforcement involvement or the removal of the child.

(10) Only a comparatively small percentage of current child abuse and neglect reports are criminal in nature or will result in the removal of the child or alleged perpetrator.

(11) Should removal of a child become necessary, the state's foster care system must be prepared to provide timely and appropriate placements for children with relatives or in licensed foster care settings and to establish a plan which reflects a commitment by the State to achieving permanency for the child within reasonable timelines.

(12) The Department of Social Services staff who investigates serious child abuse and neglect reports with law enforcement must be competent in law enforcement procedures, fact finding, evidence

gathering, and effective social intervention and assessment.

(13) Services should be identified quickly and should build on the strengths and resources of families and communities.

(B) It is the purpose of this chapter to:

(1) acknowledge the different intervention needs of families;

(2) establish an effective system of services throughout the State to safeguard the well-being and development of endangered children and to preserve and stabilize family life, whenever appropriate;

(3) ensure permanency on a timely basis for children when removal from their homes is necessary;

(4) establish fair and equitable procedures, compatible with due process of law to intervene in family life with due regard to the safety and welfare of all family members; and

(5) establish an effective system of protection of children from injury and harm while living in public and private residential agencies and institutions meant to serve them.

(C) All child welfare intervention by the State has as its primary goal the welfare and safety of the child.

(D) Beginning September 1, 2023, the department must provide to the General Assembly an annual report that enumerates each case accepted for investigation in which the department failed to comply with the time frames established in this chapter, the amount of time beyond the time frames established that the department required to complete the proceeding, and the good cause for the department's inability or failure to comply.

Investigations and case determination

SECTION 2. Section 63-7-920 of the S.C. Code is amended to read:

Section 63-7-920. (A)(1) Within twenty-four hours of the receipt of a report of suspected child abuse or neglect, the department must begin an appropriate and thorough investigation to decide whether the report should be "indicated" or "unfounded" when the department concludes the report alleges that:

(a) a child is at imminent and substantial risk of physical or mental injury due to abuse, neglect, or harm;

(b) the family may flee or the child may be unavailable for purposes of conducting a child protective services investigation; or

(c) the department has assumed legal custody of a child pursuant to Section 63-7-660 or 63-7-670 or the department has been notified that a child has been taken into emergency protective custody.

(2) The department must begin an appropriate and thorough investigation of all reports of suspected child abuse or neglect that do not meet criteria established in subsection (A)(1) within two business days of receiving the report to determine whether the report should be "indicated" or "unfounded".

(3) The finding must be made no later than forty-five days from the receipt of the report. A single extension of no more than fifteen days may be granted by the director of the department, or the director's designee, for good cause shown, pursuant to guidelines adopted by the department.

(4) If the investigation cannot be completed because the department is unable to locate the child or family or for other compelling reasons, the report may be classified as unfounded Category III and the investigation may be reopened at a later date if the child or family is located or the compelling reason for failure to complete the investigation is removed. The department must make a finding within forty-five days after the investigation is reopened.

(B) The department may file with the family court an affidavit and a petition to support issuance of a warrant at any time after receipt of a report. The family court must issue the warrant if the affidavit and petition establish probable cause to believe the child is an abused or neglected child and that the investigation cannot be completed without issuance of the warrant. The warrant may authorize the department to interview the child, to inspect the condition of the child, to inspect the premises where the child may be located or may reside, and to obtain copies of medical, school, or other records concerning the child.

(C) The department or law enforcement, or both, may interview the child alleged to have been abused or neglected and any other child in the household during the investigation. The interviews may be conducted on school premises, at childcare facilities, at the child's home or at other suitable locations and in the discretion of the department or law enforcement, or both, may be conducted outside the presence of the parents. To the extent reasonably possible, the needs and interests of the child must be accommodated in making arrangements for interviews, including time, place, method of obtaining the child's presence, and conduct of the interview. The department or law enforcement, or both, shall provide notification of the interview to the parents as soon as reasonably possible during the investigation if notice will not jeopardize the safety of the child or the course of the investigation. All state, law enforcement, and community agencies providing child welfare intervention into a child's life should coordinate their services to minimize the number of interviews of the child to reduce potential emotional trauma to the child.

(D) The department must furnish to parents or guardians on a standardized form the following information as soon as reasonably possible after commencing the investigation:

(1) the names of the investigators;

(2) the allegations being investigated;

(3) whether the person's name has been recorded by the department as a suspected perpetrator of abuse or neglect;

(4) the right to inspect department records concerning the investigation;

(5) statutory and family court remedies available to complete the investigation and to protect the child if the parent or guardian or subject of the report indicates a refusal to cooperate;

(6) how information provided by the parent or guardian may be used;

(7) the possible outcomes of the investigation; and

(8) the telephone number and name of a department employee available to answer questions.

(E) This subarticle does not require the department to investigate reports of child abuse or neglect which resulted in the death of the child unless there are other children residing in the home, or a resident of the home is pregnant, or the subject of the report is the parent, guardian, or person responsible for the welfare of another child regardless of whether that child resides in the home.

(F) The department or law enforcement, or both, may collect information concerning the military affiliation of the person having custody or control of the child subject to an investigation and may share this information with the appropriate military authorities pursuant to Section 63-11-80.

Time effective

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

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 34

(R42, H3142)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 53-3-270 SO AS TO DESIGNATE THE THIRTEENTH DAY OF MAY EACH YEAR AS "ROBERT SMALLS DAY" IN SOUTH CAROLINA.

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

Robert Smalls Day

SECTION 1. Chapter 3, Title 53 of the S.C. Code is amended by adding:

Section 53-3-270. The thirteenth day of May each year is designated as "Robert Smalls Day" in South Carolina.

Time effective

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

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 35

(R43, H3204)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 40-55-420, RELATING TO PSYPACT DISPUTE RESOLUTION, SO AS TO PROVIDE FOR THE UNITED STATES DISTRICT COURT OF GEORGIA TO RESOLVE DISPUTES.

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

Dispute resolution

SECTION 1. Section 40-55-420 (B)(6) and (D)(2) of the S.C. Code is amended to read:

(6) The defaulting state may appeal the action of the commission by petitioning the U.S. District Court for the State of Georgia or the federal district where the compact has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(2) By majority vote, the commission may initiate legal action in the United States District Court for the State of Georgia or the federal district where the compact has its principal offices against a compact state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

Time effective

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

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 36

(R44, H3231)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY REPEALING SECTIONS 44-6-300, 44-6-310, AND 44-6-320 ALL RELATING TO THE RESPONSIBILITY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO ESTABLISH AND EXPAND CHILD DEVELOPMENT

SERVICES.

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

Repeal

SECTION 1. Sections 44-6-300, 44-6-310, and 44-6-320 of the S.C. Code are repealed.

Time effective

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

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 37

(R45, H3269)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY REPEALING SECTION 50-3-140 RELATING TO THE PUBLICATION OF DESCRIPTIONS OF UNIFORMS AND EMBLEMS BY THE DEPARTMENT OF NATURAL RESOURCES.

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

Repeal

SECTION 1. Section 50-3-140 of the S.C. Code is repealed.

Time effective

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

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 38

(R46, H3681)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 44-95-45 SO AS TO PROVIDE THAT POLITICAL SUBDIVISIONS OF THIS STATE MAY NOT ENACT ANY LAWS, ORDINANCES, OR RULES PERTAINING TO INGREDIENTS, FLAVORS, OR LICENSING OF CIGARETTES, ELECTRONIC SMOKING DEVICES, E-LIQUID, VAPOR PRODUCTS, OR TOBACCO PRODUCTS AND TO PROVIDE THAT SUCH LAWS, ORDINANCES, AND RULES ENACTED BY A POLITICAL SUBDIVISION PRIOR TO DECEMBER 31, 2020, ARE NOT SUBJECT TO THE PREEMPTION IMPOSED BY THIS ACT; BY AMENDING SECTIONS 16-17-500, 16-17-501, 16-17-502, 16-17-503, 16-17-504, AND 16-17-506, RELATING TO THE PREVENTION OF YOUTH ACCESS TO TOBACCO AND OTHER NICOTINE PRODUCTS, SO AS TO CHANGE THE DEFINITION OF "TOBACCO PRODUCT" AND ADD DEFINITIONS FOR "TOBACCO RETAIL ESTABLISHMENT" AND "TOBACCO RETAILER"; TO PROHIBIT MINORS FROM ENTERING A TOBACCO RETAIL ESTABLISHMENT; TO CHANGE CERTAIN PENALTIES FOR TOBACCO RETAILER VIOLATIONS; TO REQUIRE TOBACCO RETAILERS TO SECURE AND DISPLAY A TOBACCO RETAIL SALES LICENSE FROM THE DEPARTMENT OF REVENUE AND TO ESTABLISH AN ASSOCIATED FEE AND PENALTY FOR VIOLATIONS; TO MAKE TECHNICAL CORRECTIONS; AND FOR OTHER PURPOSES; BY AMENDING SECTION 59-1-380, RELATING TO THE MANDATORY PUBLIC SCHOOL TOBACCO-FREE CAMPUS POLICY, SO AS TO MAKE CONFORMING CHANGES; AND BY ADDING SECTION 12-36-511 SO AS TO REQUIRE RETAILERS TO PROVIDE THE DEPARTMENT OF

REVENUE CERTAIN TOBACCO-RELATED INFORMATION IN THEIR RETAIL LICENSE APPLICATIONS.

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

Citation

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

Preemption

SECTION 2. Chapter 95, Title 44 of the S.C. Code is amended by adding:

Section 44-95-45.(A) Political subdivisions of this State may not enact any laws, ordinances, or rules pertaining to ingredients, flavors, or licensing, beyond a general business license, related to the sale of the following products:

(1) cigarettes, as defined in Section 12-21-620;

(2) electronic smoking devices, e-liquid, vapor products, or tobacco products, each as defined in Section 16-17-501; or

(3) any other product containing nicotine that can be ingested into the body by chewing, smoking, absorbing, dissolving, inhaling, or by any means.

(B) Nothing in this section shall be construed to interfere with a political subdivision's authority to determine its own public-use policies relating to any of the products referenced in this section.

Preemption exemptions

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

Land use regulation, local authority

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

Tobacco product sale prohibitions, minors

SECTION 5. Section 16-17-500 of the S.C. Code is amended to read:

Section 16-17-500. (A) It is unlawful for an individual to sell, furnish, give, distribute, purchase for, or provide a tobacco product to a minor under the age of eighteen years.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) Local law enforcement and the State Law Enforcement Division may enforce subsections (A), (B), (C), (D), (E), or (J). The Department

of Revenue must administer the provisions of subsection (E)(3) and the State Law Enforcement Division may enforce subsection (E)(3).

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

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

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

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

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

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

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

(5) A violation of this subsection is not grounds for denying, suspending, or revoking an individual's participation in a state college or university financial assistance program including, but not limited to, a

Life Scholarship, a Palmetto Fellows Scholarship, or a need-based grant.

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

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

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

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

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

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

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

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

(3) For purposes of this section, whether a tobacco retail establishment has as its primary purpose the sale of tobacco products must be based on the totality of the circumstances. Facts that must be considered, but not be limited to, are the tobacco retail establishment's

business filings, business name and signage, marketing and other advertisements, and the percentage of revenue and inventory directly related to the sale of tobacco products.

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

Definitions

SECTION 6. Section 16-17-501 of the S.C. Code is amended to read:

Section 16-17-501. As used in this section and Sections 16-17-500, 16-17-502, 16-17-503, 16-17-504, and 16-17-506:

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

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

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

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

(a) may or may not contain nicotine;

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

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

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

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

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

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

(8) "Tobacco product" means:

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

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

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

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

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

Tobacco product samples

SECTION 7. Section 16-17-502 of the S.C. Code is amended to read:

Section 16-17-502. (A) It is unlawful for a person to distribute a tobacco product sample to a person under the age of eighteen years.

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

eighteen years.

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

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

Enforcement

SECTION 8. Section 16-17-503 of the S.C. Code is amended to read:

Section 16-17-503. (A) The State Law Enforcement Division may conduct unannounced compliance checks for violations of Sections 16-17-500, 16-17-502, and 16-17-506. A person under the age of eighteen may be recruited and authorized by the State Law Enforcement Division to test the tobacco retail establishment's compliance with Sections 16-17-500, 16-17-502, and 16-17-506. The testing must be under direct supervision of a law enforcement agency and with the consent of the person's parent or guardian. The State Law Enforcement Division must notify the Department of Revenue of violations under Section 16-17-500(E)(3). The results of compliance checks resulting in a tobacco retailer being prohibited from selling or distributing tobacco products must be published by the Department of Revenue annually and made available to the public upon request. Penalties collected pursuant to Sections 16-17-500, 16-17-502, and 16-17-506 must be used to offset the costs of enforcement.

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

Human Services.

Enforcement

SECTION 9. Section 16-17-504 of the S.C. Code is amended to read:

Section 16-17-504. (A) Sections 16-17-500, 16-17-502, 16-17-503, and 16-17-506 must be enforced to ensure the eligibility for and receipt of federal funds or grants the State receives or may receive relating to the sections. Any laws, ordinances, or rules enacted pertaining to tobacco products may not supersede state law or regulation. Nothing in this section affects the right of any person having ownership or otherwise controlling private property to allow or prohibit the use of tobacco products on the property.

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

E-liquid containers

SECTION 10. Section 16-17-506 of the S.C. Code is amended to read:

Section 16-17-506. (A) For purposes of this section, "container" means a bottle or other container of any kind that contains e-liquid and is offered for sale, sold, or otherwise distributed, or intended for distribution to consumers, but that does not include a cartridge that is prefilled and sealed by the manufacturer and not intended to be opened by the customer.

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

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

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

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

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

(D) In addition to the other penalties provided by law, law

enforcement may seize and destroy or sell to the manufacturer, for export only, any containers in violation of this section.

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

Tobacco-free school campus policy

SECTION 11. Section 59-1-380 of the S.C. Code is amended to read:

Section 59-1-380. (A) Every local school district in the State shall implement and enforce a written policy prohibiting at all times the use of any tobacco product by any person in school buildings, in school facilities, on school campuses, and in or on any other school property owned or operated by the local school administrative unit. The policy also must prohibit the use of any tobacco product by persons attending a school-sponsored event at a location not listed in this subsection when in the presence of students or school personnel or in an area where smoking or other tobacco use is otherwise prohibited by law.

(B) The policy must include at least all of the following elements:

(1) adequate notice to students, parents or guardians, the public, and school personnel of the policy;

(2) posting of signs prohibiting at all times the use of tobacco products by any person in and on school property; and

(3) requirements that school personnel enforce the policy, including appropriate disciplinary action.

(C) Disciplinary actions for violating the policy may include, but not be limited to:

(1) for students: administrator and parent or legal guardian conference, mandatory enrollment in tobacco prevention education or cessation programs, community service, in-school suspension, suspension for extracurricular activities, or out-of-school suspension;

(2) for staff: verbal reprimand, written notification in personnel file, mandatory enrollment in tobacco prevention education, voluntary enrollment in cessation programs, or suspension;

(3) for contract or other workers: verbal reprimand, notification to contract employer, or removal from district property; and

(4) for visitors: verbal request to leave district property or prosecution for disorderly conduct for repeated offenses.

(D) The local school district shall collaborate with the Department of Health and Environmental Control, the Department of Alcohol and Other Drug Abuse Services, and the South Carolina Department of

Education, as appropriate, to implement the policy, including as part of tobacco education and cessation programs and substance use prevention efforts.

(E) The policy may permit tobacco products to be included in instructional or research activities in public school buildings if the activity is conducted or supervised by the faculty member overseeing the instruction or research and the activity does not include smoking, chewing, inhaling, or otherwise ingesting the tobacco product.

(F) For purposes of this section "tobacco product" has the same meaning as defined in Section 16-17-501.

Disclosure, sale of tobacco products by retailer

SECTION 12. Chapter 36, Title 12 of the S.C. Code is amended by adding:

Section 12-36-511. A retailer must submit whether it sells tobacco, tobacco products, including electronic smoking devices or e-liquid, as defined in Section 16-17-501(3) and (4), or any other product used for smoking with its retail application. A retailer not previously designated as a tobacco retail establishment, as defined in Section 16-17-501, shall notify the department in the manner prescribed by the department prior to selling tobacco products. For the purposes of this section, tobacco retailers and tobacco retail establishments that have a retail license must supplement their retail license application to notify the department that they sell or distribute tobacco or tobacco products. For the purposes of this section, a retailer that sells tobacco, tobacco products, or any other product used for smoking that does not disclose on their initial retail application or supplement their retail license application is subject to a fine of not more than two hundred dollars and must file within fifteen days of notification of a failure to file. A retailer that fails to file within fifteen days after the notification is subject to a fine of two thousand dollars.

Time effective

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

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 39

(R47, H3689)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 50-21-860, RELATING TO RESTRICTIONS ON THE USE OF AIRBOATS, SO AS TO LIMIT USE ON THE BROAD RIVER AND STEVENS CREEK.

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

Restrictions on the use of airboats

SECTION 1. Section 50-21-860 of the S.C. Code is amended to read:

Section 50-21-860. As used in this section, "airboat" means a watercraft propelled by air pressure caused by a motor mounted on the watercraft aboveboard.

(A) It is unlawful for a person to operate an airboat on the public waters of this State from the freshwater-saltwater dividing line, established by Section 50-17-30, seaward.

(B) It is unlawful to operate an airboat on the waters of the Waccamaw, the Great Pee Dee, the Little Pee Dee, the Black, and the Sampit Rivers in Georgetown and Horry Counties from one hour before legal sunset to one hour after legal sunrise and anytime during the season for hunting duck.

(C) It is unlawful to operate an airboat on the waters of that portion of Lake Marion and Santee Swamp west of the I-95 bridge upstream to the confluence of the Congaree and Wateree Rivers during the season for hunting waterfowl.

(D) It is unlawful to operate an airboat on the waters of the Broad River in Richland County from one hour before legal sunset to one hour after legal sunrise.

(E) It is unlawful to operate an airboat on the waters of Stevens Creek in Edgefield County from one hour before legal sunset to one hour after legal sunrise.

A person violating the provisions of this section, upon conviction,

must be punished as provided by Section 50-1-130.

The provisions of this section do not apply to the operation of airboats by law enforcement, emergency medical, civil defense, noxious weed control, military personnel, state and federally approved wildlife banding, surveying, biological research programs, and private waters.

Time effective

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

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 40

(R48, H3797)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE "MILITARY TEMPORARY REMOTE SCHOOL ENROLLMENT ACT" BY ADDING SECTION 59-63-33 SO AS TO PROVIDE PUBLIC SCHOOL PUPILS COMPLY WITH SCHOOL ENROLLMENT REQUIREMENTS IF THEIR PARENTS ARE TRANSFERRED TO OR ARE PENDING TRANSFER TO MILITARY INSTALLATIONS IN THIS STATE WHILE ON ACTIVE MILITARY DUTY PURSUANT TO OFFICIAL MILITARY ORDERS, TO PROVIDE SCHOOL DISTRICTS SHALL ACCEPT APPLICATIONS FOR ENROLLMENT AND COURSE REGISTRATION FROM SUCH PUPILS BY ELECTRONIC MEANS, TO PROVIDE PARENTS OF SUCH STUDENTS SHALL PROVIDE CERTAIN PROOF OF RESIDENCE AFTER ARRIVAL, TO PROVIDE THE PROVISIONS OF THIS ACT APPLY NOTWITHSTANDING ANOTHER PROVISION OF LAW, TO PROVIDE AMBIGUITIES IN CONSTRUING THE PROVISIONS OF THIS ACT MUST BE RESOLVED IN FAVOR OF ENROLLMENT, AND TO DEFINE NECESSARY TERMINOLOGY.

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

Citation

SECTION 1. This act may be cited as the "Military Temporary Remote School Enrollment Act".

Residency requirements compliance, enrollment, proof, construction

SECTION 2. Article 1, Chapter 63, Title 59 of the S.C. Code is amended by adding:

Section 59-63-33. (A) A pupil complies with the residency requirements for school attendance in a school district if a parent or legal guardian of the pupil is transferred to or is pending transfer to a military installation within this State while on active military duty pursuant to an official military order.

(B) A school district shall accept an application for enrollment and course registration by electronic means for a pupil who meets the requirements prescribed in subsection (A), including enrollment in a specific school or program within the school district.

(C)(1) The parent or legal guardian of a pupil who meets the requirement prescribed in subsection (A) shall provide proof of residence to the school district after arrival. The parent or legal guardian may use the address of any of the following as proof of residence for the purposes of this subsection:

(a) a temporary on-base billeting facility;

(b) a purchased or leased home or apartment; or

(c) any federal government housing or off-base military housing, including off-base military housing that may be provided through a public-private venture.

(2) In determining what documentation may be considered acceptable for complying with the provisions of item (1), a district shall consider that traditional forms of documentation, such as utility bills or tax bills, would not be available for newly relocated military personnel.

(D) The provisions of this section apply notwithstanding the provisions of Sections 59-63-30, 59-63-31, 59-63-32, or another provision of law.

(E) Any ambiguity in construing the provisions of this section must be resolved in favor of enrolling the pupil.

(F) For the purposes of this section:

(1) "Active military duty" means full-time military duty status in the active uniformed service of the United States, including members of the National Guard and the State Military Reserve on active duty orders.

(2) "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other installation.

Time effective

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

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 41

(R49, H3857)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 59-103-15, RELATING TO CATEGORIES OF INSTITUTIONS OF HIGHER LEARNING IN THIS STATE AND THEIR RESPECTIVE MISSIONS, SO AS TO ADD A NEW CATEGORY FOR DOCTORAL/PROFESSIONAL UNIVERSITIES AND TO PROVIDE THEIR RELATED MISSIONS.

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

Categories of institutions, doctoral/professional universities added

SECTION 1. Section 59-103-15(B) of the S.C. Code is amended to read:

(B) The General Assembly has determined that the primary mission or focus for each type of institution of higher learning or other post-secondary school in this State is as follows:

(1) Research institutions

(a) college-level baccalaureate education, master's, professional,

and doctor of philosophy degrees which lead to continued education or employment;

(b) research through the use of government, corporate, nonprofit-organization grants, or state resources, or both; and

(c) public service to the State and the local community;

(2) Doctoral/professional universities

(a) college-level baccalaureate education, master's, professional, and no more than a combined five professional doctorate or doctor of philosophy degrees, that lead to continued education or employment;

(b) limited and specialized research; and

(c) public service to the State and the local community;

(3) Four-year colleges and universities

(a) college-level baccalaureate education and selected master's degrees which lead to employment or continued education, or both, except for doctoral degrees currently being offered;

(b) bachelor of science degree in Mechanical Engineering approved by the Commission on Higher Education at South Carolina State University;

(c) bachelor of science degree in Electrical Engineering approved by the Commission on Higher Education at South Carolina State University;

(d) doctoral degree in Marine Science approved by the Commission on Higher Education;

(e) subject to subsection (C), doctoral degree in Nursing Practice approved by the Commission on Higher Education at Francis Marion University;

(f) subject to subsection (C), doctoral degree in Nursing Practice approved by the Commission on Higher Education at the University of South Carolina Aiken;

(g) subject to subsection (C), doctor of philosophy degree in Education Administration approved by the Commission on Higher Education at Coastal Carolina University;

(h) subject to subsection (C), doctor of philosophy degree in Computer and Information Science approved by the Commission on Higher Education at the College of Charleston;

(i) limited and specialized research; and

(j) public service to the State and the local community;

(4) Two-year institutions-branches of the University of South Carolina

(a) college-level pre-baccalaureate education necessary to confer associates degrees which lead to continued education at a four-year or research institution; and

(b) public service to the State and the local community;

(5) State technical and comprehensive education system

(a) all post-secondary vocational, technical, and occupational diploma and associate degree programs leading directly to employment or maintenance of employment and associate degree programs which enable students to gain access to other post-secondary education;

(b) up-to-date and appropriate occupational and technical training for adults;

(c) special school programs that provide training for prospective employees for prospective and existing industry in order to enhance the economic development of South Carolina;

(d) public service to the State and the local community;

(e) continue to remain technical, vocational, or occupational colleges with a mission as stated in item (4) and primarily focused on technical education and the economic development of the State; and

(f) subject to subsection (C), an Applied Baccalaureate in Advanced Manufacturing Technology degree approved first by the Board for Technical and Comprehensive Education and then the Commission on Higher Education.

Conforming changes

SECTION 2. Section 59-103-15(C) of the S.C. Code is amended to read:

(C) Notwithstanding subsection (B), the degrees set forth in subsection (B) (3)(e), (f), (g), and (h), and subsection (B) (5)(f) are only allowed so long as new state general funds are not appropriated for the operations of the degree program.

Time effective

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

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 42

(R50, H3868)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 53-3-270 SO AS TO DECLARE THE THIRD SATURDAY IN NOVEMBER OF EACH YEAR IS DESIGNATED AS "WOMEN IN HUNTING AND FISHING AWARENESS DAY".

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

Women in Hunting and Fishing Awareness Day

SECTION 1. Chapter 3, Title 53 of the S.C. Code is amended by adding:

Section 53-3-270. The third Saturday in November of each year is designated as "Women in Hunting and Fishing Awareness Day" in South Carolina.

Time effective

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

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 43

(R51, H3870)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 40-43-72 SO AS TO AUTHORIZE THE PERMITTING AND OPERATION OF NARCOTIC TREATMENT PROGRAMS, TO ESTABLISH CERTAIN REQUIREMENTS FOR NARCOTIC TREATMENT

PROGRAMS AND THEIR ASSOCIATED PHARMACISTS, PRACTITIONERS, AND PRACTITIONER AGENTS, TO REQUIRE THE BOARD OF PHARMACY TO FULFILL CERTAIN OBLIGATIONS, AND FOR OTHER PURPOSES; AND BY AMENDING SECTION 44-53-720, RELATING TO RESTRICTIONS ON USE OF METHADONE, SO AS TO MAKE CONFORMING CHANGES.

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

Narcotic treatment programs

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

Section 40-43-72. (A) For purposes of this section:

(1) "Narcotic treatment program" or "NTP" means a program licensed by the Department of Health and Environmental Control that dispenses and administers methadone or other narcotic treatment medications.

(2) "NTP permit" means a permit issued by the South Carolina Board of Pharmacy that governs dispensing and administration of medications in an NTP.

(3) "NTP satellite permit" means a permit issued by the South Carolina Board of Pharmacy that governs dispensing and administration of medication in a mobile component or satellite medication unit operated by a licensed NTP.

(4) "Pharmacist" means an individual licensed as a pharmacist pursuant to Chapter 43.

(5) "Practitioner" means a physician, physician assistant, or advanced practice registered nurse licensed in South Carolina and registered under South Carolina and federal law to prescribe, dispense, and administer opioid drugs.

(6) "Practitioner agent" means a registered nurse or licensed practical nurse supervised by and under the order of a practitioner.

(7) "Stat box" means an additional drug box that contains stock doses of medications prepared by a pharmacist prior to receipt of a patient-specific order from a practitioner.

(B) An NTP shall apply for and must be issued an NTP permit before methadone or other narcotic treatment medications may be administered, dispensed, or delivered at that NTP.

(C) An NTP with an NTP permit shall:

(1) retain a pharmacist-in-charge who, along with the NTP permit holder, shall sign a new or renewal application for an NTP permit. The pharmacist-in-charge must agree in writing to assume the responsibilities of pharmacist-in-charge of the NTP. The NTP permit holder and pharmacist-in-charge shall notify the Board of Pharmacy in writing within ten days of a change of the NTP's pharmacist-in-charge. A designation of an individual as a pharmacist-in-charge or delegation of duties to a pharmacist-in-charge by a holder of an NTP permit does not relieve the permit holder of the NTP permit holder's duties under federal laws or regulations;

(2) be inspected annually by the Board of Pharmacy; and

(3) comply with the security control requirements of 21 C.F.R. Chapter II.

(D)(1)(a) A pharmacist must be physically present at the NTP to dispense drugs for administration and to dispense and label drugs for delivery to patients for at-home use.

(b) A pharmacist is not required to be physically present at the NTP when drugs are administered or delivered to patients for at-home use, provided that the pharmacist-in-charge must be onsite a sufficient amount of time necessary to perform all duties, including those set forth in Section 40-43-86(B)(3). Regulations or guidance of the Board of Pharmacy establishing specific percentages of time or hours during which a pharmacist-in-charge must be physically present at a pharmacy do not apply to the pharmacist-in-charge of an NTP.

(c) The pharmacist-in-charge of an NTP may not be the pharmacist-in-charge for more than two NTP permit holders, which does not include NTP satellite permits.

(2)(a) A practitioner agent may administer and deliver doses of narcotic drugs which have been previously prepared, checked, and labeled with a patient-specific label by a pharmacist.

(b) If a practitioner-ordered dose change is needed immediately, and a pharmacist is not physically present at the NTP, a stat box with properly labeled stock doses may be used to provide immediate service to a patient.

(c) A practitioner agent performing administration and delivery of medications in an NTP is not required to register as a pharmacy technician.

(3) The provisions of Section 40-43-86(A)(12) shall be waived in the NTP to allow practitioners and practitioner agents access to an NTP pharmacy at a time when a pharmacist is not on duty for the purpose of obtaining drugs from the NTP pharmacy's medication safe for administration and retrieving pharmacist-verified take-home doses of

narcotics for delivery. The bulk inventory must be secured against access and alteration when the pharmacist is not present.

(4) A pharmacist is in compliance with the requirement of patient counseling in Section 40-43-86(L)(1) by ensuring that written directions for use and other information relating to proper utilization of the medication prescribed are included with each new order of medication delivered by the opioid treatment program. The written information must include a telephone number at which the pharmacist may be contacted by patients.

(5) An NTP satellite permit holder is exempt from the requirements of subsections (D)(1) and (D)(2) and may:

(a) facilitate the administration and delivery of take-home doses of narcotic drugs without the presence of a pharmacist so long as the doses are prepared in advance by a pharmacist; and

(b) utilize a stat box.

Methadone use restrictions

SECTION 2. Section 44-53-720 of the S.C. Code is amended to read:

Section 44-53-720. Methadone and its salts are restricted to:

(1) use in treatment, maintenance, or detoxification programs as approved by the Department of Health and Environmental Control, including narcotic treatment programs operating pursuant to Section 40-43-72.

(2) dispensing by a hospital for analgesia, pertussis, and detoxification treatment as approved by the Department of Health and Environmental Control.

(3) dispensing by a retail pharmacy for analgesia as provided for by R. 61-4, Section 507.5.

Time effective

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

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 44

(R52, H3905)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 6-13-920, RELATING TO THE EDGEFIELD COUNTY WATER AND SEWER AUTHORITY, SO AS TO PROVIDE FOR FILLING A BOARD VACANCY FOR PHYSICAL OR MENTAL INCAPACITATION OR NONATTENDANCE; AND BY AMENDING SECTION 6-13-1010, RELATING TO PENALTIES FOR INJURING OR DESTROYING FACILITIES OF THE EDGEFIELD COUNTY WATER AND SEWER AUTHORITY, SO AS TO INCREASE PENALTIES.

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

Authority composition, terms, appointment

SECTION 1. Section 6-13-920 of the S.C. Code is amended to read:

Section 6-13-920. The authority shall be composed of seven members, who shall be resident electors of either Edgefield or Aiken Counties; provided, however, that no more than two members may be resident electors of Aiken County. Those members of the authority who are resident electors of Edgefield County must be appointed by the Governor, upon the recommendation of a majority of the members of the Edgefield County Council with the approval of the Edgefield County Legislative Delegation. The Governor, upon the recommendation of the members of the Edgefield County Legislative Delegation, may appoint no more than two members of the authority who must be resident electors of Aiken County and who must reside within the service area of the authority in Aiken County. Of those originally appointed, two shall be appointed for terms of two years, two for terms of four years, and one for a term of six years. Upon the termination of the terms of the original members, their successor shall be appointed by the Governor, in the same manner as is provided for the original appointment, for terms of six years. Any vacancy occurring by reason of death, resignation, physical or mental incapacitation, nonattendance, or otherwise shall be filled for the remainder of the unexpired term by appointment of the Governor in the same manner as is provided for the original appointment. Physical or mental incapacitation and nonattendance must

be determined by majority vote of board members and with the consent of the legislative delegation. All members of the authority shall hold office until their successors shall have been appointed and shall have qualified.

Penalties

SECTION 2. Section 6-13-1010 of the S.C. Code is amended to read:

Section 6-13-1010. It shall be unlawful for any person to wilfully injure or destroy, or in any manner hurt, damage, tamper with, or impair the facilities of the authority, or any part of such facilities, or any machinery, apparatus, or equipment of the authority, or to pollute the water in any part of its service area, or to obtain water therefrom except in accordance with the regulations promulgated by the authority. Any person so offending shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than one hundred dollars nor more than one thousand dollars, or shall be imprisoned for not more than thirty days at the discretion of the court, and shall be further liable to pay all damages suffered by the authority.

Time effective

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

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 45

(R54, H3952)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 37-2-307, RELATING TO MOTOR VEHICLE SALES CONTRACT CLOSING FEES, SO AS TO REQUIRE THE CLOSING FEE TO BE PROMINENTLY DISPLAYED WITH THE ADVERTISED PRICE, TO REQUIRE

THE FEE BE REASONABLE, AND TO SPECIFY THE MANNER IN WHICH THE DEPARTMENT OF CONSUMER AFFAIRS IS TO PROVIDE ENFORCEMENT MEASURES.

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

Motor vehicle closing fees

SECTION 1. Section 37-2-307 of the S.C. Code is amended to read:

Section 37-2-307. (A) As used in this section:

(1) A closing fee is defined as a fee for recovery of a motor vehicle dealer's actual costs for all administrative and financial work needed to transfer and deliver the motor vehicle to the consumer including, but not limited to, compliance with all state, federal, and lender requirements, preparation and retrieval of documents, protection of the private personal information of the consumer, records retention, and storage costs.

(2) "Department" means the South Carolina Department of Consumer Affairs.

(3) "Dealer" means a "motor vehicle dealer" as defined in Section 56-15-10.

(B)(1) Every dealer charging closing fees in a motor vehicle sale or lease transaction shall pay a filing fee of ten dollars to the department each time the dealer provides notice of a new closing fee amount to the department. The department shall set the filing fee annually in an amount not to exceed twenty-five dollars.

(2) The closing fee must be disclosed on the motor vehicle sale or lease contract, displayed in a conspicuous location in the motor vehicle dealership, and clearly and conspicuously disclosed in any advertisement of a specific motor vehicle for sale or lease.

(C)(1) Prior to charging a closing fee, a dealer shall provide written notice to the department of the maximum amount of the closing fee the dealer intends to charge.

(2) If the maximum amount of the proposed closing fee the dealer intends to charge is not more than two hundred twenty-five dollars for each vehicle, the closing fee is considered to be approved by the department, and the dealer does meet and fulfill all reasonable requirements and criteria in compliance with this section. If the proposed closing fee exceeds two hundred twenty-five dollars, the department may review the amount of the closing fee for reasonableness using the criteria in item (5).

(3) If the department intends to conduct a formal review of a

proposed closing fee, the department shall provide written notice to the dealer of the department's intention to review the proposed closing fee within fifteen days of receiving the complete proposed closing fee notice. If the department determines that a proposed closing fee is not reasonable, the department shall issue a written order detailing the department's findings within thirty days of receiving the complete proposed closing fee notice. If the department does not provide the dealer with written notice of the department's approval of the proposed closing fee within thirty days of receiving the proposed closing fee notice, the dealer is authorized to charge the proposed closing fee.

(4) The dealer is at all times authorized to submit a new closing fee that is equal to or less than two hundred twenty-five dollars per vehicle which is not subject to review. If the department finds that a proposed closing fee is not reasonable, the dealer may request a hearing in accordance with the Administrative Procedures Act. During the pendency of the department's review period, or the pendency of any action before the Administrative Law Court, the dealer is authorized to charge a closing fee at an amount not to exceed the amount most recently on file and permitted to be charged by the department.

(5)(a) In determining the reasonableness of a closing fee, the department shall accept and allow all of the dealer's actual costs and expenses including, but not limited to, employee compensation, information processing, facilities costs, supplies, and materials associated with the following closing and delivery activities:

(i) closing the motor vehicle sale or lease transaction, including any associated loan or lease and transferring title of the motor vehicle to the consumer;

(ii) delivering the motor vehicle to the consumer;

(iii) complying with all state, federal, and lender requirements;

(iv) preparing, storing, and retrieving transaction documents; and

(v) protecting the private personal information of the consumer.

(b) Dealer costs must be calculated using generally accepted cost accounting principles for the preceding twelve-month period.

(c) In determining the reasonableness of a closing fee, the department may compare a particular dealer's costs only with other similarly situated dealers.

(D) Whether the vehicle transaction is a credit sale, consumer lease, or cash transaction:

(1) notwithstanding any other provision of law, a dealer who complies with this section and any regulation promulgated under it and who charges a closing fee is not engaging in any action which is arbitrary, in bad faith, unconscionable, an unfair or deceptive practice,

or an unfair method of competition for purposes of Sections 56-15-30, 56-15-40, and 39-5-20 with regard to the charging of a closing fee and may lawfully charge a closing fee;

(2) a dealer may assert any defenses provided to a creditor pursuant to the provisions of this title; and

(3) a purchaser injured or damaged by an action of a dealer in violation of this section or any regulation promulgated thereunder, may assert the remedies available pursuant to the provisions of this title.

(E)(1) The department shall administer and enforce the subject of motor vehicle dealer closing fees as limited by this section. The department may make and promulgate such rules and regulations relating to motor vehicle dealer closing fees to administer and enforce this section. The department shall have access to a dealer's records, but only to the extent necessary to determine the dealer's compliance with the disclosure provisions of subsection (B)(2) and the accuracy of the dealer's cost and expense information in subsection (C)(5), and this information must be kept confidential and privileged from disclosure, except as otherwise provided by law.

(2) In administering and enforcing this section, or for any other review or investigation of dealers, the department shall:

(a) promote education for consumers and best practices for dealers; and

(b) mediate complaints between a consumer and a dealer, whenever possible.

(3) The department may review or investigate a dealer upon receipt of a complaint or other credible evidence that the dealer has violated a provision of this section or a provision of this title related to closing fees. In administering and enforcing this section:

(a) The department must provide a written notice by certified mail to the dealer regarding the complaint or other credible evidence. If the department's records show an email address for the dealer, the department must also send an email to the dealer. This written notice must contain sufficient information for the dealer to identify documents related to the alleged violation, request only such information as is reasonably related to the alleged violation, and state that the dealer may provide a written response to the allegation.

(b) The dealer must respond to the department's notice within forty-five days from the date the written notice described in item (3)(a) was received via certified mail. If a dealer fails to provide the requested information within sixty days from the date of receipt of the written notice via certified mail, the department may commence a proceeding pursuant to the Administrative Procedures Act.

(c) The department must issue a decision within fifteen days of receipt of the requested information from the dealer. If the department determines the dealer failed to comply with the requirements of this section or of this title regarding closing fees, the department's decision must determine if the violation was either (1) not intentional and resulted from a bona fide error, or (2) an intentional violation.

(i) In the event of a violation that was not intentional and resulted from a bona fide error, the dealer must refund any excess charge paid by the consumer. The department must close the investigation upon notice that the consumer received the refund.

(ii) In the event of an intentional violation, the department may request only those records reasonably related to the alleged violation for the ten transactions immediately preceding and the ten transactions immediately after the transaction identified in the complaint or other credible evidence received by the department. If the department discovers a potential violation of any kind related to closing fees in any of these transactions, the department may request only those records reasonably related to the alleged violation for transactions occurring on the date of the transaction identified in the complaint or other credible evidence, and transactions thirty days immediately preceding and thirty days immediately after the transaction identified in the complaint or other credible evidence received by the department.

(4) A dealer may not be held liable in any action for a violation of this section or a violation of this title regarding closing fees if the dealer (a) shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid the error; and (b) the dealer refunded any excess charge paid by the consumer.

(5) A dealer who is found to have intentionally violated this section, or any other provision in this title regarding closing fees, must refund any excess charge paid by the customer within thirty days from the date of written notice from the department regarding its determination of a violation. Notwithstanding any other provision of law, the following remedies also apply for an intentional violation:

(a) for the first violation in a twelve-month period, the department must send a written warning to the dealer;

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

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

(d) for a fourth or subsequent violation in a twelve-month period,

the department may charge not more than a five thousand dollar administrative penalty, provided that cumulative administrative penalties shall not exceed one hundred thousand dollars in the twelve-month period.

(F)(1) It is the intent of the General Assembly to authorize a motor vehicle dealer to charge a closing fee in compliance with this section and to protect a motor vehicle dealer from civil liability for charging a closing fee if the fee is charged in compliance with this title and any Department of Consumer Affairs regulation or administrative interpretation. It is further the intent to protect consumers by the disclosure and notice provisions established in this section and with the remedies provided by this title.

(2) Nothing in this section is intended to prohibit the department from administering and enforcing other laws under the department's jurisdiction.

Time effective

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

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 46

(R56, H4017)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 12-6-40, RELATING TO APPLICATION OF THE FEDERAL INTERNAL REVENUE CODE TO STATE TAX LAWS, SO AS TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE TO THE YEAR 2022 AND TO PROVIDE THAT IF THE INTERNAL REVENUE CODE SECTIONS ADOPTED BY THIS STATE ARE EXTENDED, THEN THESE SECTIONS ALSO ARE EXTENDED FOR SOUTH CAROLINA INCOME TAX PURPOSES.

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) and (c) of the S.C. Code is amended to read:

(a) Except as otherwise provided, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 2022, and includes the effective date provisions contained in it.

(c) If Internal Revenue Code sections adopted by this State which expired or portions thereof expired on December 31, 2022, are extended, but otherwise not amended, by congressional enactment during 2023, these sections or portions thereof also are extended for South Carolina income tax purposes in the same manner that they are extended for federal income tax purposes.

Time effective

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

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 47

(R57, H4122)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 59-63-95, RELATING TO THE AUTHORIZED USE OF EPINEPHRINE AUTO-INJECTORS IN SCHOOLS, SO AS TO EXPAND THE PROVISIONS OF THIS SECTION TO INCLUDE THE PROVISION OF LIFESAVING MEDICATIONS, AND TO PROVIDE CERTAIN RELATED RESPONSIBILITIES OF THE DEPARTMENT OF HEALTH

AND ENVIRONMENTAL CONTROL AND THE DEPARTMENT OF EDUCATION.

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

Lifesaving medications in schools

SECTION 1. Section 59-63-95 of the S.C. Code is amended to read:

Section 59-63-95. (A) As used in this section, and unless the specific context indicates otherwise:

(1) "Administer" means the direct application of a lifesaving medication into the body of a person.

(2) "Advanced practice registered nurse" means a registered nurse prepared for an advanced practice registered nursing role by virtue of the additional knowledge gained through an advanced formal education program in a specialty area pursuant to Chapter 33, Title 40.

(3) "Designated school personnel" means an employee, agent, or volunteer of a school designated by the governing authority of the school district or the governing authority of the private school who has completed the training required in accordance with the guidelines of the Department of Health and Environmental Control to provide for or administer a lifesaving medication to a student or other individual on a school premises or attending a school function.

(4) "Governing authority of a school" means the board of trustees of a school district or the board of trustees of a private school.

(5) "Lifesaving medication" means any prescription medication that can be administered to a person experiencing a medical emergency. The Department of Health and Environmental Control, in consultation with the Department of Education, will publish a list of lifesaving medications that can be administered by designated school personnel in response to a medical emergency pursuant to this section and shall publish training guidelines for the administration of such lifesaving medications.

(6) "Participating governing authorities" means governing authorities of school districts and governing authorities of private schools that authorize schools to maintain a supply of lifesaving medications and to provide and administer lifesaving medications to students and other people on a school premises or attending a school function pursuant to subsections (B) and (C).

(7) "Physician" means a doctor of medicine licensed by the South Carolina Board of Medical Examiners pursuant to Article 1, Chapter 47,

Title 40.

(8) "Physician assistant" means a health care professional licensed to assist with the practice of medicine with a physician supervisor pursuant to Article 7, Chapter 47, Title 40.

(9) "Provide" means to supply one or more lifesaving medications to a student or other person on a school premises or attending a school function.

(10) "School" means a public or private school.

(11) "Self-administration" means a student or other person's discretionary use of lifesaving medication, whether provided by the student or the other person or by a school nurse or other designated school personnel pursuant to this section.

(B) Notwithstanding another provision of law, a physician, including the Director of Public Health for the Department of Health and Environmental Control pursuant to subsection (I); an advanced practice registered nurse licensed to prescribe medication pursuant to Section 40-33-34; and a physician assistant licensed to prescribe medication pursuant to Sections 40-47-955 through 40-47-965 may prescribe lifesaving medications maintained in the name of a school for use in accordance with subsection (D). Notwithstanding another provision of law, licensed pharmacists and physicians may dispense lifesaving medications in accordance with a prescription issued pursuant to this subsection. Notwithstanding another provision of law, a school may maintain a stock supply of lifesaving medications in accordance with a prescription issued pursuant to this subsection. For the purposes of administering and storing lifesaving medications, schools are not subject to Chapter 43, Title 40 or Chapter 99 of the South Carolina Code of State Regulations.

(C) The governing authority of a school district or private school may authorize school nurses and other designated school personnel to:

(1) provide a lifesaving medication to a student in accordance with a prescription specific to the student that is on file with the school;

(2) administer a lifesaving medication to a student in accordance with a prescription specific to the student on file with the school;

(3) administer a lifesaving medication to a student or other person on a school premises whom the school nurse or other designated school personnel believes in good faith is experiencing a medical emergency, in accordance with a standing protocol of a physician, including the Director of Public Health for the Department of Health and Environmental Control pursuant to subsection (I); an advanced practice registered nurse licensed to prescribe medication pursuant to Section 40-33-34; or a physician assistant licensed to prescribe medication

pursuant to Sections 40-47-955 through 40-47-965, regardless of whether the student or other person has a prescription for a lifesaving medication.

(D) The governing authority of a school district or the governing authority of a private school may enter into arrangements with manufacturers of lifesaving medications or third-party suppliers of lifesaving medications to obtain lifesaving medications at fair-market, free, or reduced prices.

(E) Participating governing authorities, in consultation with the State Department of Education and the Department of Health and Environmental Control, shall implement a plan for the management of students with life-threatening allergies or medical emergencies enrolled in the schools under their jurisdiction. The plan must include, but need not be limited to:

(1) education and training for school personnel on the management of students with life-threatening allergies or medical emergencies, including training related to the administration of lifesaving medications, techniques on how to recognize symptoms of severe allergic reactions or medical emergencies, including anaphylaxis, and the standards and procedures for the storage and administration of lifesaving medications;

(2) procedures for responding to life-threatening allergic reactions and medical emergencies, including emergency follow-up procedures; and

(3) a process for the development of individualized health care and allergy action plans for every student with a known life-threatening allergy.

(F) Participating governing authorities shall make the plan developed pursuant to subsection (E) available on the websites of the school district and private school governing authorities and on the websites of schools; however, if a school does not have a website, make the plan publicly available through other practicable means as determined by participating governing authorities.

(G) This section applies only to participating governing authorities.

(H)(1) A school, school district, school district governing authority, private school governing authority, the Department of Health and Environmental Control, the State Department of Education, and employees, volunteers, and other agents of all of those entities including, but not limited to, a physician, advanced practice registered nurse, physician assistant, pharmacist, school nurse, and other designated school personnel, who undertake an act under this section, are not subject to civil or criminal liability for damages caused by injuries to a student

or another person resulting from the administration or self-administration of a lifesaving medication, regardless of whether:

(a) the student's parent or guardian, or a physician, advanced practice registered nurse, or physician assistant, authorized the administration or self-administration; or

(b) the other person to whom a school nurse or other designated school personnel provides or administers a lifesaving medication gave authorization for the administration.

(2) The immunity granted pursuant to item (1) applies to individuals and entities who:

(a) develop or implement, or participate in the development or implementation of, a plan, pursuant to subsection (E), including, but not limited to, providing training to school nurses and other designated school personnel;

(b) make publicly available a plan, pursuant to subsection (F);

(c) prescribe lifesaving medications, pursuant to subsection (B);

(d) dispense lifesaving medications, pursuant to subsection (B);

(e) provide lifesaving medications to students or other people for self-administration, pursuant to subsection (C); or

(f) administer lifesaving medications to students or other people, pursuant to subsection (C).

(3) The immunity granted pursuant to this subsection:

(a) does not apply to acts or omissions constituting gross negligence or wilful, wanton, or reckless conduct; and

(b) is in addition to, and not in lieu of, immunity provided pursuant to Sections 15-1-310, 15-78-10, and any other provisions of law.

(4) The administration of lifesaving medications pursuant to this section is not the practice of medicine or nursing.

(I) Notwithstanding another provision of law, the Director of Public Health for the Department of Health and Environmental Control is authorized to issue a standing order for the prescription of lifesaving medication on a schoolwide basis under conditions that he determines are in the best interests of this State and in furtherance of this section. In the event the current director of public health is not a physician, the department may appoint a designee if he is a physician as defined in subsection (A)(7).

Time effective

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

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 48

(R58, H4177)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 7-7-490, RELATING TO DESIGNATION OF VOTING PRECINCTS IN SPARTANBURG COUNTY, SO AS TO DELETE CERTAIN PRECINCTS, ADD NEW PRECINCTS, AND TO REDESIGNATE THE MAP NUMBER ON WHICH THESE PRECINCTS MAY BE FOUND ON FILE WITH THE REVENUE AND FISCAL AFFAIRS OFFICE.

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

Spartanburg County voting precincts

SECTION 1. Section 7-7-490 of the S.C. Code is amended to read:

Section 7-7-490. (A) In Spartanburg County there are the following voting precincts:

Abner Creek Baptist
Airport
Anderson Mill Baptist
Anderson Mill Elementary
Apalache Baptist
Arcadia Elementary
Beacon
Beech Springs Intermediate
Ben Avon Methodist
Bethany Wesleyan
Blackstock
Boiling Springs Elementary
Boiling Springs High School

Boiling Springs Jr. High
Boiling Springs 9th Grade
Broome High School
Canaan
Cannons Elementary
Carlisle Fosters Grove
Carlisle Wesleyan
Cavins Hobbysville
C.C. Woodson Recreation
Chapman High School
Cherokee Springs Precinct
Chesnee Elementary
Chestnut Lake
Clifton Glendale
Converse Fire Station
Cooley Springs Baptist
Converse
Cornerstone Baptist
Cowpens
Croft Baptist
Cross Anchor Fire Station
Cudd Memorial
D. R. Hill Middle School
Daniel Morgan Technology Center
Drayton
Duncan United Methodist
Eastside Baptist
Enoree First Baptist
Enoree River
E.P. Todd Elementary
Fairforest Elementary
Fairgrounds
Gable Middle School
Gramling Methodist
Greater St. James
Hanging Rock
Hayne
Hearon Circle
Hendrix Elementary
Holly Springs Baptist
Holly Springs-Motlow
Hope

Inman
Jesse Bobo Elementary
Jesse Boyd Elementary
Lake Bowen Baptist
Lake Cooley
Landrum
Landrum High School
Landrum United Methodist
Lyman
Lyman Elementary
Mayo Elementary
McCracken Middle School
Middle Tyger
Moore-Duncan
Morningside Baptist
Motlow Creek Baptist
Mt. Calvary Presbyterian
Mt. Moriah Baptist
New Prospect
Oakland Elementary
Old Bridge
Pacolet Elementary School
Palmetto
Pauline Glenn Springs Elementary
Peach Blossom
Pelham Fire Station
Poplar Springs Fire Station
Powell Saxon Una
Rainbow
R.D. Anderson Vocational
Reidville Elementary
Reidville Fire Station
River Ridge Elementary
Roebuck Bethlehem
Roebuck Elementary
Shoally
Silverhill Memorial UMC
Southport
Spartangreen
Startex Fire Station
St. John's Lutheran
Swofford Career Center

Travelers Rest Baptist
Trinity Methodist
Trinity Presbyterian
Two Mile Creek
Tyger River
Valley Falls
Victor Mill Methodist
Wade Hampton
Wellford Fire Station
Holy Communion
West View Elementary
Whitlock Jr. High
Willow Creek
Woodland Heights Recreation Center
Woodruff Leisure Center

(B) Precinct lines defining the precincts in subsection (A) are as shown on the official map on file with the Revenue and Fiscal Affairs Office, and as shown on copies provided to the Board of Voter Registration and Elections of Spartanburg County by the Revenue and Fiscal Affairs Office designated as document P-83-23A.

(C) Polling places for the precincts listed in subsection (A) must be determined by the Board of Voter Registration and Elections of Spartanburg County with the approval of a majority of the Spartanburg County Legislative Delegation.

Time effective

SECTION 2. This act takes effect on July 1, 2023

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 49

(R59, H4291)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 53-3-270 SO AS TO DESIGNATE THE EIGHTH DAY OF AUGUST OF EACH YEAR AS "CLOG DANCING DAY" IN SOUTH CAROLINA.

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

Clog Dancing Day

SECTION 1. Chapter 3, Title 53 of the S.C. Code is amended by adding:

Section 53-3-270. The eighth day of August of each year is designated as "Clog Dancing Day" in South Carolina.

Time effective

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

Ratified the 11th day of May, 2023

Approved the 16th day of May, 2023

No. 50

(R60, H4350)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 7-7-160, RELATING TO DESIGNATION OF VOTING PRECINCTS IN CHEROKEE COUNTY, SO AS TO REDESIGNATE THE MAP NUMBER ON WHICH THESE PRECINCTS MAY BE FOUND ON FILE WITH THE REVENUE AND FISCAL AFFAIRS OFFICE.

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

Cherokee County voting precincts

SECTION 1. Section 7-7-160(B) of the S.C. Code is amended to read:

(B) The polling places of the various voting precincts in Cherokee County must be designated by the Board of Voter Registration and Elections of Cherokee County. The precinct lines defining the above precincts are as shown on the official map designated as P-21-23 on file with the Revenue and Fiscal Affairs Office and as shown on copies provided to the Board of Voter Registration and Elections of Cherokee County by the Revenue and Fiscal Affairs Office. 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 11th day of May, 2023

Approved the 16th day of May, 2023

No. 51

(R72, S549)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 56-1-395, RELATING TO THE DRIVER'S LICENSE REINSTATEMENT FEE PAYMENT PROGRAM, SO AS TO PROVIDE THE DRIVERS' LICENSES ISSUED UNDER THIS PROGRAM ARE VALID FOR AN ADDITIONAL SIX MONTHS, TO REVISE THE AMOUNT OF REINSTATEMENT FEES OWED BY PERSONS TO BECOME ELIGIBLE TO OBTAIN THESE DRIVERS' LICENSES, TO REVISE THE DISTRIBUTION OF THE ADMINISTRATIVE FEES COLLECTED, TO PROVIDE THE DEPARTMENT OF MOTOR VEHICLES MAY PROVIDE PERSONS IN THE

PROGRAM A FEE SCHEDULE OF THE AMOUNTS OWED AND THE ABILITY TO MAKE ONLINE PAYMENTS, TO REVISE THE TYPES OF DRIVER'S LICENSE SUSPENSIONS THAT ARE COVERED BY THIS SECTION, AND TO REVISE THE FREQUENCY THAT PERSONS MAY PARTICIPATE IN THE PROGRAM AND THE CONDITIONS FOR FUTURE PARTICIPATION; BY AMENDING SECTION 56-1-396, RELATING TO THE DRIVER'S LICENSE SUSPENSION AMNESTY PERIOD, SO AS TO LIMIT THE TYPES OF QUALIFYING SUSPENSIONS; BY AMENDING SECTION 56-10-240, RELATING TO THE REQUIREMENT THAT UPON LOSS OF INSURANCE, INSUREDS MUST OBTAIN NEW INSURANCE OR SURRENDER REGISTRATIONS AND PLATES, WRITTEN NOTICES BY INSURER, SUSPENSION OF REGISTRATIONS AND PLATES, APPEALS OF SUSPENSIONS, ENFORCEMENT, AND PENALTIES, SO AS TO REVISE THE PERIOD OF TIME VEHICLE OWNERS MUST SURRENDER MOTOR VEHICLE LICENSE PLATES AND REGISTRATION CERTIFICATES FOR CERTAIN UNINSURED MOTOR VEHICLES, TO DELETE THE PROVISION THAT GIVES THE DEPARTMENT OF MOTOR VEHICLES DISCRETION TO AUTHORIZE INSURERS TO UTILIZE ALTERNATE METHODS OF PROVIDING CERTAIN NOTICES TO THE DEPARTMENT, TO DELETE THE PROVISION THAT ALLOWS CERTAIN PERSONS TO APPEAL CERTAIN SUSPENSIONS TO THE DEPARTMENT OF INSURANCE FOR FAILURE TO MEET THE STATE'S FINANCIAL RESPONSIBILITY REQUIREMENTS IN ERROR, AND TO ALLOW THESE PERSONS TO PROVIDE CERTAIN DOCUMENTS TO SHOW THE SUSPENSION WAS ISSUED IN ERROR; BY AMENDING SECTION 56-10-245, RELATING TO THE PER DIEM FINES FOR LAPSE IN REQUIRED MOTOR VEHICLE INSURANCE COVERAGE, SO AS TO PROVIDE THE FINES CONTAINED IN THE SECTION MAY NOT EXCEED TWO HUNDRED DOLLARS PER VEHICLE FOR A FIRST OFFENSE; BY AMENDING ARTICLE 5 OF CHAPTER 10, TITLE 56, RELATING TO THE ESTABLISHMENT OF THE UNINSURED MOTORIST FUND, SO AS TO REVISE THE PROVISIONS OF THIS ARTICLE TO REGULATE THE OPERATION OF UNINSURED MOTOR VEHICLES, TO DELETE PROVISIONS RELATING TO THE ESTABLISHMENT AND COLLECTION OF UNINSURED

MOTOR VEHICLE FEES, TO MAKE TECHNICAL CHANGES, TO REVISE THE AMOUNT OF THE MOTOR VEHICLE REINSTATEMENT FEE AND PROVIDE IT SHALL BE INCREASED ANNUALLY, TO PROVIDE SUSPENDED LICENSES, REGISTRATION CERTIFICATES, LICENSE PLATES, AND DECALS MAY BE RETURNED TO THE DEPARTMENT OF MOTOR VEHICLES BY ELECTRONIC MEANS OR IN PERSON, AND TO DELETE THE PROVISIONS THAT REQUIRE THE DEPARTMENT OF MOTOR VEHICLES TO COLLECT STATISTICS REGARDING VARIOUS MOTOR VEHICLE REGISTRATION, INSURANCE, AND UNINSURED MOTORIST FUND ISSUES; BY AMENDING SECTION 56-9-20, RELATING TO DEFINITIONS FOR THE MOTOR VEHICLE FINANCIAL RESPONSIBILITY ACT, SO AS TO REVISE REFERENCES IN THE DEFINITIONS OF "INSURED MOTOR VEHICLE" AND "UNINSURED MOTOR VEHICLE"; BY AMENDING SECTION 56-3-210, RELATING TO THE TIME PERIOD FOR PROCURING MOTOR VEHICLE REGISTRATIONS AND LICENSES, TEMPORARY LICENSE PLATES, AND THE TRANSFER OF LICENSE PLATES, SO AS TO REVISE THE REQUIREMENT FOR TEMPORARY LICENSE PLATES AND WHO MAY DISTRIBUTE TEMPORARY LICENSE PLATES; BY ADDING SECTION 56-3-211 SO AS TO PROVIDE FOR THE ISSUANCE OF TEMPORARY LICENSE PLATES TO CERTAIN MOTOR VEHICLES AND FARM TRUCKS; BY ADDING SECTION 56-3-212 SO AS TO PROVIDE FOR THE ISSUANCE OF TEMPORARY LICENSE PLATES TO CERTAIN MOTOR VEHICLES; BY ADDING SECTION 56-3-213 SO AS TO PROVIDE THAT THE DEPARTMENT OF MOTOR VEHICLES MAY ISSUE SPECIAL PERMITS TO OPERATE CERTAIN MOTOR VEHICLES; BY AMENDING SECTION 56-3-2340, RELATING TO LICENSED MOTOR VEHICLE DEALERS ISSUING FIRST-TIME REGISTRATIONS AND LICENSE PLATES FROM DEALERSHIPS, CERTIFICATIONS OF THIRD-PARTY PROVIDERS, AND FEES, SO AS TO REVISE THE ISSUANCE OF TEMPORARY MOTOR VEHICLE REGISTRATIONS AND LICENSE PLATES; BY ADDING SECTION 56-3-214 SO AS TO PROVIDE THAT THE DEPARTMENT OF MOTOR VEHICLES SHALL IMPLEMENT A QUALITY ASSURANCE PROGRAM TO ENSURE THE INTEGRITY OF THE ELECTRONIC REGISTRATION AND

TITLING PROGRAM; BY AMENDING SECTION 8-21-15, RELATING TO NO FEES FOR PERFORMING DUTIES, RESPONSIBILITIES, OR FUNCTIONS OF THE AGENCY UNLESS AUTHORIZED BY STATUTE AND REGULATION, SO AS TO PROVIDE THAT THE AGENCY MAY COLLECT VENDOR FEES, CONVENIENCE FEES, TRANSACTION FEES, OR SIMILAR FEES WHEN RECEIVING PAYMENTS BY ANY PAYMENT METHOD OTHER THAN CASH; BY AMENDING SECTION 56-14-30, RELATING TO LICENSES FOR RECREATIONAL VEHICLE DEALERS, EXHIBITION LICENSES, FEES, AND PENALTIES, SO AS TO REVISE THE EXPIRATION DATE OF LICENSES AND FEES, TO REQUIRE THE DEPARTMENT OF MOTOR VEHICLES PROVIDE CERTAIN INFORMATION TO LICENSE APPLICANTS NEEDED IN AUDITS OR REVIEWS, AND TO PROVIDE FOR DEPARTMENTAL INSPECTIONS AND COMPLAINTS ARISING FROM ALLEGED VIOLATIONS, TO REVISE PENALTIES FOR THE UNAUTHORIZED SALE OF RECREATIONAL VEHICLES, AND TO PROVIDE FOR THE ENFORCEMENT OF THIS SECTION AND DISBURSEMENT OF FINES; BY AMENDING SECTION 56-14-40, RELATING TO APPLICATIONS FOR RECREATIONAL VEHICLE DEALER LICENSES, BONDS, AND THE DUTY TO NOTIFY THE DEPARTMENT OF MOTOR VEHICLES WHERE INFORMATION GIVEN BY APPLICANTS CHANGES OR LICENSEES CEASE OPERATIONS, SO AS TO REVISE THE BOND AMOUNTS REQUIRED, TO PROVIDE FOR THE PAYMENT OF BACK TAXES OR FEES, AND TO PROVIDE FOR THE CONTINUANCE OF THE BUSINESS IN THE EVENT OF LICENSEES' DEATHS; BY AMENDING SECTION 56-14-50, RELATING TO REQUIREMENTS REGARDING DEALERS' MAINTENANCE OF BONA FIDE PLACES OF BUSINESS AND PERMANENT SIGNS, SO AS TO PROVIDE FOR BUSINESS OPERATIONS ON PROPERTY ADJACENT TO A LICENSEE'S BONA FIDE ESTABLISHED PLACE OF BUSINESS; BY AMENDING SECTION 56-14-70, RELATING TO DENIALS, SUSPENSIONS, OR REVOCATIONS OF DEALER LICENSES, SO AS TO REVISE THE REASONS THAT THE DEPARTMENT OF MOTOR VEHICLES MAY DENY, SUSPEND, OR REVOKE A LICENSE; BY AMENDING SECTION 56-15-310, RELATING TO DEALER AND WHOLESALER LICENSES, TERMS OF LICENSES, FEES, SCOPE OF LICENSES, AND PENALTIES

FOR VIOLATIONS, SO AS TO INCREASE THE TIME PERIOD FOR A VALID LICENSE TO THIRTY-SIX MONTHS, TO INCREASE THE LICENSE FEE, TO REVISE THE LOCATIONS WHERE A LICENSE MAY OPERATE, TO ELIMINATE THE TEMPORARY LICENSE, TO PROVIDE FOR A CURE PERIOD FOR CERTAIN COMPLAINTS FROM CONSUMERS, TO INCREASE THE PENALTY, TO ALLOW LAW ENFORCEMENT AGENCIES TO ENFORCE THIS PROVISION, AND TO PROVIDE FOR THE DISTRIBUTION OF FINES; BY AMENDING SECTION 56-15-320, RELATING TO APPLICATIONS FOR LICENSES, BONDS, AND DUTIES UPON CHANGE OF CIRCUMSTANCES AND TERMINATION OF BUSINESSES RELATING TO WHOLESALERS AND DEALERS, SO AS TO PROVIDE THAT NEW BONDS OR CONTINUATION CERTIFICATES MUST BE PROVIDED TO THE DEPARTMENT OF MOTOR VEHICLES EVERY TWELVE MONTHS DURING A LICENSE PERIOD, TO PROVIDE WHEN DEALERS' LICENSES EXPIRE, TO PROVIDE FOR THE RECOVERY OF BACK TAXES AND FEES, TO INCREASE THE AGGREGATE LIABILITY OF SURETIES FOR CLAIMS, AND TO PROVIDE FOR THE CONTINUATION OF BUSINESSES IN THE EVENT OF LICENSEES' DEATHS; BY AMENDING SECTION 56-15-330, RELATING TO FACILITIES REQUIRED FOR ISSUANCE OF DEALERS' LICENSES, SO AS TO INCLUDE WHOLESALERS, AND TO PROVIDE FOR BUSINESS OPERATIONS ON PROPERTY ADJACENT TO OR WITHIN SIGHT OF BONA FIDE ESTABLISHED PLACES OF BUSINESS; BY AMENDING SECTION 56-15-350, RELATING TO DENIALS, SUSPENSIONS, OR REVOCATIONS OF LICENSES, GROUNDS, AND PROCEDURES, SO AS TO REVISE THE GROUNDS FOR DENIALS, SUSPENSIONS, OR REVOCATIONS OF A LICENSE; BY ADDING CHAPTER 37 TO TITLE 56 SO AS TO ESTABLISH THE MOTOR VEHICLE DEALER PERFORMANCE EVALUATION SYSTEM TO EVALUATE THE PERFORMANCE RECORD OF DEALERS LICENSED UNDER THIS TITLE, TO CREATE A DEALER REVIEW BOARD, AND PROVIDE A PROCESS TO SUSPEND OR REVOKE DEALERS' LICENSES FOR CERTAIN VIOLATIONS; BY AMENDING SECTION 56-16-140, RELATING TO LICENSES FOR MOTORCYCLE DEALERS OR WHOLESALERS, EXHIBITION LICENSES, FEES, AND PENALTIES FOR NONCOMPLIANCE, SO AS TO PROVIDE

THE SECTION ALSO APPLIES TO MOTORCYCLE WHOLESALERS, TO PROVIDE THE LICENSES LAST FOR THIRTY-SIX MONTHS, TO PROVIDE THE DEPARTMENT OF MOTOR VEHICLES MUST PROVIDE CERTAIN INFORMATION TO LICENSE APPLICANTS, TO PROVIDE COMPLAINT PROCEDURES, TO REVISE THE PENALTIES FOR DEALERS SELLING MOTORCYCLES WITHOUT LICENSES, AND TO PROVIDE FOR THE DISTRIBUTION OF FINES; BY AMENDING SECTION 56-16-150, RELATING TO APPLICATIONS FOR MOTORCYCLE DEALERS' OR WHOLESALERS' LICENSES, BONDS, AND THE DUTY TO NOTIFY THE DEPARTMENT OF MOTOR VEHICLES WHERE INFORMATION GIVEN BY APPLICANTS CHANGE OR LICENSEES CEASE OPERATIONS, SO AS TO PROVIDE THE PROVISION APPLIES TO MOTORCYCLE WHOLESALERS AND DEALERS, TO REVISE THE BOND REQUIREMENTS, TO PROVIDE FOR THE RECOVERY OF BACK TAXES AND FEES, AND TO PROVIDE FOR THE CONTINUATION OF BUSINESS IN THE EVENT OF LICENSEES' DEATHS; BY AMENDING SECTION 56-16-160, RELATING TO REQUIREMENTS REGARDING MOTORCYCLE DEALERS' MAINTENANCE OF BONA FIDE ESTABLISHED PLACES OF BUSINESS, SIZE OF BUSINESSES, AND PERMANENT SIGNS, SO AS TO PROVIDE THAT DEALERS MAY CONDUCT BUSINESS ON PROPERTY ADJACENT TO BONA FIDE ESTABLISHED PLACES OF BUSINESS UNDER CERTAIN CIRCUMSTANCES; BY AMENDING SECTION 56-16-180, RELATING TO DENIALS, SUSPENSIONS, OR REVOCATIONS OF CERTAIN LICENSES, SO AS TO REVISE THE REASONS THE DEPARTMENT OF MOTOR VEHICLES MAY DENY, SUSPEND, OR REVOKE MOTORCYCLE DEALERS' LICENSES; BY AMENDING SECTION 56-19-370, RELATING TO PROCEDURES FOR VOLUNTARY TRANSFERS AND DEALERS PURCHASING VEHICLES FOR RESALE, SO AS TO PROVIDE PROCEDURES FOR DEALERS TO TITLE AND REGISTER CERTAIN VEHICLES, AND PENALTIES FOR VIOLATING THESE PROVISIONS; TO PROVIDE THE DEPARTMENT OF MOTOR VEHICLES SHALL ENSURE THAT NO ONE IS REGISTERED AS AN UNINSURED MOTORIST; TO REPEAL SECTIONS 56-3-180, 56-3-215, ARTICLE 29 OF CHAPTER 3, TITLE 56, AND ARTICLE 30 OF CHAPTER 3, TITLE 56, RELATING TO THE ISSUANCE OF CERTAIN SPECIAL PERMITS, TEMPORARY

PERMITS, TEMPORARY LICENSE PLATES, AND REGISTRATION CARDS BY THE DEPARTMENT OF MOTOR VEHICLES; TO AMEND SECTION 56-23-60, RELATING TO STANDARDS FOR OPERATING DRIVER TRAINING SCHOOLS, SO AS TO DELETE THE TERM "DEFENSIVE DRIVING COURSE" AND REPLACE IT WITH THE TERM "DRIVER TRAINING COURSE"; BY ADDING SECTION 56-23-105 SO AS TO DEFINE THE TERM "CLASSROOM TRAINING"; TO AMEND SECTION 56-1-20, RELATING TO REQUIRING CERTAIN PERSONS TO POSSESS DRIVERS' LICENSES TO DRIVE MOTOR VEHICLES, SO AS TO PROVIDE CERTAIN DRIVERS POSSESSING OUT-OF-STATE DRIVERS' LICENSES MUST SURRENDER THEM WITHIN FORTY-FIVE DAYS OF BECOMING RESIDENTS BEFORE BEING ISSUED SOUTH CAROLINA DRIVERS' LICENSES; TO AMEND SECTION 56-1-220, RELATING TO VISION SCREENING TESTS REQUIRED FOR RENEWAL OF DRIVERS' LICENSES, SO AS TO PROVIDE EXEMPTIONS FOR CERTAIN ACTIVE-DUTY MEMBERS OF THE ARMED FORCES; AND TO AMEND SECTION 56-23-40, RELATING TO DRIVER TRAINING SCHOOL LICENSE FEES, SO AS TO INCREASE FEES AND REVISE THE LICENSES' EXPIRATION DATE.

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

Driver's license reinstatement fee payment program

SECTION 1. Section 56-1-395 of the S.C. Code is amended to read:

Section 56-1-395. (A) The Department of Motor Vehicles shall establish a driver's license reinstatement fee payment program. A person who is a South Carolina resident, is eighteen years of age or older, and has had his driver's license suspended may apply to the Department of Motor Vehicles to obtain a license valid for no more than twelve months to allow time for payment of reinstatement fees. If the person has served all of his suspensions, has met all other conditions for reinstatement, and owes two hundred dollars or more of South Carolina reinstatement fees only for suspensions that are listed in subsection (E), the Department of Motor Vehicles may issue a twelve-month license upon payment of a forty-dollar administrative fee and payment of ten percent of the reinstatement fees owed. Of the forty-dollar administrative fee, the

department may retain five dollars to cover the cost of operating the program. The remainder must be credited to the State Highway Fund established in Section 57-11-20.

(B) During the period of the twelve-month license, the person must make periodic payments of the reinstatement fees owed. Monies paid shall be applied to suspensions in chronological order, with the oldest fees being paid first. The department may provide the person with a fee schedule that shows how much the person may pay every month to satisfy the fees that he owes in a timely manner. The department may allow a person to make payments toward the payment program online. However, the first and final payments must be paid in person at one of the department's branch offices.

(C) When all fees are paid, and the department records demonstrate that the person has no other suspensions, the person is eligible to renew his regular driver's license.

(D) If all fees are not paid by the end of the twelve-month period, existing suspensions shall be reactivated.

(E) This subsection applies only to a person whose driver's license has been suspended pursuant to Sections 34-11-70, 56-1-170, 56-1-185, 56-1-240, 56-1-270, 56-1-290, 56-1-460(A)(1), 56-9-351, 56-9-354, 56-9-357, 56-9-430, 56-9-490, 56-9-610, 56-9-620, 56-10-225, 56-10-240, 56-10-520, 56-10-530, and 56-25-20.

(F) No person may participate in the payment program more than one time in any two-year period. Once a person has participated in the payment program for a suspension, the person cannot enter into another payment program for the same suspension. If the person receives another payment program-qualifying suspension pursuant to subsection (E) while already enrolled in the payment program, the person cannot add the new suspension to the existing payment program. If a person who is currently participating in a payment plan commits a subsequent infraction for which his license is suspended for some period of time, then he may no longer participate in the payment plan for the prior offense.

Driver's license suspensions

SECTION 2. Section 56-1-396(F) of the S.C. Code is amended to read:

(F) Qualifying suspensions include, and are limited to, suspensions pursuant to Sections 56-1-185, 56-1-290, 56-1-460(A)(1), and 56-10-520. Qualifying suspensions do not include suspensions pursuant to Section 56-5-2990 or 56-5-2945, and do not include suspensions

pursuant to Section 56-1-460, if the person drives a motor vehicle when the person's license has been suspended or revoked pursuant to Section 56-5-2990 or 56-5-2945.

Uninsured motor vehicles

SECTION 3. Section 56-10-240(A) and (B) of the S.C. Code is amended to read:

(A) If, during the period for which it is licensed, a motor vehicle is or becomes an uninsured motor vehicle, then the vehicle owner immediately shall obtain insurance on the vehicle or surrender the motor vehicle license plate and registration certificate issued for the motor vehicle.

(B) The Department of Motor Vehicles may not reissue a registration certificate and license plate for that vehicle until satisfactory evidence has been filed by the owner or by the insurer who gave the cancellation or refusal to renew notice to the department that the vehicle is insured. Upon receiving information to the effect that a policy is canceled or otherwise terminated on a motor vehicle registered in South Carolina, the department shall suspend the owner's driving privileges, license plate, and registration certificate and shall initiate action as required within fifteen days of the notice of cancellation to pick up the license plate and registration certificate. A person who has had his driving privileges, vehicle license plate, and registration certificate suspended by the department, but who at the time of suspension possesses liability insurance coverage sufficient to meet the financial responsibility requirements as set forth in this chapter, has the right to provide documents showing that the vehicle was actually insured during the suspension period to the department. If the department determines that the person has sufficient liability insurance coverage the suspension is voided immediately. The department shall give notice by first class mail of the cancellation or suspension of driving and registration privileges to the vehicle owner at his last known address.

Proof of insurance

SECTION 4. Section 56-10-245 of the S.C. Code is amended to read:

Section 56-10-245. Whenever a person furnishes proof of liability insurance, or surrenders or has his registration or license tags confiscated for failure to produce proof of insurance, after the Department of Motor

Vehicles receives notice of the lapse or termination of the required liability insurance, the department shall compare the effective date of the lapse or termination with the date of the proof of insurance or the date of the confiscation or surrender. If the department determines there was a lapse in the required coverage, the department shall assess, in addition to other fines or penalties imposed by the law, a per diem fine in the amount of five dollars. The fine provided for in this section and the two hundred dollar reinstatement fee pursuant to Section 56-10-240 must not be assessed if the person furnishes proof, as documented by his sworn statement, that the motor vehicle upon which the coverage has lapsed or been terminated has not been operated upon the roads, streets, or highways of this State during the lapse or termination, and the lapse or termination is due to military service or illness as documented by a signed physician's statement. The total amount of the fine provided for in this section may not exceed two hundred dollars per vehicle for a first offense. Revenue generated by the fine imposed pursuant to this section must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

Operating uninsured motor vehicles

SECTION 5. Article 5, Chapter 10, Title 56 of the S.C. Code is amended to read:

Article 5

Operating an Uninsured Motor Vehicle

Section 56-10-510. Reserved.

Section 56-10-520. (A)(1) It is unlawful for a person who owns an uninsured motor vehicle licensed in this State or subject to registration in this State to operate or allow the operation of the uninsured motor vehicle in this State.

(2) It is unlawful for a person who is not the owner of an uninsured motor vehicle to operate the unisured motor vehicle in this State if the person operating the motor vehicle knows that the motor vehicle is uninsured.

(3) A person who violates subsection (A)(1) or (2) is guilty of a misdemeanor and, upon conviction:

(a) for a first offense, must be fined not less than one hundred

dollars and not more than two hundred dollars or imprisoned for thirty days;

(b) for a second offense, must be fined two hundred dollars or imprisoned for thirty days, or both; or

(c) for a third or subsequent offense, must be imprisoned for not less than forty-five days nor more than six months.

(4) Only convictions pursuant to this section which occurred within five years, including and immediately preceding the date of the last conviction, constitute prior convictions within the meaning of this section.

(B) The Department of Motor Vehicles shall suspend the driver's license and all registration certificates and license plates of any owner of an uninsured motor vehicle upon receiving notice of a violation of this section, and the department shall not thereafter reissue the driver's license and the registration certificates and license plates issued in the name of the person until the person pays the reinstatement fee as provided in this section.

(C) The department shall suspend the driver's license of any person who is the operator but not the owner of a motor vehicle upon receiving notice of a violation of any provisions of this section, and he shall not thereafter reissue the driver's license until thirty days from the date of the order of suspension.

(D) The reinstatement fee shall be six hundred dollars until adjusted in accordance with this section. The reinstatement fee may be adjusted annually, at the beginning of the calendar year, based upon and in relation to the average rate level for private passenger automobile insurance coverages by insurers in this State. The Department of Insurance, by annual order, will set the exact fee. The Department of Insurance shall annually notify the Department of Motor Vehicles by the first business day of October of the reinstatement fee for the upcoming calendar year.

Section 56-10-530. When it appears to the Department of Motor Vehicles from its records that an uninsured motor vehicle as defined in Section 56-9-20, subject to registration in the State, is involved in a reportable accident in the State resulting in death, injury, or property damage, the department shall, in addition to enforcing the applicable provisions of Section 56-10-10, et seq. suspend such owner's driver's license and all of his license plates and registration certificates until such person has complied with those provisions of law and has paid to the department a reinstatement fee as provided by Section 56-10-520. However, no order of suspension required by this section must become

effective until the department has offered the person an opportunity for a contested case hearing before the Office of Motor Vehicle Hearings to show cause why the order should not be enforced. Notice of the opportunity for a contested case hearing must be included in the order of suspension. The presentation by a person subject to the provisions of this section of a certificate of insurance, executed by an agent or representative of an insurance company qualified to do business in this State, showing that on the date and at the time of the accident the vehicle was an insured motor vehicle as herein defined is sufficient bar to the suspension provided for in this section.

Section 56-10-535. Reserved.

Section 56-10-540. A person whose driver's license or registration certificates, or license plates and decals have been suspended as provided in this chapter and have not been reinstated shall immediately return, either in person or electronically, every such license, registration certificate, and set of license plates and decals held by him to the department. A person failing to comply with this requirement shall be guilty of a traffic infraction and, upon conviction, shall be punished as provided in Section 56-9-340, et seq.

Section 56-10-550. Except as provided in Sections 56-10-552 and 56-10-554, funds collected by the Department of Motor Vehicles under the provisions of this chapter must be placed on deposit with the State Treasurer and held in a special fund to be known as the "Uninsured Motorists Fund" to be disbursed as provided by law. The Department of Insurance as provided in Sections 38-77-151 and 38-77-154 may expend monies from such funds for the administration of Title 38.

Section 56-10-551. When any insurance policy certified under this chapter is canceled or terminated, the insurer shall report the fact to the Department of Motor Vehicles within fifteen days after the cancellation electronically or on a form prescribed by the department.

Section 56-10-552. (A) For each two dollars of the yearly premium for uninsured motorist coverage paid to the Department of Motor Vehicles pursuant to Section 38-73-470, one dollar twenty cents must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167. The remaining eighty cents must be placed in a special fund, to be known as the "Uninsured Enforcement Fund", to be used by the

Department of Public Safety for the purpose of enforcement and administration of Article 3, Chapter 10, Title 56.

(B) Fifty percent of the reinstatement fee as provided by Section 56-10-520 must be transferred by the Department of Public Safety and recorded to the Uninsured Enforcement Fund to be used by the Department of Public Safety as provided by subsection (A) of this section. The remaining fifty percent of the reinstatement fee as provided by Section 56-10- 520 must be retained in the Uninsured Motorist Fund to be used as provided in Sections 56-10-550, 38-77-151, and 38-77-154.

Section 56-10-553. Reserved.

Section 56-10-554. Reserved.

"Insured motor vehicle" defined

SECTION 6. Section 56-9-20(1) of the S.C. Code is amended to read:

(1) "Insured motor vehicle": A motor vehicle as to which there is bodily injury liability insurance and property damage liability insurance, meeting all of the requirements of item (5) of this section, or as to which a bond has been given or cash or securities delivered in lieu of such insurance or as to which the owner has qualified as a self-insurer in accordance with the provisions of Section 56-9-60;

"Uninsured motor vehicle" defined

SECTION 7. Section 56-9-20(14) of the S.C. Code is amended to read:

(14) "Uninsured motor vehicle": Any motor vehicle which is not an insured motor vehicle as defined in item (1) of this section.

Temporary license plates

SECTION 8. Section 56-3-210 of the S.C. Code is amended to read:

Section 56-3-210. (A)(1) The department is authorized to administer a program for and regulate the issuance of temporary license plates for items required to be registered in this State and items that are purchased in this State that may be registered in a foreign jurisdiction.

(2) The department, pursuant to this section and with input from temporary license plate distributors, shall establish the design and layout

of all temporary license plates to be issued within the State. Temporary license plates shall be of a material specified by the department so as to resist deterioration or fading from exposure to the elements during the period for which display is required.

(3) Temporary license plates must be six inches wide and at least eleven inches in length. Temporary motorcycle and moped license plates must be four inches wide and seven inches in length.

(4) Each temporary license plate must contain a vehicle's identifying information as determined by the department including, but not limited to, the date of expiration, the name of the issuing entity or standard identifier as determined by the department and a unique identifying license plate text assigned by the department. The temporary license plate text must be linked to the vehicle record and the vehicle's owner in the department's vehicle database. In order to operate on the highways of this State, an item must display either a valid temporary license plate issued pursuant to this title or a valid metal license plate, and, when applicable, a decal that the owner intends to transfer pursuant to Section 56-3-1290.

(5) Licensed motor vehicle dealers, leasing companies, the department, and other entities shall not obtain or procure a temporary license plate from any entity other than a registered temporary license plate distributor.

(B)(1) Only statewide motor vehicle dealer associations in which at least thirty percent and no fewer than two hundred members are licensed South Carolina motor vehicle dealers may be temporary license plate distributors. Except as otherwise provided in this section, only temporary license plate distributors may sell or distribute temporary license plates.

(2) If a temporary license plate distributor is unable to provide temporary license plates for the department in a timely manner, the department may solicit for and select a different temporary license plate distributor. The department's solicitation and selection of a different temporary license plate distributor is subject to the provisions of the State Consolidated Procurement Code.

(3) If the only temporary license plate distributors in this State do not respond to a solicitation as provided for in item (2) then this subsection is of no force or effect.

(C)(1) The department is authorized to administer an electronic system for county auditors' offices, licensed motor vehicle dealers, leasing companies, and other entities authorized by the department to use in issuing temporary license plates. The department may contract with third parties to provide service connection between the issuing entities

and the department, or may provide the service directly to participating entities. Licensed dealers, leasing companies, and other entities participating in the electronic registration and titling program that fail to comply with the program's requirements may be removed from the program by the department.

(2) Third parties contracted pursuant to this section are authorized to produce temporary license plates and temporary vehicle registration transactions on behalf of the department. The department shall develop program terms, conditions, standards, and specifications required for certification. Third parties requesting certification must agree to the terms, conditions, standards, and specifications in order to participate.

(D) The department, with input from temporary license plate distributors, shall develop program specifications that define the requirements of the temporary license plate program governing the issuance of temporary license plates by all authorized entities. The design, specifications, and method of distribution of all temporary plates shall be the same.

(E) Issuing entities may utilize no more than the upper fifty percent free space on their temporary license plates for dealer or company identification. Traceable temporary license plates from issuing entities that do not utilize the plate for dealer or company identification must include an identifier selected by the department. Third-party providers that produce temporary license plates must not charge an additional fee to issuing entities that chose to issue traceable temporary license plates that include the identifier selected by the department. The lower fifty percent of all temporary license plates is reserved to display the temporary license plate number and other information required by the department pursuant to Section 56-3-210(A)(4).

(F) Except as provided for in this chapter, a dealer or leasing company may not use a temporary license plate for any other purpose, which includes, but is not limited to, vehicle demonstration, employee use, or transporting vehicles from one location to another location. A dealer or leasing company may not place a temporary license plate on a vehicle until the vehicle is sold to a purchaser and until the temporary license plate number and other identifying information has been recorded in the electronic database and printed on the lower fifty percent of the temporary license plate. A dealer that issues or allows a temporary license plate to be issued in violation of this section also may have the dealer violation points, as determined by the department, assessed. A nondealer issuing entity that violates this section may have its issuing privileges suspended by the department. The department shall develop a

process for tracking fraudulently issued or sold temporary plates.

(G) Any person or entity authorized by this chapter to issue a temporary license plate shall maintain records as required by the department. Records maintained pursuant to this subsection shall be open to inspection by the department or its agents during reasonable business hours. Records must include the inventory control number of each temporary license plate, the vehicle identification number, issuance date, and expiration date.

(H) Licensed motor vehicle dealers, leasing companies, and other entities may provide temporary license plates only for items that are purchased from that dealer company or entity.

(I) The total fee for the temporary license plates the department or counties issue pursuant to this chapter shall be calculated based on:

(1) the five-dollar cost of the plate, which must be placed in a special restricted account to be used solely by the department for the costs associated with the production and issuance of new license plates; and

(2) an additional five dollars which must be disbursed to the South Carolina Transportation Infrastructure Bank's state highway account pursuant to Section 56-3-910.

(J)(1) The total fee for the temporary license plates issued pursuant to this chapter by licensed dealers, leasing companies, and other entities must be calculated based on:

(a) the actual cost of the license plate plus issuing and printing, as well as standard shipping and handling costs; and

(b) an additional five dollars which must be remitted to the department. The department shall disburse two dollars and fifty cents of each additional five dollars remitted to the State Highway Fund, as established by Section 57-11-167, to be distributed as provided in Section 11-43-167. The remaining two dollars and fifty cents of each additional five dollars remitted shall be disbursed to the South Carolina Transportation Infrastructure Bank's state highway account pursuant to Section 56-3-910.

(2) Dealers, leasing companies, and other entities shall not charge any fees for traceable temporary license plates in excess of the fees provided for in this subsection.

(K) The bill of sale, title, lease contract, temporary registration card issued in conjunction with a temporary license plate or copy of one of these documents must be maintained in the vehicle at all times to verify the vehicle's date of purchase or lease. The bill of sale, title, lease contract, or copy of one these documents must contain a description of the vehicle, the name and address of both the seller and the purchaser of

the vehicle, and its date of sale or lease.

(L) All temporary license plates must be valid for no more than forty-five days and must be affixed at all times to the rear of the item in an unobscured and secure manner.

(M) Only one temporary license plate may be issued to a purchaser of an item. The temporary license plate must be used only on the item for which it was issued and must not be transferred, loaned, or assigned to any other person or item.

Temporary license plates

SECTION 9. Article 3, Chapter 3, Title 56 of the S.C. Code is amended by adding:

Section 56-3-211. The department, licensed dealers, leasing companies, and other entities may issue temporary license plates to operate any item that is purchased in this State that may be registered in a foreign jurisdiction and farm trucks registered in another jurisdiction that are harvesting and transporting seasonal crops. Temporary license plates issued pursuant to this section must meet all standards specified in Section 56-3-210.

Temporary license plates

SECTION 10. Article 3, Chapter 3, Title 56 of the S.C. Code is amended by adding:

Section 56-3-212. (A) The department, licensed dealers, leasing companies, and other entities may issue temporary license plates to operate any item that will be registered in this State or vehicles used solely for corporate research and development. In the case of the need to move trailers and semi-trailers before they have been purchased, temporary license plates may be issued to those items for the sole purpose of being moved from the manufacturer to the dealer’s or purchaser’s place of business. Temporary license plates issued pursuant to this section must meet all standards specified in Section 56-3-210.

(B) A person who newly acquires a vehicle or an owner of a vehicle registered in a foreign jurisdiction that is being moved into this State, that is required to be registered under this title, and that is not properly registered and licensed, before operating the vehicle on the state’s highways during the forty-five-day period contained in this section, must:

(1) transfer a license plate from another vehicle pursuant to Section 56-3-1290;

(2) purchase a new license plate and registration;

(3) purchase a temporary license plate from the department; or

(4) purchase a temporary license plate from the county auditor's office in the county in which the person resides.

(C) The department, upon proper application, must issue a temporary license plate to a casual buyer of any item that will be registered in this State.

(D) If a person intends to transfer a license plate from one item to another item that is the same type and classification, then he may place the license plate to be transferred on the newly acquired item on the date of its purchase. The bill of sale and a copy of the registration which corresponds to the license plate must be maintained with the newly acquired item at all times to verify its date of purchase to a law enforcement officer. The purchaser must register the item with the department within forty-five days from its purchase date. A person who transfers a license plate or allows a license plate to be transferred in violation of this subsection is subject to the vehicle registration and licensing provisions of law.

(E) A person must replace a temporary license plate issued pursuant to this section with a permanent license plate and registration card as soon as he receives them, or by the end of the expiration period of the temporary license plate, whichever occurs first, unless the provisions of Section 56-3-213 apply. A person who operates an item in violation of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars. This subsection does not apply to vehicles used solely for corporate research and development or trailers and semi-trailers that have temporary license plates for the sole purpose of being moved from the manufacturer to the dealer's or purchaser's place of business.

(F) The owner of a foreign vehicle being moved into this State from a state in which the vehicle is properly licensed and registered has forty-five days to properly license and register the vehicle in South Carolina, unless his foreign registration is expired, in which case he must license and register the vehicle immediately.

(G) Nothing in this section may be construed to displace or effect the responsibility of a person to obtain insurance before operating a vehicle.

Issuance of special permits

SECTION 11. Article 3, Chapter 3, Title 56 of the S.C. Code is amended

by adding:

Section 56-3-213. (A) The department may issue solely to South Carolina residents, as proven by showing their driver's license or identification card issued by the department, special permits to operate any item otherwise required to be registered under this title when the item does not display the required license plate or registration card. In the case of a newly acquired vehicle, the department may issue a special permit pursuant to this section only when it has reason to believe that a person has made all attempts to appropriately register the item within the forty-five days of acquiring the vehicle. The department retains the authority to issue special permits at other times when extenuating circumstances exist. Special permits issued pursuant to this section must be valid for no more than forty-five days and must be affixed to the rear of the item in an unobscured and secure manner to operate. The department is the only entity authorized to provide a special permit pursuant to this section. There is no fee for special permits issued pursuant to this section.

(B) The provisions of this section do not apply to items registered in a foreign jurisdiction or used for corporate research and development.

Temporary motor vehicle registrations and license plates

SECTION 12. Section 56-3-2340(A) of the S.C. Code is amended to read:

(A) The Department of Motor Vehicles, or its designated agent, shall require licensed motor vehicle dealers to issue temporary motor vehicle registrations and temporary license plates directly from the dealership. Unless disallowed by the department, any dealership that begins a transaction through a third-party vendor pursuant to Section 56-3-210(C)(2) that provides a service connection between issuing entities and the department must complete the entire transaction, including titling and registering the vehicle in the same manner. Unless extenuating circumstances apply, at the department's discretion, dealers may not obtain certificates of title, temporary motor vehicle registrations, or temporary license plates from the department's branch offices. A dealership must make attempts to apply to the department electronically, including utilizing digital scans of forms approved and provided by the department.

Quality assurance program

SECTION 13. Article 3, Chapter 3, Title 56 of the S.C. Code is amended by adding:

Section 56-3-214. (A) The department shall implement a quality assurance program to ensure the integrity of the electronic registration and titling program. Pursuant to this section, the quality assurance entity shall perform quality assurance reviews of data and submitted forms through the electronic vehicle registration system. The department shall develop program standards and specifications for quality assurance. Quality assurance entities must agree to the program terms, conditions, standards, specifications, and bond requirement in order to participate.

(B)(1) A quality assurance entity must be a statewide motor vehicle dealer association in which at least thirty percent and no fewer than two hundred members are licensed South Carolina motor vehicle dealers.

(2) If the quality assurance entity does not meet reasonable accuracy standards, the department may solicit for and select a different quality assurance provider without regard to this subsection and in accordance with the State Consolidated Procurement Code.

(3) If a statewide motor vehicle dealer association in which at least thirty percent and no fewer than two hundred members are licensed South Carolina motor vehicle dealers does not respond to a solicitation to be a quality assurance entity, then this subsection does not apply.

(C) The quality assurance entity shall review all required documents for all transactions for all applications of title and registration submitted by dealers in accordance with department standards.

(D) The quality assurance entity shall charge a fee of ten dollars per vehicle sold by the dealer. The ten-dollar fee is an official fee and may be charged to the consumer by the dealership. The fee shall be a stand-alone line item on a dealer invoice or bill of sale and is not calculated as part of the purchase price of the vehicle.

(E) The department may allow or refuse a dealership the right to issue temporary motor vehicle registrations or temporary license plates through the electronic registration and titling program should the accuracy rate of its documentation fall below ninety-five percent as determined through the quality assurance entity and reported to the Department of Motor Vehicles on a monthly basis or upon request by the department.

(F) If a dealership previously is denied the privilege to issue registrations and temporary license plates, upon meeting the established criteria, the dealership may be allowed to issue registrations or license plates again.

(G) The quality assurance entity shall carry a bond to ensure departmental standards and the protection of personally identifiable information remains intact. The bond amount shall be determined by the department.

(H) The department is authorized to collect a transaction fee from the quality assurance entity that transmits or retrieves data from the department pursuant to this section. The fee must not exceed five dollars for each transaction. Two dollars fifty cents of each fee collected pursuant to this subsection must be credited to the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167. The other two dollars fifty cents of each fee collected pursuant to this subsection shall be retained by the Department of Motor Vehicles and earmarked in an account for the sole purpose of technology modernization. Fees in the account may be carried forward from fiscal year to fiscal year.

Fee for performing duties

SECTION 14. Section 8-21-15(B) of the S.C. Code is amended to read:

(B) This section does not apply to:

(1) state-supported governmental health care facilities;

(2) state-supported schools, colleges, and universities;

(3) educational, entertainment, recreational, cultural, and training programs;

(4) the State Board of Financial Institutions;

(5) sales by state agencies of goods or tangible products produced for or by these agencies;

(6) charges by state agencies for room and board provided on state-owned property;

(7) application fees for recreational activities sponsored by state agencies and conducted on a draw or lottery basis;

(8) charges for vendor fees, convenience fees, transaction fees, or other similar fees that allow a person to pay a state agency or contracted vendor on behalf of a state agency for goods, services, fees, or other items through any payment method other than cash;

(9) court fees or fines levied in a judicial or adjudicatory proceeding.

Recreational vehicle dealer licenses

SECTION 15. Section 56-14-30 of the S.C. Code is amended to read:

Section 56-14-30. (A) Before engaging in business as a recreational vehicle dealer in this State, a person first must apply to the Department of Motor Vehicles for a license. Each license issued expires on the last day of the month thirty-six months from the date of issue, the "licensing period", and must be displayed prominently at the established place of business. The fee for the license is one hundred fifty dollars. The license applies to only one place of business of the applicant and is not transferable to another person or place of business.

(B)(1) During the dealer license application process, the department shall provide all information that would be needed in an audit or a review by its agents. Upon issuing a license, the department shall be reasonable in its requests to inspect or copy a dealer's records. If a complaint has been filed against a dealer, the department must present that complaint to the dealer in writing and allow the dealer the opportunity to cure before proceeding with punitive or enforcement action. Complaints arising from alleged violations of:

(a) Section 56-37-30(B) must be cured by the dealer within sixty days of being notified of the complaint;

(b) Section 56-37-30(C) must be cured by the dealer within forty-five days of being notified of the complaint; or

(c) Section 56-37-30(D) must be cured by the dealer within thirty days of being notified of the complaint.

(2) If the department determines that the same dealer has received a similar type of complaint within twelve months of a previous complaint, the department may proceed with an enforcement action against that dealer without regard to the time period provided in this subsection.

(C) A licensed South Carolina recreational vehicle dealer may exhibit and sell recreational vehicles, as defined by Section 56-14-10, at fairs, recreational or sports shows, vacation shows, and other similar events or shows upon obtaining a temporary dealer's license in the manner required by this section. No other exhibitions may be allowed, except as may be permitted by this section. Any recreational vehicle displayed must be owned by the dealer holding the temporary license. Before exhibiting and selling recreational vehicles at temporary locations, the dealer shall first apply to the department for a license. To be eligible for a temporary license, a dealer shall hold a valid recreational vehicle dealer's license issued pursuant to this chapter. Every temporary dealer's license issued is valid for a period not to exceed ten consecutive days and must be prominently displayed at the temporary place of business. No dealer may purchase more than six temporary licenses every twelve

months. The fee for each temporary license issued is twenty dollars. A temporary license applies to only one dealer operating in a temporary location and is not transferable to any other dealer or location.

(D) The provisions of this section may not be construed as allowing the sale of any type of motor vehicles other than recreational vehicles at authorized temporary locations.

(E) A person who fails to secure either a temporary or a permanent license as required in this chapter and sells a recreational vehicle is guilty of a misdemeanor and, upon conviction, must be fined:

(1) not less than one hundred dollars or more than five hundred dollars or imprisoned for not more than thirty days for the first offense;

(2) five hundred dollars or imprisoned for not more than thirty days, or both, for the second offense; and

(3) not less than two thousand dollars or more than ten thousand dollars or imprisoned for not more than two years, or both, for the third or any subsequent offense.

(F) For purposes of this section, each unauthorized sale of a recreational vehicle where the dealer has not applied for and received a license from the department appropriate for that sale constitutes a separate offense. Nothing in this chapter may be construed to prohibit any law enforcement agency from enforcing the provisions relating to non-licensed dealers within the law enforcement agency's jurisdiction. The ticketing agency shall retain fifty percent of all fines collected pursuant to this section.

(G) Nothing in this section shall be construed to prevent a licensed recreational vehicle dealer from providing vehicles for demonstration or test driving purposes.

Recreational vehicle dealer licenses

SECTION 16. Section 56-14-40 of the S.C. Code is amended to read:

Section 56-14-40. (A) Before a license as a recreational vehicle dealer is issued, an applicant shall file an application with the department and provide information the department may require including, but not limited to, the name and addresses of individuals who own or control ten percent or more of the interest in the business.

(B)(1) Each applicant shall furnish a surety bond in the penal amount of fifty thousand dollars on a form prescribed by the department.

(2) A new bond or a proper continuation certificate must be provided to the department every twelve months during the license period. The dealer or surety, or the dealer's or surety's designee, must

notify the department of any bond name or address changes during the licensing period. Notice must be provided within thirty days of a change. Proof of the bond and the proper continuation of the bond may be provided to the Department of Motor Vehicles on the same database used for vehicle insurance pursuant to Article 7, Chapter 10, Title 56.

(3) A dealer's license expires immediately upon expiration or termination of a dealer's bond, or a decrease of a dealer's bond below fifty thousand dollars.

(4) The bond must be given to the department and executed by the applicant, as principal, and by a corporate surety company authorized to do business in this State, as surety.

(5) The bond must be conditioned upon the applicant or licensee complying with the statutes applicable to the license and as indemnification for loss or damage suffered by an owner of a recreational vehicle, or his legal representative, by reason of fraud practiced or fraudulent representation made in connection with the sale or transfer of a recreational vehicle by a licensed recreational vehicle dealer or the dealer's agent acting for the dealer, or within the scope of employment of the agent or loss or damage suffered by reason of the violation by the dealer or his agent of any provisions of this chapter.

(6)(a) In instances of taxes or fees owned to the State that pertain solely to the process of buying, selling, titling, or registering vehicles by a recreational vehicle dealer, the department may maintain a cause of action against the dealer's surety bond and may recover damages if the owed taxes and fees are not paid in full within the time period prescribed by law. The department shall distribute the collected taxes and fees to the appropriate entity as prescribed by law.

(b) In the event of concurrent claims for the same vehicle from the owner and the State, the owner's claim prevails.

(c) This subsection does not apply to monies a recreational vehicle dealer has attempted to refund to a customer due to an error made by the dealer when the dealer can demonstrate that he has made a bona fide, good faith effort by registered or certified mail, return receipt requested, or by private delivery service acceptable to the Internal Revenue Service to ensure the customer's refund was delivered. For purpose of this subsection, the dealer should make a bona fide, good faith effort to refund the monies due to the customer within sixty days of the date of sale.

(7) An owner or his legal representative who suffers the loss or damage has a right of action against the dealer and against the dealer's surety upon the bond and may recover damages as provided in this chapter. However, regardless of the number of years a bond remains in

effect, the aggregate liability of the surety for claims is limited to fifty thousand dollars on each bond and to the amount of the actual loss incurred.

(8) The surety may terminate its liability under the bond by giving the department thirty days' written notice of its intent to cancel the bond. The cancellation does not affect liability incurred or accrued before the cancellation.

(C) If, during a license period, there is a change in the information a dealer gave the department in obtaining or retaining a license, the licensee must report the change to the department within thirty days on a form prescribed by the department.

(D) If a licensee ceases to be a recreational vehicle dealer, he shall notify the department within ten days and return any license and all dealer license plates.

(E) In the event of a licensee's death, the personal representative of the deceased licensee may, with the consent of the probate court and upon an application to the department, continue the operation of the business covered by the license for the remainder of the licensing period, but no longer than eighteen months after the licensee's death. At the conclusion of the license period or eighteen months after the licensee's death, the personal representative must take all actions to apply for a recreational vehicle dealer license under his name and meet all requirements for a licensed recreational vehicle dealer in order to continue operating the business.

Recreational vehicle dealer licenses

SECTION 17. Section 56-14-50 of the S.C. Code is amended to read:

Section 56-14-50. No recreational vehicle dealer may be issued or allowed to maintain a recreational vehicle dealer's license unless:

(1) The dealer maintains a bona fide place of business for selling or exchanging recreational vehicles, which must be the principal business conducted from the location. A bona fide place of business includes a permanent, enclosed building, not excluding a permanently installed mobile home containing at least ninety-six square feet of floor space, occupied by the owner or operator and easily accessible by the public, at which a permanent business of bartering, trading, or selling recreational vehicles or displaying vehicles for bartering, trading, or selling is conducted, wherein the public may contact the owner or operator at all reasonable times and in which must be kept and maintained the books, records, and files required by this chapter.

(2) The business must display a permanent sign identifying the business with letters at least six inches in height, clearly readable from the nearest major avenue of traffic.

(3) The business must have a reasonable area or lot to properly display recreational vehicles.

(4) A recreational vehicle dealer may use his license to conduct business on property adjacent to or within sight of his bona fide established place of business. The property adjacent to or within sight of his bona fide established place of business is deemed to be contiguous even if there exists a single intervening landmark such as a road or a railroad track. The property adjacent to or within sight of his bona fide established place of business must display the same permanent sign as the bona fide established place of business pursuant to item (2). The property adjacent to or within sight of his bona fide established place of business need not include a permanent, enclosed building or structure, but all records for business conducted on the property adjacent to or within sight of his bona fide established place of business must be maintained at the bona fide established place of business. Any sales transactions pursuant to this section must take place at the location of the bona fide established place of business. Dealers applying for a license pursuant to this item must provide on the dealer license application the street address of the property adjacent to or the property within sight of his bona fide place of business and affirm that the dealer has met any local requirements to lawfully conduct business at that location.

Recreational vehicle dealer licenses

SECTION 18. Section 56-14-70 of the S.C. Code is amended to read:

Section 56-14-70. The department may deny, suspend, or revoke an application or licensee for any reason prescribed in Section 56-15-350.

Dealer or wholesaler licenses

SECTION 19. Section 56-15-310 of the S.C. Code is amended to read:

Section 56-15-310. (A)(1) Before engaging in business as a dealer or wholesaler in this State, a person first must apply to the Department of Motor Vehicles for a license. Each license issued expires thirty-six months from the month of issue, the licensing period, and must be displayed prominently at the established place of business. The fee for

the license is one hundred fifty dollars. The license applies to only one place of business of the applicant and is not transferable to another person or place of business.

(2) During the dealer license application process, the department shall provide any information that would be needed in an audit or a review by its agents. Upon issuing a license, the department shall be reasonable in its requests to inspect or copy a dealer's records. If a complaint has been filed against a dealer, the department must present that complaint to the dealer in writing and allow the dealer the opportunity to cure before proceeding with punitive or enforcement action. Complaints arising from alleged violations of:

(a) Section 56-37-30(B) must be cured by the dealer within sixty days of being notified of the complaint;

(b) Section 56-37-30(C) must be cured by the dealer within forty-five days of being notified of the complaint; or

(c) Section 56-37-30(D) must be cured by the dealer within thirty days of being notified of the complaint.

(3) If the department determines that the same dealer has received a similar type of complaint within twelve months of a previous complaint, the department may proceed with an enforcement action without regard to the time periods provided in this subsection.

(B) A person who fails to secure a license as required in this chapter and facilitates an unauthorized sale of a motor vehicle in violation of this chapter is guilty of a misdemeanor and, upon conviction, must be fined:

(1) not less than one hundred dollars or more than five hundred dollars or imprisoned for not more than thirty days for the first offense;

(2) five hundred dollars or imprisoned for not more than thirty days, or both, for the second offense; and

(3) not less than two thousand dollars or more than ten thousand dollars or imprisoned for not more than two years, or both, for the third or any subsequent offense.

For purposes of this section, each instance of an unauthorized sale of a motor vehicle where the dealer has not applied for and received a license from the department appropriate to that sale is conclusively deemed to be a separate and distinct offense. Nothing in this chapter may be construed to prohibit any law enforcement agency from enforcing the provisions relating to nonlicensed dealers within the law enforcement agency's jurisdiction. The ticketing entity shall retain fifty percent of any fines collected under this section.

Wholesaler or dealer licenses

SECTION 20. Section 56-15-320 of the S.C. Code is amended to read:

Section 56-15-320. (A) Before a license as a "wholesaler" or "dealer" is issued to an applicant, he shall file an application with the Department of Motor Vehicles and furnish the information the department may require including, but not limited to, information adequately identifying by name and address individuals who own or control ten percent or more of the interest in the business. The policy of this section is full disclosure.

(B)(1) Each applicant for licensure as a dealer or wholesaler shall furnish a surety bond in the penal amount of fifty thousand dollars on a form prescribed by the director of the department.

(2) A new bond or a proper continuation certificate must be provided to the department every twelve months during the license period. The dealer or surety, or his designee must alert the department of any bond name or address changes during the license period within thirty days of the change. Proof of the bond and the proper continuation of it may be provided to the Department of Motor Vehicles using the same database as vehicle insurance pursuant to Article 7, Chapter 10, of Title 56.

(3) A dealer's license expires immediately upon expiration, termination, or a decrease of a dealer's bond below fifty thousand dollars.

(4) The bond must be given to the department and executed by the applicant, as principal, and by a corporate surety company authorized to do business in this State, as surety.

(5) The bond must be conditioned upon the applicant or licensee complying with the statutes applicable to the license and as indemnification for loss or damage suffered by an owner of a motor vehicle, or his legal representative, by reason of fraud practiced or fraudulent representation made in connection with the sale or transfer of a motor vehicle by a licensed dealer or wholesaler or the dealer's or wholesaler's agent acting for the dealer or wholesaler or within the scope of employment of the agent or loss or damage suffered by reason of the violation by the dealer or wholesaler or his agent of this chapter.

(6) In instances of taxes or fees owed to the State that pertain to the process of buying, selling, titling, or registering vehicles by the dealer, the department has a right of action against the dealer's surety bond and may recover damages if those taxes and fees are not paid in full within the time period prescribed by law. The department shall distribute the

taxes and fees to the appropriate entity as prescribed in state law.

(a) In the event of concurrent claims for the same vehicle from the owner and the State, the owner's claim prevails.

(b) This subsection does not apply to monies the dealer has attempted to refund to a customer due to an error made by the dealer when the dealer can demonstrate that he has made an attempt by registered or certified mail, return receipt requested, or by private delivery service which is acceptable to the Internal Revenue Service to ensure the customer's refund was delivered. The dealer must make a bona fide, good faith attempt to refund money due to the customer within sixty days of the date of sale.

(7) An owner or his legal representative who suffers the loss or damage has a right of action against the dealer or wholesaler and against the dealer's or wholesaler's surety upon the bond and may recover damages as provided in this chapter. However, regardless of the number of years a bond remains in effect, the aggregate liability of the surety for claims is limited to fifty thousand dollars on each bond and to the amount of the actual loss incurred. The surety may terminate its liability under the bond by giving the department thirty days' written notice of its intent to cancel the bond. The cancellation does not affect liability incurred or accrued before the cancellation.

(C) If, during a license period, there is a change in the information a dealer or wholesaler gave the department in obtaining or retaining a license under this section, the licensee shall report the change to the department within thirty days after the change occurs on the form the department requires.

(D) If a licensee ceases being a dealer or wholesaler, within ten days of that time, he shall notify the department of this fact and return to the department a license issued pursuant to this chapter and all current dealer license plates issued to the dealer or wholesaler.

(E) In the event of the licensee's death, the personal representative of the deceased licensee may, with the explicit consent of the probate court and upon an application to the department, continue the operation of the business covered by the license for the remainder of the licensing period, but no longer than eighteen months after the licensee's death. At the conclusion of the licensing period or eighteen months after the death, the personal representative must take all actions to apply for a vehicle dealer license under his or her own name and meet all requirements for a licensed vehicle dealer in order to continue operating the business.

Motor vehicle dealers' licenses

SECTION 21. Section 56-15-330 of the S.C. Code is amended to read:

Section 56-15-330. No dealer or wholesaler may be issued or allowed to maintain a motor vehicle dealer's license unless:

(1) The dealer maintains a bona fide established place of business for conducting the business of selling or exchanging motor vehicles which must be the principal business conducted from the fixed location. A bona fide established place of business for any motor vehicle dealer includes a permanent, enclosed building or structure, not excluding a permanently installed mobile home containing at least ninety-six square feet of floor space, actually occupied by the applicant and easily accessible by the public, at which a permanent business of bartering, trading, or selling of motor vehicles or displaying vehicles for bartering, trading, or selling is carried on, wherein the public may contact the owner or operator at all reasonable times and in which must be kept and maintained the books, records, and files required by this chapter. A bona fide established place of business does not mean a residence, tent, temporary stand, or other temporary quarters. Wholesaler dealers are not required to have space to display vehicles.

(2) The dealer's place of business must display a permanent sign with letters at least six inches in height, clearly readable from the nearest major avenue of traffic. The sign must clearly identify the licensed business. This subsection does not apply to wholesale dealers.

(3) The dealer's place of business must have a reasonable area or lot to properly display motor vehicles. This subsection does not apply to wholesale dealers.

(4) A dealer may use his license to conduct business on property adjacent to or within sight of his bona fide established place of business. The property adjacent to or within sight of the bona fide established place of business is deemed to be contiguous even if there exists a single intervening landmark such as a road or a railroad track. The property adjacent to or the property within sight of the bona fide place of business must display the same permanent dealership sign as the bona fide established place of business pursuant to item (2). The property adjacent to or property within sight of the bona fide place of business need not include a permanent, enclosed building or structure, but all records for business conducted on the property adjacent to or property within sight of the bona fide place of business must be maintained at the bona fide established place of business. Any sales transactions pursuant to this section must take place at the location of the bona fide established place

of business. Dealers applying for a license pursuant to this subsection must provide on the dealer license application, the street address of the adjacent property or the property within sight and affirm that the dealer has met any local requirements to lawfully conduct business at that location.

Licenses in the name of the same applicants

SECTION 22. Section 56-15-350 of the S.C. Code is amended to read:

Section 56-15-350. (A) Any licenses in the name of the same applicant issued under this chapter may be denied, suspended, or revoked, if the applicant or licensee or an agency of the applicant or licensee acting for the applicant or licensee is determined by the Department of Motor Vehicles to have refused to comply with, been convicted of, or pleaded nolo contendere to any of the following offenses in this State or another jurisdiction in the United States:

(1) made a material misstatement in the application for the license;

(2) violated any provision of this chapter or the requirements contained in Article 3, Chapter 19, Title 56;

(3) committed any fraud connected with the sale or transfer of a motor vehicle;

(4) employed fraudulent devices, methods, or practices in connection with meeting the requirements placed on dealers and wholesalers by the laws of this State;

(5) violated any law involving the acquisition or transfer of a title to a motor vehicle;

(6) tampered with, altered, or removed motor vehicle identification numbers or markings;

(7) to have violated any federal or state law regarding the disconnecting, resetting, altering, or other unlawful tampering with a motor vehicle odometer, including the provisions of 49 U.S.C. 32701-32711 (Title 49, Subtitle VI, Part C, Chapter 327);

(8) refused or failed to comply with the department's reasonable requests to inspect or copy the records, books, and files of the dealer or wholesaler or failed to maintain records of each motor vehicle transaction as required by this chapter or by state and federal law pertaining to odometer records;

(9) given, loaned, or sold a dealer license plate to any person or otherwise to have allowed the use of any dealer license plate in any way not authorized by Section 56-3-2320. Any dealer license plate issued to a dealer or wholesaler pursuant to Section 56-3-2320 which is

determined by the department to be improperly displayed on any vehicle or in the possession of any unauthorized person is prima facie evidence of a violation of this section by the dealer or wholesaler to whom the license plate was originally issued.

(10) accepted or delivered a certificate of title to any other dealer, wholesaler, or any other person in which the title or assignment of title is signed in blank;

(11) committed any of the following crimes for which there is a conviction or plea of guilty or plea of nolo contendere and for which the conviction or plea date was ten or less years from the date of the application or renewal application of:

(a) a violent crime as defined in Section 16-1-60;

(b) a crime involving illegal drugs, other than simple possession of marijuana;

(c) a crime involving tax evasion or failure to pay taxes or fees as required by law;

(d) a crime involving the illegal use, carrying, or possession of a dangerous weapon;

(e) any crime having an element of identity theft, misuse of another person's identity information, larceny, embezzlement, false statements, falsification of documents, false swearing or dishonest or deceitful dealing; or

(f) a crime having an element of criminal sexual battery or conduct of any type or degree with a minor or an adult;

(12) failed to pay on demand any civil penalty imposed by the department authorized by this chapter which the person or licensee has failed to appeal or for which the person or licensee has exhausted appeals;

(13) failed to surrender a dealer license as required by this chapter or allowing any third party to sell any vehicles or operate a dealership; or

(14) had a previous dealer license revoked for that applicant under this section.

(B) Items (A)(1)-(11) do not apply to any pardoned or expunged crime within the ten-year time period.

(C) The department may deny future dealer licenses for the same applicant if a previous dealer license was revoked for that applicant under this section. When assessing the license application, with respect to acts identified in item (A)(14) in a foreign jurisdiction, the department shall determine if the facts of the act would constitute a violation in this State. If the acts leading to a revocation in a foreign jurisdiction would not constitute a violation in this State, then the department may not use

the act as sole justification to deny, suspend, or revoke a license.

(D) The department shall notify the licensee or applicant in writing at the mailing address provided in his application of its intention to deny, suspend, or revoke his license at least twenty days in advance and shall inform the licensee of his right to request a contested case hearing with the Office of Motor Vehicle Hearings in accordance with the rules of procedure for the Administrative Law Court and pursuant to the Administrative Procedures Act of this State. A licensee desiring a hearing shall file a request in writing with the Office of Motor Vehicle Hearings within ten days of receiving notice of the proposed denial, suspension, or revocation of his dealer's or wholesaler's license.

(E) Upon a denial, suspension, or revocation of a license, the licensee shall immediately return to the department the license and all dealer license plates.

Motor Vehicle Dealer Performance Evaluation System

SECTION 23. Title 56 of the S.C. Code is amended by adding:

CHAPTER 37

Motor Vehicle Dealer Performance Evaluation System

Section 56-37-10. This article applies to any dealer licensed under Title 56 regardless of the dealer license type.

Section 56-37-20. As used in this title:

(1) "Immediate family" means spouse, parent, stepparent, child, stepchild, sister, brother, grandparent, and grandchild.

(2) "Suspend" means temporarily prevent from continuing.

(3) "Revoke" means prevent from continuing for at least ten years.

(4) "Violation" means a single found incident leading to the issuance of points. For purposes of this article, a violation could be a single sale, a single vehicle, a single document, or other similar items.

(5) "Out-of-trust" means a dealer selling a vehicle without paying the complete financial obligation needed to obtain the title for the sold vehicle.

(6) "Open title" means, upon the purchase of a vehicle by a dealer and the seller has completed his portion of the certificate of title, the dealer or purchaser intentionally leaves the buyer or purchaser assignment blank on the title.

(7) "Dealer" means any entity licensed as a dealer under this title

without regard to the type of dealer license issued by the department.

Section 56-37-30. (A) There is established a points system for evaluating the performance record of any dealer licensed under this title and its continuing ability to operate as a dealer in this State. The department may only impose the sanctions described below if they are found to have occurred in the course of dealer-related business, to include a private citizen acting on behalf of a licensed dealer in their role as a dealer. If any dealer or employee of a dealership makes these errors in their role as a private citizen, those violations are not counted against the dealer license but may be penalized in accordance with state law.

(B) For multiple record errors over a six-month period of time, the department may impose a two-point violation against a dealer license for the following:

(1) errors or omissions on transactions regarding incoming or outgoing documents;

(2) incorrect acquisition or sale dates;

(3) incorrect vehicle identification numbers;

(4) incorrect make, model, or type of body;

(5) incorrect incoming or outgoing odometer reading;

(6) incorrect name and address of the person a vehicle was acquired from or transferred to;

(7) inability to provide an account for a dealer, transporter, or wholesale auto auction plate; or

(8) issuance of a second temporary plate to a purchaser.

(C) The following are four-point violations:

(1) dealer selling at address different than indicated on dealer application and license;

(2) failure to deliver a title to a buyer or the department within forty-five days of the date of sale;

(3) reasonable records request unavailable upon the demand of the department;

(4) issuance of any temporary license plate to a person not authorized to have the plate;

(5) misuse of dealer, transporter, or wholesale auto auction plate; and

(6) operating or allowing the operation of a vehicle with a suspended dealer plate.

(D) The following are six-point violations:

(1) selling out-of-trust or breach-of-trust;

(2) possession of an open title;

(3) altering or changing documents to avoid or delay registration;

(4) maintaining or producing fraudulent records;

(5) licensure as a wholesaler dealer only, but selling vehicles retail;

(6) having a volume of sales that do not warrant the number of license plates issued;

(7) dealer or auction facilitating a wholesaler selling retail;

(8) failure to remit any state-owed fees within the time period prescribed by law to the department;

(9) conviction by the licensee involving acquisition or transfer of a title to a vehicle;

(10) conviction by the licensee of a criminal offense or judgment in a civil case in which there is fraud connected to the sale or transfer of a vehicle; and

(11) use of fraudulent methods or practices.

(E) The department's Inspector General or the Inspector General's designee has the authority to issue sanctions based on findings during inspections and audits. The department may turn any records of sanctions over to the law enforcement entity with jurisdiction over the licensed location of the dealership for criminal prosecution.

Section 56-37-40. (A) There is created a Dealer Sanction Review Board that consists of the executive director of the department or his designee, a department employee with expertise in dealer licensing regardless of dealer license type, two nonfranchise automobile dealers, and three franchise automobile dealers. All dealers serving on the board must have been in business no less than ten years and be in good standing with the department. The department is responsible for ensuring the board is seated at the beginning of each fiscal year. Unless the board decides otherwise or a board member no longer qualifies to remain on the board, individuals on the board serve for three fiscal years and may serve a maximum of nine consecutive years. The department in conjunction with the board should take efforts to ensure that dealers represent all regions of the State and the sizes of dealerships owned. The two statewide dealer associations shall choose their members. The chairperson shall be elected and rotated between dealer members serving on the board.

(B) Dealers licensed pursuant to this title may contest sanctions provided for in this article by written request to the department no later than thirty days after receiving formal notice of the sanctions being levied.

(1) All notices of sanctions are deemed received no later than thirty days after mailing by the department.

(2) No later than sixty days after receiving the written request from

the dealer, the board must determine if the sanctions and corresponding points must be posted to the dealer's record as maintained by the department.

(3) No contested sanctions and corresponding points may be posted until the board has made a determination.

(4) The board's decision is considered final unless a dealer files a protest in administrative law court within twenty days of being provided written notice.

(5) The board may decide to decrease the number of points levied for a sanction, but the board may not increase the number of points levied for a sanction beyond those specified in this article.

(C) If a dealer licensed under this title does not contest sanctions within the time period prescribed in subsection (B), the assessed points are effective and will be posted to the dealer's record maintained by the department.

Section 56-37-50. In computing the total number of points levied against any dealer after a particular violation, those accrued as a result of violations during the twelve-month period including and immediately preceding the last violation must be counted at their full value. Those accrued from twelve to twenty-four months preceding the last violation must be counted at one-half their established value, and those resulting from violations which occurred more than twenty-four months prior to the last violation must not be counted.

Section 56-37-60. (A) Any dealer who has accumulated points under the provisions of this article must have the number of points reduced by four upon proving to the satisfaction of the Department of Motor Vehicles that the dealer has completed a voluntary course related to the proper licensing of dealers in this State. Before an entity may administer the course, and every three years thereafter, the department must approve the course. Entities offering this course must provide documentation, to the satisfaction of the department, regarding the training provided during the course. The department is not obligated to offer this course on its own.

(B) No dealer's points may be reduced more than one time in a three-year period by completing a course related to the proper licensing of a dealer in this State.

Section 56-37-70. (A) The department must suspend the license of any dealer for seven days upon the accumulation of twelve points or if the dealer has misused any department computer system or third-party

computer system that contains department data, including allowing another dealer location other than the one licensed by the department access to the system.

(B) The department must suspend the license of any dealer for thirty days upon the second accumulation of twelve points within a three-year period from the end date of the prior suspension.

(C) The department must suspend the license of any dealer for three years upon the third accumulation of twelve points within a three-year period. Dealers may not reapply for any kind of dealer license for three years after the last issued points. Should the provisions of this subsection apply, then the department may deny applications for any type of dealer license when the applicant is a member of the immediate family of the suspended dealer. The department shall notify the licensee or applicant by certified mail at the mailing address provided in his application of its intention to suspend his license at least thirty days in advance and shall provide the licensee an opportunity for a contested case hearing before the Office of Motor Vehicle Hearings pursuant to its rules of procedure and the Administrative Procedures Act of this State. A licensee desiring a contested case hearing must request the hearing in writing within thirty days of receiving notice of the proposed suspension of his dealer's or wholesaler's license. Should the dealer not request a contested case hearing from the Office of Motor Vehicle Hearings within thirty days of receiving notice of the proposed suspension, then the suspension of the dealer license must go into effect. If the dealer requests a contested case hearing from the Office of Motor Vehicle Hearings within thirty days of receiving notice of the proposed suspension, then the dealer may continue to operate until the Office of Motor Vehicle Hearings makes a final ruling in the contested case. Upon the suspension of a license, the licensee shall immediately return to the department the license and all dealer license plates.

Section 56-37-80. (A) The Department of Motor Vehicles must immediately revoke the license of any dealer issued pursuant to this title upon:

(1) a conviction involving theft or possessions of a stolen vehicle, involvement with a chop shop, or a violation of law involving tampering with, altering, or removing vehicle identification numbers or markings; or

(2) a conviction in administrative, civil, or criminal court of a dealer violation of state or federal law regarding the disconnecting, resetting, altering, or otherwise unlawful tampering with a motor vehicle's odometer.

(B) Upon the revocation of a license, the licensee, or his designee, shall immediately return to the department the license and all dealer license plates. The department must revoke the dealer license plates if the plates are not returned to the department.

(C) The department may deny any application for dealer licenses for ten years after notification of the conviction if the applicant is a member of the immediate family as a dealer whose license has been revoked. At the conclusion of the ten-year period, a dealer whose license has been revoked may apply to the Dealer Sanctions Review Board to be relicensed. However, upon review of the board, a dealer whose license has been revoked may continue to be denied a dealer license of any type.

Motorcycle dealer or wholesaler licenses

SECTION 24. Section 56-16-140 of the S.C. Code is amended to read:

Section 56-16-140. (A)(1) Before engaging in business as a motorcycle dealer or motorcycle wholesaler in this State, every person must first apply to the Department of Motor Vehicles for a license. Every license issued expires thirty-six months from the date of issue and must be prominently displayed at the established place of business. The fee for the license is one hundred fifty dollars. The license applies to only one place of business of the applicant and is not transferable to any other person or place of business, except as provided in item (2).

(2)(a) A licensed dealer may exhibit motorcycles and their related products at fairs, recreational or sports shows, vacation shows, and other similar events or shows upon obtaining a dealer's exhibition license. Before exhibiting motorcycles and their related products as provided in this item, the dealer shall first apply to the department for an exhibition license. The applicant shall provide the department with the name, location, and dates of the particular exhibition for which he is seeking an exhibition license.

(b) A dealer must hold a valid dealer's license pursuant to this section to be issued an exhibition license. Exhibition licenses are valid for a period not to exceed ten consecutive days, must be prominently displayed at the exhibition site, apply to only the licensee, and may not be transferred to another dealer or exhibition location. A dealer may not purchase more than six exhibition licenses every twelve months.

(B)(1) During the dealer license application process, the department shall provide all information that would be needed in an audit or a review by its agents. Upon issuing a license, the department shall be reasonable in its requests to inspect or copy a dealer's records. If a complaint has

been filed against a dealer, the department must present that complaint to the dealer in writing and allow the dealer the opportunity to cure before proceeding with punitive or enforcement action. Complaints arising from alleged violations of:

(a) Section 56-37-30(B) must be cured by the dealer within sixty days of being notified of the complaint;

(b) Section 56-37-30(C) must be cured by the dealer within forty-five days of being notified of the complaint; or

(c) Section 56-37-30(D) must be cured by the dealer within thirty days of being notified of the complaint.

(2) If the department determines that the same dealer has received a similar type of complaint within twelve months of a previous complaint, the department may proceed with an enforcement action against that dealer without regard to the time period provided in this subsection.

(C) A person who fails to secure a license as required in this chapter has facilitated an unauthorized sale of a motorcycle and is guilty of a misdemeanor and, upon conviction, must be fined:

(1) not less than one hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days for the first offense;

(2) five hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days, or both, for the second offense; and

(3) not less than one thousand dollars nor more than ten thousand dollars or imprisoned for not more than two years, or both, for the third or any subsequent offense.

(D) For purposes of this section, each instance of an unauthorized sale of a motorcycle where the dealer has not applied for and received a license from the department appropriate to the sale is conclusively deemed to be a separate and distinct offense. This provision does not apply to instances where a rightfully licensed retail dealer, pursuant to Chapter 15 of this title, accepts a motorcycle on trade to then sell at his retail location. Nothing in this chapter may be construed to prohibit any law enforcement agency from enforcing the provisions relating to nonlicensed dealers within the law enforcement agency's jurisdiction. The ticketing entity shall retain fifty percent of any fines collected under this section.

Motorcycle wholesaler or dealer licenses

SECTION 25. Section 56-16-150 of the S.C. Code is amended to read:

Section 56-16-150. (A) Before any license as a motorcycle "wholesaler" or "dealer" is issued to an applicant, he must file an application with the Department of Motor Vehicles and furnish the information the department may require including, but not limited to, information adequately identifying by name and address any individual who owns or controls ten percent or more of the interest in the business. The policy of this section is full disclosure.

(B)(1) Each applicant for licensure as a motorcycle dealer or wholesaler must furnish a surety bond in the penal amount of twenty-five thousand dollars on a form to be prescribed by the director of the department.

(2) A new bond or a proper continuation certificate must be provided to the department every twelve months during the license period. The dealer or surety, or his designee must alert the department of any bond name or address changes during the license period within thirty days of the change. Proof of the bond and the proper continuation of it may be provided to the Department of Motor Vehicles using the same database as vehicle insurance pursuant to Article 7, Chapter 10, Title 56.

(3) A dealer's license expires immediately upon expiration, termination, or a decrease of a dealer's bond below twenty-five thousand dollars.

(4) The bond must be given to the department and executed by the applicant, as principal, and by a corporate surety company authorized to do business in this State, as surety. The bond must be conditioned upon the applicant or licensee complying with the provisions of the statutes applicable to the license and as indemnification for any loss or damage suffered by an owner of a motorcycle, or his legal representative, by reason of any fraud practiced or fraudulent representation made in connection with the sale or transfer of a motorcycle by a licensed dealer or wholesaler or the dealer's or wholesaler's agent acting for the dealer or wholesaler or within the scope of employment of the agent or any loss or damage suffered by reason of the violation by the dealer or wholesaler or his agent, of any of the provisions of this chapter.

(5) In instances of taxes or fees owed to the State that pertain solely to the process of buying, selling, titling, or registering motorcycles by a motorcycle dealer, the department has a right of action against the dealer's surety bond and may recover damages if those taxes and fees are not paid within the time period prescribed by law. The department shall distribute the taxes and fees to the appropriate entity as prescribed in state law.

(a) In the event of concurrent claims for the same vehicle from the owner and the State, the owner's claim prevails.

(b) This subsection does not apply to monies the motorcycle dealer has attempted to refund to a customer due to an error made by the dealer when the dealer can demonstrate that he has made an attempt by registered or certified mail, return receipt requested, or by private delivery service which is acceptable to the Internal Revenue Service to ensure the customer's refund was delivered. For the purposes of this subsection, the dealer should make a bona fide, good faith attempt to refund money due to the customer within sixty days of the date of sale.

(6) An owner or his legal representative who suffers the loss or damage has a right of action against the dealer or wholesaler and against the dealer's or wholesaler's surety upon the bond and may recover damages as provided in this chapter. A new bond or a proper continuation certificate must be delivered to the department annually before the license is renewed. However, regardless of the number of years a bond remains in effect, the aggregate liability of the surety for any and all claims is limited to fifteen thousand dollars on each bond and to the amount of the actual loss incurred.

(7) The surety has the right to terminate its liability under the bond by giving the department thirty days' written notice of its intent to cancel the bond. The cancellation does not affect any liability incurred or accrued prior to the cancellation.

(C) If, during any license year, there is any change in the information that a dealer or wholesaler gave the department in obtaining or retaining a license under this section, the licensee shall report the change to the department within thirty days after the change occurs on the form the department requires.

(D) In the event a licensee ceases being a dealer or wholesaler, he shall, within ten days thereafter, notify the department of this fact and return to the department any license issued pursuant to this chapter and all current dealer license plates issued to the dealer or wholesaler.

(E) In the event of the licensee's death, the personal representative of the deceased licensee may, with the consent of the probate court and upon an application to the department, continue the operation of the business covered by the license for the remainder of the licensing period, but no longer than eighteen months after the licensee's death. At the conclusion of the licensing period or eighteen months after the death, the personal representative must take all actions to apply for a recreational vehicle dealer license under his or her own name and meet all requirements for a licensed recreational vehicle dealer in order to continue operating the business.

Motorcycle dealers' licenses

SECTION 26. Section 56-16-160 of the S.C. Code is amended to read:

Section 56-16-160. No dealer may be issued or allowed to maintain a motorcycle dealer's license unless:

(1) The dealer maintains a bona fide established place of business for conducting the business of selling or exchanging motorcycles which must be the principal business conducted from the fixed location. The sale of motorcycles or motor driven cycles need not be the principal business conducted from the fixed location. A bona fide established place of business for any motorcycle dealer includes a permanent, enclosed building or structure, not excluding a permanently installed mobile home containing at least ninety-six square feet of floor space, actually occupied by the applicant and easily accessible by the public, at which a permanent business of bartering, trading, or selling of motorcycles or displaying vehicles for bartering, trading, or selling is carried on, wherein the public may contact the owner or operator at all reasonable times and in which must be kept and maintained the books, records, and files required by this chapter. A bona fide established place of business does not mean a residence, tent, temporary stand, or other temporary quarters.

(2) The dealer's place of business must display a permanent sign with letters at least six inches in height, clearly readable from the nearest major avenue of traffic. The sign must clearly identify the licensed business.

(3) The dealer's place of business must have a reasonable area or lot to properly display motorcycles.

(4) A motorcycle dealer may use his license to conduct business on property adjacent to or within site of his bona fide established place of business. The property adjacent to or property within sight of his bona fide established place of business is deemed to be contiguous to his bona fide established place of business even if there exists a single intervening landmark such as a road or a railroad track. The property adjacent to or within sight of his bona fide established place of business must display the same permanent sign as the bona fide established place of business pursuant to item (2). The adjacent property or the property within sight of his bona fide established place of business need not include a permanent, enclosed building or structure, but all records for business conducted on the adjacent property must be maintained at the bona fide established place of business pursuant to this section. Any sales transactions pursuant to this section must take place at the location of the

bona fide established place of business. Dealers applying for a license under this item must declare to the department on the dealer license application the street address of the adjacent property or property within sight of his bona fide established place of business and affirm that the dealer has met any local requirements to lawfully conduct business at that location.

Motorcycle dealer licenses

SECTION 27. Section 56-16-180 of the S.C. Code is amended to read:

Section 56-16-180. The department may deny, suspend, or revoke an applicant or licensee for a motorcycle dealer license, to include existing licenses in the name of the same applicant, for any reason prescribed in Section 56-15-350.

Dealer purchase and resale of vehicles

SECTION 28. Section 56-19-370 of the S.C. Code is amended to read:

Section 56-19-370. (A) If a dealer buys a vehicle and holds it for resale and procures the certificate of title from the owner within forty-five days after delivery to him of the vehicle, he need not send the certificate to the Department of Motor Vehicles, but, upon transferring the vehicle to another person other than by the creation of a security interest, promptly shall execute the assignment and warranty of title by a dealer, showing the names and addresses of the transferee and of any lienholder holding a security interest created or reserved at the time of the resale and the date of his security agreement, in the spaces provided on the certificate or as the department prescribes, and mail or deliver the certificate to the department with the transferee's application for a new certificate.

(B)(1) The dealer must properly title and, if applicable, register the vehicle within forty-five days after the sale. A dealer who receives in a timely manner a title lien release from a financial institution, titling agent, or another state department of motor vehicles, or its equivalent, and who fails to either properly title or, if applicable, register the vehicle the dealer sold within forty-five days after the sale may be assessed points against his dealer record pursuant to Section 56-37-370.

(2) If the department has reason to believe that the dealer knowingly did not properly title, or if applicable, register the vehicle within forty-five days after the sale, the dealer is guilty of a misdemeanor and must

be fined not less than five hundred dollars or imprisoned not more than thirty days, or both, and is further subject to the provisions of Section 56-15-350.

(3) If a title is in suspended status, the department must make the information regarding the reason for suspension available in a timely manner through the third-party provider pursuant to Section 56-3-210.

(4) No dealer may be prosecuted for not properly titling or registering a vehicle within forty-five days if the department has placed the title in suspended status or if a financial institution has not released the lien in a timely manner.

Department of Motor Vehicles

SECTION 29. The Department of Motor Vehicles shall ensure that no one is registered as an uninsured motorist on the effective date of this act.

Repeal

SECTION 30. Section 56-3-180 of the S.C. Code is repealed.

Repeal

SECTION 31. Section 56-3-215 of the S.C. Code is repealed.

Repeal

SECTION 32. Article 29, Chapter 3, Title 56 of the S.C. Code is repealed.

Repeal

SECTION 33. Article 30, Chapter 3, Title 56 of the S.C. Code is repealed.

Dealers

SECTION 34. Dealers subject to the provisions contained in Section 56-14-50, 56-15-330, or 56-16-160 who maintain business operations on adjacent properties or properties within sight as described in the code section applicable to the dealer but who do not meet the requirements of Section 56-14-50, 56-15-330, or 56-16-160, as applicable to the dealer

and as amended by this act may be grandfathered by the Department of Motor Vehicles for the remainder of the license under which the dealer is operating as of the effective date of this act.

Driver training course

SECTION 35. Section 56-23-60 of the S.C. Code is amended to read:

Section 56-23-60. The Department of Motor Vehicles may establish minimum standards for the operation of driver training schools authorized to be licensed under the provisions of this chapter and prescribe conditions of operation of the schools. The minimum standards must include, but are not limited to, a requirement that driver training schools have or have access to sufficient facilities and equipment to conduct an eight-hour driver training course for a minimum of ten students. All activities and operations of licensed driver training schools are at all times subject to inspection or examination by authorized representatives of the department. In addition, records of these activities and operations must be made available at the permanent location in this State for review by the department upon its request.

"Classroom training" defined

SECTION 36. Chapter 23, Title 56 of the S.C. Code is amended by adding:

Section 56-23-105. For purposes of this chapter, "classroom training" means either in-person, virtual, or remote online training. The online classroom training must utilize a student username and password, measure the amount of time that the student spends in the course, provide technical support to students that is available twenty-four hours per day, seven days per week, utilize personal validation questions which appear periodically throughout the entire course, have measures in place that prevent a student from completing more than four hours of instruction in a calendar day, and provide a final examination at the completion of the program. A passing score or 80 percent or higher is required. Students may take up to three attempts to pass the online test to successfully complete the course.

Issuance of motor vehicle drivers' licenses

SECTION 37. Section 56-1-20 of the S.C. Code is amended to read:

Section 56-1-20. No person, except those expressly exempted in this article shall drive any motor vehicle upon a highway in this State unless such person has a valid motor vehicle driver's license issued to him under the provisions of this article. No person shall receive a motor vehicle driver's license unless and until he surrenders to the Department of Motor Vehicles all valid operators' licenses in his possession issued to him by any other state within forty-five days of becoming a resident of this State, unless specifically exempted by law. All surrendered licenses shall be returned by the department to the issuing department, agency, or political subdivision. No person shall be permitted to have more than one valid motor vehicle driver's license or operator's license at any time.

Any person holding a currently valid motor vehicle driver's license issued under this article may exercise the privilege thereby granted upon all streets and highways in the State and shall not be required to obtain any other license to exercise such privilege by any county, municipal, or local board or body having authority to adopt local police regulations; provided, however, that this provision shall not serve to prevent a county, municipal, or local board from requiring persons to obtain additional licenses to operate taxis, buses, or other public conveyances.

Vision screenings

SECTION 38. Section 56-1-220 of the S.C. Code is amended to read:

Section 56-1-220. (A) Unless otherwise exempted, the department shall require vision screening for all persons obtaining an initial license and upon license renewal. The vision screening must be offered by the department, however, a person's screening must be waived upon the submission of a certificate of vision examination dated within the previous thirty-six months from an ophthalmologist or optometrist licensed in any state.

(B) Active-duty members of the Armed Services are exempt from the requirements of this section, provided they provide the department with a Leave and Earnings Statement dated within thirty-one days of applying for or renewing their driver's license and a nonexpired military identification card.

(C) The renewal license forms distributed by the department must be designed to contain a certification that the vision of the person screened meets the minimum standards required by the department or have been corrected to meet these requirements. The certification must be executed by the person conducting the screening. A Certificate of Vision

Examination form must be executed by the certifying ophthalmologist or optometrist and must be transmitted to the department electronically pursuant to its electronic specifications. The minimum standards of the department shall not require a greater degree of vision than 20/40 corrected in one eye. Persons using bioptic lenses must adhere to the provisions contained in Section 56-1-222.

(D) A person whose vision is corrected to meet the minimum standards shall have the correction noted on his driver's license by the department.

(E) It is unlawful for a person whose vision requires correction in order to meet the minimum standards of the department to drive a motor vehicle in this State without the use of the correction.

(F) Unless otherwise provided in this section, any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days.

Driver training school license fees

SECTION 39. Section 56-23-40 of the S.C. Code is amended to read:

Section 56-23-40. The license fee for each driver training school licensed under the provisions of this chapter is two hundred dollars. Prior to operation, each licensed driver training school also must obtain a corporate surety bond in the amount of ten thousand dollars. The bond must be given to the department and executed by the applicant, as principal, and by a corporate surety company authorized to do business in this State, as surety. The bond must be conditioned upon the applicant or licensee complying with the statutes applicable to the license and as indemnification for loss or damage suffered by a person having retained services of a driver training school. Licenses issued pursuant to this section expire on the last day of the month, forty-eight months after the license is issued. The proceeds from the sale of driver training school licenses must be placed in the state general fund for the administration and enforcement of this chapter and title.

Time effective

SECTION 40. (A) SECTION 1 and Section 56-1-220 take effect twelve months after the approval by the Governor.

(B) SECTION 5 takes effect on the first day of the fiscal year following twelve months after approval by the Governor.

(C)(1) SECTIONS 8, 9, 10, 11, 12, 30, 31, 32, and 33 take effect eight months after the approval by the Governor, provided that necessary solicitations are awarded in a timely manner in accordance with the State Consolidated Procurement Code.

(2) Section 56-3-214(C), 56-3-214(D), 56-3-214(E), 56-3-214(F), and 56-3-214(H) take effect ten months after the effective date of SECTIONS 8, 9, 10, 11, and 12.

(D) SECTIONS 15 through 28 take effect on January 1, 2024. Any dealership applying for or renewing licenses, or operating on a currently issued license on or after January 1, 2024, is subject to the provisions of SECTIONS 15 through 28.

(E) SECTION 29 takes effect on the first day of the fiscal year following twelve months after approval by the Governor.

(F) The remaining SECTIONS of this act, and Sections 56-3-214(A), 56-3-214(B)(1), 56-3-214(B)(2), 56-3-214(B)(3), 56-3-214(G), 56-1-20, 56-23-40, 56-23-60, and 56-23-105 take effect upon approval by the Governor.

Ratified the 17th day of May, 2023

Approved the 18th day of May, 2023

No. 52

(R73, S564)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 7-7-330, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN JASPER COUNTY, SO AS TO ADD ONE PRECINCT, AND TO REDESIGNATE THE MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE REVENUE AND FISCAL AFFAIRS OFFICE.

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

Jasper County voting precincts

SECTION 1. Section 7-7-330 of the S.C. Code is amended to read:

Section 7-7-330. (A) In Jasper County there are the following voting precincts:

Coosawhatchie
Gillisonville
Grahamville 1
Grahamville 2
Grays
Hardeeville 1
Hardeeville 2
Hardeeville 3
Levy
Margaritaville
Okatie
Okatie 2
Pineland
Ridgeland 1
Ridgeland 2
Ridgeland 3
Sun City
Tillman

(B) The precinct lines defining the precincts in subsection (A) are as shown on maps filed with the clerk of court of the county and also on file with the State Election Commission as provided and maintained by the Revenue and Fiscal Affairs Office designated as document P-53-23.

(C) The polling places for the precincts listed in subsection (A) must be determined by the Board of Voter Registration and Elections of Jasper County with the approval of a majority of the Jasper County Legislative Delegation.

Time effective

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

Ratified the 17th day of May, 2023

Approved the 18th day of May, 2023

No. 53

(R75, S639)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 7-7-530, RELATING TO DESIGNATION OF VOTING PRECINCTS IN YORK COUNTY, SO AS TO ADD NEW PRECINCTS, AND TO REDESIGNATE THE MAP NUMBER ON WHICH THESE PRECINCTS MAY BE FOUND ON FILE WITH THE REVENUE AND FISCAL AFFAIRS OFFICE.

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

York County voting precincts

SECTION 1. Section 7-7-530(A) of the S.C. Code is amended to read:

(A) In York County there are the following voting precincts:
Adnah
Airport
Allison Creek
Anderson Road
Baxter
Bethany
Bethel
Bethel School
Bowling Green
Bullocks Creek
Cannon Mill
Carolina
Catawba
Celanese
Clover
Cotton Belt
Crescent
Delphia
Dobys Bridge
Ebenezer

Ebinport
Edgewood
Fairgrounds
Ferry Branch
Fewell Park
Field Day
Filbert
Fort Mill No. 1
Fort Mill No. 2
Fort Mill No. 3
Fort Mill No. 4
Fort Mill No. 5
Fort Mill No. 6
Friendship
Gold Hill
Hampton Mill
Hands Mill
Harvest
Hickory Grove
Highland Park
Hollis Lakes
Hopewell
Independence
India Hook
Kanawha
Lakeshore
Lakewood
Larne
Laurel Creek
Lesslie
Manchester
McConnells
Mill Creek
Mountain View
Mt. Holly
Mt. Gallant
Nation Ford
Neelys Creek
New Home
Newport
Northside
Northwestern

Oakridge
Oakwood
Old Pointe
Ogden
Orchard Park
Palmetto
Pleasant Road
Pole Branch
River's Edge
River Hills
Riverview
Rock Creek
Rock Hill No. 2
Rock Hill No. 3
Rock Hill No. 4
Rock Hill No. 5
Rock Hill No. 6
Rock Hill No. 7
Rock Hill No. 8
Roosevelt
Rosewood
Sharon
Shoreline
Six Mile
Smyrna
Springdale
Springfield
Stateline
Steele Creek
Tega Cay
Tirzah
Tools Fork
University
Waterstone
Windjammer
Wylie
York No. 1
York No. 2

Precinct map

SECTION 2. Section 7-7-530(B) of the S.C. Code is amended to read:

(B) The precinct lines defining the precincts in subsection (A) are as shown on the official map on file with the Revenue and Fiscal Affairs Office, or its successor agency, designated as document P-91-23A and as shown on copies provided to the Board of Voter Registration and Elections of York County by the Revenue and Fiscal Affairs Office.

Time effective

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

Ratified the 17th day of May, 2023

Approved the 18th day of May, 2023

No. 54

(R82, H3583)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING "GAVIN'S LAW" BY ADDING SECTION 16-15-430 SO AS TO CREATE THE OFFENSES OF "SEXUAL EXTORTION" AND "AGGRAVATED SEXUAL EXTORTION", TO DEFINE NECESSARY TERMS, AND TO PROVIDE PENALTIES FOR VIOLATIONS.

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

Citation

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

Sexual extortion, aggravated sexual extortion

SECTION 2. Article 3, Chapter 15, Title 16 of the S.C. Code is amended by adding:

Section 16-15-430. (A) As used in this section:

(1) "Adult" means a person eighteen years or older.

(2) "Minor" means any person under eighteen years of age at the time of the alleged offense.

(3) "Great bodily injury" means bodily injury which causes a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of a bodily member or organ.

(4) "Private image" means an image depicting sexually explicit nudity or sexual activity, as defined in Section 16-15-375, or sexual conduct, as defined in Section 16-15-305.

(5) "Image" means a photograph, film, videotape, recording, live transmission, digital or computer-generated visual depiction, or any other reproduction made by electronic, mechanical, or other means.

(6) "Disclose" means exhibit, transfer, publicize, distribute, or reproduce.

(7) "Vulnerable adult" has the same meaning as in Section 43-35-10.

(B) A person commits the offense of felony sexual extortion if the actor intentionally and maliciously threatens to release, exhibit, or distribute a private image of another in order to compel or attempt to compel the victim to do any act or refrain from doing any act against his will, with the intent to obtain additional private images or anything else of value. Except as provided in subsections (C) and (D), a person convicted of felony sexual extortion must be imprisoned:

(1) not more than five years for a first offense;

(2) not more than ten years for a second offense; or

(3) not more than twenty years for a third or subsequent offense.

(C)(1) A person commits the offense of aggravated felony sexual extortion if the actor intentionally and maliciously threatens to release, exhibit, or distribute a private image of another in order to compel or attempt to compel the victim to do any act or refrain from doing any act against his will, with the intent to obtain additional private images or anything else of value and either:

(a) the victim is a minor or a vulnerable adult and the person convicted of sexual extortion is an adult; or

(b) the victim suffers great bodily injury or death and the finder of fact finds beyond a reasonable doubt that the sexual extortion of the victim was the proximate cause of the great bodily injury or death.

(2) A person convicted of aggravated felony sexual extortion must be imprisoned not more than twenty years.

(D) If the person convicted is a minor, then the person is guilty of misdemeanor sexual extortion and must be sentenced by the family

court. The court may order as a condition of sentencing behavioral health counseling from an appropriate agency or provider.

Collaboration required

SECTION 3. Local school districts shall collaborate with the State Department of Education, the South Carolina Law Enforcement Division, and the Attorney General's office, as appropriate, to implement a policy to educate and notify students of the provisions of this act which includes adequate notice to students, parents or guardians, the public, and school personnel of the change in law. The State Department of Education must file a report as to the status of the adoption and implementation of the education policies under this act to the Governor, the President of the Senate, and the Speaker of the House of Representatives, annually by July first of each year.

Time effective

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

Ratified the 17th day of May, 2023

Approved the 18th day of May, 2023

No. 55

(R64, S36)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 56-1-286, RELATING TO SUSPENSION OF LICENSE OR PERMIT OR DENIAL OF ISSUANCE OF LICENSE OR PERMIT TO PERSONS UNDER THE AGE OF TWENTY-ONE WHO DRIVE MOTOR VEHICLES WITH A CERTAIN AMOUNT OF ALCOHOL CONCENTRATION, SO AS TO ALLOW PERSONS UNDER THE AGE OF TWENTY-ONE WHO ARE SERVING A SUSPENSION OR ARE DENIED A LICENSE OR PERMIT TO ENROLL IN THE IGNITION INTERLOCK DEVICE PROGRAM, OR

REQUEST A CONTESTED CASE HEARING BEFORE THE OFFICE OF MOTOR VEHICLE HEARINGS; BY AMENDING SECTION 56-1-385, RELATING TO REINSTATEMENT OF PERMANENTLY REVOKED DRIVERS' LICENSES, SO AS TO LIMIT ITS APPLICATION TO OFFENSES OCCURRING BEFORE OCTOBER 1, 2014; BY AMENDING SECTION 56-1-400, RELATING TO SURRENDER OF LICENSES; ISSUANCE OF NEW LICENSES; ENDORSING SUSPENSION AND IGNITION INTERLOCK DEVICES ON LICENSES, SO AS TO REVISE THE PROVISIONS THAT RELATE TO THE DURATION OF THE PERIOD FOR WHICH THE IGNITION INTERLOCK DEVICES MUST BE MAINTAINED TO INCLUDE REFERENCES TO THE HABITUAL OFFENDER STATUTE AND DELETE THE REQUIREMENT THAT REQUIRES PERSONS SEEKING TO HAVE LICENSES ISSUED MUST FIRST PROVIDE PROOF THAT FINES OWED HAVE BEEN PAID, AND TO PROVIDE THIS SECTION SHALL NOT BE CONSTRUED TO REQUIRE A PERSON TO OBTAIN AN IGNITION INTERLOCK DEVICE UNLESS AT LEAST ONE OFFENSE THAT RESULTED IN SUSPENSION WAS ALCOHOL RELATED; BY AMENDING SECTION 56-1-1090, RELATING TO REQUEST FOR RESTORATION OF PRIVILEGES TO OPERATE MOTOR VEHICLES, CONDITIONS, AND APPEALS OF DENIALS OF REQUESTS, SO AS TO PROVIDE HABITUAL OFFENDERS MAY OBTAIN DRIVERS' LICENSES WITH INTERLOCK RESTRICTIONS IF THEY ENROLL IN THE IGNITION INTERLOCK DEVICE PROGRAM AND OBTAINED LICENSES WITH INTERLOCK RESTRICTIONS; BY AMENDING SECTION 56-1-1320, RELATING TO PROVISIONAL DRIVERS' LICENSES, SO AS TO ELIMINATE THE ISSUANCE OF PROVISIONAL DRIVERS' LICENSES FOR CERTAIN OFFENSES THAT OCCURRED BEFORE THE EFFECTIVE DATE OF THIS ACT; BY AMENDING SECTION 56-1-1340, RELATING TO LICENSES THAT MUST BE KEPT IN POSSESSION, ISSUANCE OF LICENSES AND CONVICTIONS TO BE RECORDED, SO AS TO CONFORM STATUTORY REFERENCES; BY AMENDING SECTION 56-5-2941, RELATING TO IGNITION INTERLOCK DEVICES, SO AS TO MAKE TECHNICAL CHANGES, TO PROVIDE CERTAIN PERSONS ISSUED TEMPORARY ALCOHOL LICENSES ARE REQUIRED TO HAVE IGNITION INTERLOCK DEVICES INSTALLED ON CERTAIN MOTOR

VEHICLES, TO DELETE THE PROVISION THAT PROVIDES THIS SECTION DOES NOT APPLY TO PERSONS CONVICTED OF CERTAIN FIRST OFFENSE VIOLATIONS, TO PROVIDE THAT DRIVERS OF MOTORCYCLES ARE EXEMPT FROM HAVING IGNITION INTERLOCK DEVICES INSTALLED ON THESE VEHICLES, TO INCLUDE REFERENCES TO THE HABITUAL OFFENDER STATUTE, TO PERMIT DRIVERS WITH LIFETIME IGNITION INTERLOCK REQUIREMENTS DUE TO CONVICTIONS ON OR AFTER OCTOBER 1, 2014, TO SEEK TO HAVE THE DEVICES REMOVED BY THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES AND THE RESTRICTIONS FROM THEIR DRIVERS' LICENSES, REQUIRE DEVICE MANUFACTURERS TO APPLY TO THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES FOR CERTIFICATION OF THE DEVICES, PAY A CERTIFICATION FEE AND PROVIDE FOR THE DISPOSITION OF THE FEE, TO PROVIDE THIS SECTION SHALL NOT BE CONSTRUED TO REQUIRE INSTALLATION OF AN IGNITION INTERLOCK DEVICE UNTIL A SUSPENSION IS UPHELD AT A CONTESTED CASE HEARING OR THE CONTESTED HEARING IS WAIVED, AND TO PROVIDE FOR THE COLLECTION AND RETENTION OF THE INFORMATION RECORDED BY THE DEVICES; BY AMENDING SECTION 56-5-2951, RELATING TO THE SUSPENSION OF LICENSES FOR REFUSAL TO SUBMIT TO TESTING OR FOR CERTAIN LEVELS OF ALCOHOL CONCENTRATION, TEMPORARY ALCOHOL LICENSES, ADMINISTRATIVE HEARINGS, RESTRICTED DRIVERS' LICENSES AND PENALTIES, SO AS TO PROVIDE WITHIN THIRTY DAYS OF THE ISSUANCE OF NOTICES OF SUSPENSION, PERSONS MAY REQUEST A CONTESTED HEARING BEFORE THE OFFICE OF MOTOR VEHICLE HEARINGS, ENROLL IN THE IGNITION INTERLOCK DEVICE PROGRAM, OR OBTAIN TEMPORARY ALCOHOL LICENSES WITH IGNITION INTERLOCK DEVICE RESTRICTIONS, TO PROVIDE FOR THE DISPOSITION OF TEMPORARY ALCOHOL LICENSE FEES, TO PROVIDE IF SUSPENSIONS ARE UPHELD, PERSONS MUST ENROLL IN THE IGNITION INTERLOCK DEVICE PROGRAM, TO PROVIDE IF SUSPENSIONS ARE OVERTURNED, THE PERSONS' DRIVING PRIVILEGES MUST BE REINSTATED, TO MAKE TECHNICAL CHANGES, TO ALLOW PERSONS TO

RECEIVE CERTAIN CREDITS FOR MAINTAINING IGNITION INTERLOCK RESTRICTIONS ON TEMPORARY ALCOHOL LICENSES UNDER CERTAIN CIRCUMSTANCES, AND TO DELETE THE PROVISIONS RELATING TO ROUTE-RESTRICTED LICENSES, TO PROVIDE PROSECUTING AUTHORITIES ARE NOT PRECLUDED FROM WAIVING OR DISMISSING CHARGES UNDER THIS SECTION; AND BY AMENDING SECTION 56-5-2990, RELATING TO SUSPENSION OF CONVICTED PERSONS DRIVERS' LICENSES, AND PERIODS OF SUSPENSION, SO AS TO REVISE THE PENALTIES RELATING TO CONVICTIONS FOR FIRST OFFENSE DRIVING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL OR OTHER DRUGS TO ONLY REQUIRE PERSONS TO ENROLL IN THE IGNITION INTERLOCK DEVICE PROGRAM, END THE SUSPENSION, AND OBTAIN INTERLOCK RESTRICTED LICENSES, DELETE THE PROVISION ALLOWING THE USE OF ROUTE-RESTRICTED OR SPECIAL RESTRICTED DRIVERS' LICENSES TO ATTEND CERTAIN PROGRAMS AND FUNCTIONS, AND TO DELETE THE PROVISION THAT ESTABLISHES THE DATE WHEN DRIVER'S LICENSE SUSPENSION PERIODS BEGIN AND WHEN CERTAIN APPEALS MAY BE FILED.

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

Department of Motor Vehicles

SECTION 1. Section 56-1-286 of the S.C. Code is amended to read:

Section 56-1-286. (A) The Department of Motor Vehicles shall suspend the driver's license, permit, or nonresident operating privilege of, or deny the issuance of a license or permit to a person under the age of twenty-one who drives a motor vehicle and has an alcohol concentration of two one-hundredths of one percent or more. In cases in which a law enforcement officer initiates suspension proceedings for a violation of this section, the officer has elected to pursue a violation of this section and is subsequently prohibited from prosecuting the person for a violation of Section 63-19-2440, 63-19-2450, 56-5-2930, or 56-5-2933, arising from the same incident.

(B) A person under the age of twenty-one who drives a motor vehicle in this State is considered to have given consent to chemical tests of the

person's breath or blood for the purpose of determining the presence of alcohol.

(C)(1) A law enforcement officer who has arrested a person under the age of twenty-one for a violation of Chapter 5 of this title (Uniform Act Regulating Traffic on Highways), or any other traffic offense established by a political subdivision of this State, and has reasonable suspicion that the person under the age of twenty-one has consumed alcoholic beverages and driven a motor vehicle may order the testing of the person arrested to determine the person's alcohol concentration.

(2) A law enforcement officer may detain and order the testing of a person to determine the person's alcohol concentration if the officer has reasonable suspicion that a motor vehicle is being driven by a person under the age of twenty-one who has consumed alcoholic beverages.

(D)(1) A test must be administered at the direction of the primary investigating law enforcement officer. At the officer's direction, the person first must be offered a breath test to determine the person's alcohol concentration. If the person physically is unable to provide an acceptable breath sample because the person has an injured mouth or is unconscious or dead, or for any other reason considered acceptable by licensed medical personnel, a blood sample may be taken. The breath test must be administered by a person trained and certified by the South Carolina Criminal Justice Academy, pursuant to the State Law Enforcement Division's policies. The primary investigating officer may administer the test. Blood samples must be obtained by physicians licensed by the State Board of Medical Examiners, registered nurses licensed by the State Board of Nursing, or other medical personnel trained to obtain these samples in a licensed medical facility. Blood samples must be obtained and handled in accordance with procedures approved by the division. The division shall administer the provisions of this subsection and shall promulgate regulations necessary to carry out the subsection's provisions. The costs of the tests administered at the officer's direction must be paid from the state's general fund. However, if the person is subsequently convicted of violating Section 56-5-2930, 56-5-2933, or 56-5-2945, then, upon conviction, the person shall pay twenty-five dollars for the costs of the tests. The twenty-five dollars must be placed by the Comptroller General into a special restricted account to be used by the State Law Enforcement Division to offset the costs of administration of the breath testing devices, breath testing site video program, and toxicology laboratory.

(2) The person tested or giving samples for testing may have a qualified person of the person's choice conduct additional tests at the person's expense and must be notified in writing of that right. A person's

request or failure to request additional blood tests is not admissible against the person in any proceeding. The person's failure or inability to obtain additional tests does not preclude the admission of evidence relating to the tests or samples taken at the officer's direction. The officer shall provide affirmative assistance to the person to contact a qualified person to conduct and obtain additional tests. Affirmative assistance shall, at a minimum, include providing transportation for the person to the nearest medical facility which provides blood tests to determine a person's alcohol concentration. If the medical facility obtains the blood sample but refuses or fails to test the blood to determine the person's alcohol concentration, the State Law Enforcement Division shall test the blood and provide the result to the person and to the officer. Failure to provide affirmative assistance upon request to obtain additional tests bars the admissibility of the breath test result in a judicial or administrative proceeding.

(E) A qualified person and the person's employer who obtain samples or administer the tests or assist in obtaining samples or administering of tests at the primary investigating officer's direction are immune from civil and criminal liability unless the obtaining of samples or the administering of tests is performed in a negligent, reckless, or fraudulent manner. A person may not be required by the officer ordering the tests to obtain or take any sample of blood or urine.

(F) If a person refuses upon the primary investigating officer's request to submit to chemical tests as provided in subsection (C), the department shall suspend the person's license, permit, or nonresident operating privilege, or deny the issuance of a license or permit to the person for:

(1) six months; or

(2) one year, if the person, within the three years preceding the violation of this section, has been previously convicted of violating Section 56-5-2930, 56-5-2933, 56-5-2945, or a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs, or the person has had a previous suspension imposed pursuant to Section 56-1-286, 56-5-2951, or 56-5-2990.

(G) If a person submits to a chemical test and the test result indicates an alcohol concentration of two one-hundredths of one percent or more, the department shall suspend the person's license, permit, or nonresident operating privilege, or deny the issuance of a license or permit to the person for:

(1) three months; or

(2) six months, if the person, within the three years preceding the violation of this section, has been previously convicted of violating Section 56-5-2930, 56-5-2933, 56-5-2945, or a law of another state that

prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs, or the person has had a previous suspension imposed pursuant to Section 56-1-286, 56-5-2951, or 56-5-2990.

(H)(1) In lieu of serving the remainder of a suspension or denial of the issuance of a license or permit, a person may enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941, end the suspension or denial of the issuance of a license or permit, and obtain an ignition interlock restricted license pursuant to Section 56-1-400. The ignition interlock device is required to be affixed to the motor vehicle equal to the length of time remaining on the person's suspension or denial of the issuance of a license or permit. If the length of time remaining is less than three months, the ignition interlock device is required to be affixed to the motor vehicle for three months.

(2) The person must receive credit for the number of days the person maintained an ignition interlock restriction on the temporary alcohol license.

(3) Once a person has enrolled in the Ignition Interlock Device Program and obtained an ignition interlock restricted license, the person is subject to Section 56-5-2941 and cannot subsequently choose to serve the suspension.

(I) A person's driver's license, permit, or nonresident operating privilege must be restored when the person's period of suspension or ignition interlock restricted license requirement pursuant to subsection (F) or (G) has concluded, even if the person has not yet completed the Alcohol and Drug Safety Action Program. After the person's driving privilege is restored, the person shall continue the services of the Alcohol and Drug Safety Action Program. If the person withdraws from or in any way stops making satisfactory progress toward the completion of the Alcohol and Drug Safety Action Program, the person's license must be suspended until completion of the Alcohol and Drug Safety Action Program. A person shall be attending or have completed an Alcohol and Drug Safety Action Program pursuant to Section 56-5-2990 before the person's driving privilege can be restored at the conclusion of the suspension period or ignition interlock restricted license requirement.

(J)(1) A test may not be administered or samples taken unless, upon activation of the video recording equipment and prior to the commencement of the testing procedure, the person has been given a written copy of and verbally informed that:

(a) the person does not have to take the test or give the samples but that the person's privilege to drive must be suspended or denied for at least six months if the person refuses to submit to the tests, and that the person's refusal may be used against the person in court;

(b) the person's privilege to drive must be suspended for at least three months if the person takes the test or gives the samples and has an alcohol concentration of two one-hundredths of one percent or more;

(c) the person has the right to have a qualified person of the person's own choosing conduct additional independent tests at the person's expense;

(d) the person has the right to request a contested case hearing within thirty days of the issuance of the notice of suspension; and

(e) the person shall enroll in an Alcohol and Drug Safety Action Program within thirty days of the issuance of the notice of suspension if the person does not request a contested case hearing or within thirty days of the issuance of notice that the suspension has been upheld at the contested case hearing.

(2) The primary investigating officer promptly shall notify the department of a person's refusal to submit to a test requested pursuant to this section as well as the test result of a person who submits to a test pursuant to this section and registers an alcohol concentration of two one-hundredths of one percent or more. The notification must be in a manner prescribed by the department.

(K) If the test registers an alcohol concentration of two one-hundredths of one percent or more or if the person refuses to be tested, the primary investigating officer shall issue a notice of suspension, and the suspension is effective beginning on the date of the alleged violation of this section. The person, within thirty days of the issuance of the notice of suspension, shall enroll in an Alcohol and Drug Safety Action Program pursuant to Section 56-5-2990 if the person does not request an administrative hearing. If the person does not request an administrative hearing and does not enroll in an Alcohol and Drug Safety Action Program within thirty days, the suspension remains in effect, and a temporary alcohol license must not be issued. If the person drives a motor vehicle during the period of suspension without a temporary alcohol license, the person must be penalized for driving while the person's license is suspended pursuant to Section 56-1-460.

(L)(1) Within thirty days of the issuance of the notice of suspension the person may:

(a) request a contested case hearing before the Office of Motor Vehicle Hearings pursuant to its rules of procedure;

(b) enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941; or

(c) obtain a temporary alcohol license from the Department of Motor Vehicles. A one hundred dollar fee must be assessed for obtaining a temporary alcohol license. Twenty-five dollars of the fee must be

distributed to the Department of Public Safety for supplying and maintaining all necessary vehicle videotaping equipment. The remaining seventy-five dollars must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167. The temporary alcohol license allows the person to drive a motor vehicle pending the outcome of the contested case hearing provided for in this section or the final decision or disposition of the matter.

(2) The ignition interlock restriction must be maintained on the temporary alcohol license for three months. If the contested case hearing has not reached a final disposition by the time the ignition interlock restriction has been removed, then the person can obtain a temporary alcohol license without an ignition interlock restriction.

(3) At the contested case hearing if:

(a) the suspension is upheld, the person shall enroll in an Alcohol and Drug Safety Action Program and the person's driver's license, permit, or nonresident operating privilege must be suspended or the person must be denied the issuance of a license or permit for the remainder of the suspension periods provided for in subsections (F) and (G); and

(b) enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941.

(4) If the suspension is overturned, the person's driver's license, permit, or nonresident operating privilege must be reinstated.

(M) The periods of suspension provided for in subsections (F) and (G) begin on the day the notice of suspension is issued, or at the expiration of any other suspensions, and continue until the person applies for a temporary alcohol license and requests an administrative hearing.

(N) If a person does not request a contested case hearing, the person has waived the person's right to the hearing and the person's suspension must not be stayed but shall continue for the periods provided for in subsections (F) and (G).

(O) The notice of suspension must advise the person of the requirement to enroll in an Alcohol and Drug Safety Action Program and of the person's right to obtain a temporary alcohol license and to request a contested case hearing. The notice of suspension also must advise the person that, if the person does not request a contested case hearing within thirty days of the issuance of the notice of suspension, the person shall enroll in an Alcohol and Drug Safety Action Program, and the person waives the person's right to the contested case hearing, and the suspension continues for the periods provided for in subsections (F) and (G).

(P) A contested case hearing must be held after the request for the hearing is received by the Office of Motor Vehicle Hearings.

(1) The scope of the hearing is limited to whether the person:

(a) was lawfully arrested or detained;

(b) was given a written copy of and verbally informed of the rights enumerated in subsection (J);

(c) refused to submit to a test pursuant to this section; or

(d) consented to taking a test pursuant to this section, and the:

(i) reported alcohol concentration at the time of testing was two one-hundredths of one percent or more;

(ii) individual who administered the test or took samples was qualified pursuant to this section;

(iii) test administered and samples taken were conducted pursuant to this section; and

(iv) the machine was operating properly.

(2) Nothing in this section prohibits the introduction of evidence at the contested case hearing on the issue of the accuracy of the breath test result.

(3) The Department of Motor Vehicles and the arresting officer shall have the burden of proof in contested case hearings conducted pursuant to this section. If neither the Department of Motor Vehicles nor the arresting officer appears at the contested case hearing, the hearing officer shall rescind the suspension of the person's license, permit, or nonresident's operating privilege regardless of whether the person requesting the contested case hearing or the person's attorney appears at the contested case hearing.

(4) A written order must be issued to all parties either reversing or upholding the suspension of the person's license, permit, or nonresident's operating privilege, or denying the issuance of a license or permit. If the suspension is upheld, the person must receive credit for the number of days the person's license was suspended before the person received a temporary alcohol license and requested the contested case hearing and must receive credit for the number of days the person maintained an ignition interlock restriction on the temporary alcohol license.

(Q) A contested case hearing is a contested proceeding under the Administrative Procedures Act, and a person has a right to appeal the decision of the hearing officer pursuant to that act to the Administrative Law Court in accordance with its appellate rules. The filing of an appeal shall stay the suspension until a final decision is issued.

(R) A person who is unconscious or otherwise in a condition rendering him incapable of refusal is considered to be informed and not to have

withdrawn the consent provided for in subsection (B) of this section.

(S) When a nonresident's privilege to drive a motor vehicle in this State has been suspended under the procedures of this section, the department shall give written notice of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he has a license or permit.

(T) A person required to submit to a test must be provided with a written report including the time of arrest, the time of the tests, and the results of the tests before any proceeding in which the results of the tests are used as evidence. A person who obtains additional tests shall furnish a copy of the time, method, and results of any additional tests to the officer before any trial, hearing, or other proceeding in which the person attempts to use the results of the additional tests as evidence.

(U) A person whose driver's license or permit is suspended under this section is not required to file proof of financial responsibility.

(V) The department shall administer the provisions of this section, not including subsection (D), and shall promulgate regulations necessary to carry out its provisions.

(W) Notwithstanding any other provision of law, no suspension imposed pursuant to this section is counted as a demerit or result in any insurance penalty for automobile insurance purposes if at the time the person was stopped, the person whose license is suspended had an alcohol concentration that was less than eight one-hundredths of one percent.

Driver's license revocation

SECTION 2. Section 56-1-385(A) of the S.C. Code is amended to read:

(A) Notwithstanding any other provision of law, a person whose driver's license or privilege to operate a motor vehicle has been revoked permanently pursuant to Section 56-5-2990 for an offense that occurred prior to October 1, 2014, excluding persons convicted of felony driving under the influence of alcohol or another controlled substance under Section 56-5-2945, may petition the circuit court in the county of his residence for reinstatement of his driver's license and shall serve a copy of the petition upon the solicitor of the circuit. The solicitor or his designee within thirty days may respond to the petition and demand a hearing on the merits of the petition. If the solicitor or his designee does not demand a hearing, the circuit court shall consider any affidavit submitted by the petitioner and the solicitor or his designee when determining whether the conditions required for driving privilege

reinstatement have been met by the petitioner. The court may order the reinstatement of the person's driver's license upon the following conditions:

(1) the person must not have been convicted in this State or any other state of an alcohol or drug violation during the previous seven-year period;

(2) the person must not have been convicted of or have charges pending in this State or another state for a violation of driving while his license is canceled, suspended, or revoked during the previous seven-year period;

(3) the person must have completed successfully an alcohol or drug assessment and treatment program provided by the South Carolina Department of Alcohol and Other Drug Abuse Services or an equivalent program designated by that agency; and

(4) the person's overall driving record, attitude, habits, character, and driving ability would make it safe to grant him the privilege to operate a motor vehicle.

Driver's license suspension or revocation

SECTION 3. Section 56-1-400 of the S.C. Code is amended to read:

Section 56-1-400. (A)(1) The Department of Motor Vehicles, upon suspending or revoking a license, shall require that the license be surrendered to the department. At the end of the suspension period, other than a suspension for reckless driving, driving under the influence of intoxicants, driving with an unlawful alcohol concentration, felony driving under the influence of intoxicants, or pursuant to the point system, the department shall issue a new license to the person.

(2) If the person has not held a license within the previous nine months, the department shall not issue or restore a license which has been suspended for reckless driving, driving under the influence of intoxicants, driving with an unlawful alcohol concentration, felony driving under the influence of intoxicants, or for violations under the point system, until the person has filed an application for a new license, submitted to an examination as upon an original application, and satisfied the department, after an investigation of the person's driving ability, that it would be safe to grant the person the privilege of driving a motor vehicle on the public highways. The department, in the department's discretion, where the suspension is for a violation under the point system, may waive the examination, application, and investigation. A record of the suspension must be endorsed on the license

issued to the person, showing the grounds of the suspension.

(B) If a person is permitted to operate a motor vehicle only with an ignition interlock device installed pursuant to Section 56-5-2941, the restriction on the license issued to the person must conspicuously identify the person as a person who only may drive a motor vehicle with an ignition interlock device installed, and the restriction must be maintained on the license for the duration of the period for which the ignition interlock device must be maintained pursuant to Section 56-1-286; 56-1-1090; 56-5-2945; 56-5-2951; 56-5-2990; or 56-5-2947, except if the conviction was for Section 56-5-750.

(C) For purposes of Title 56, the license must be referred to as an ignition interlock restricted license. The fee for an ignition interlock restricted license is one hundred dollars, which shall be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

(D) Unless the person establishes that the person is entitled to the exemption set forth in subsection (G), no ignition interlock restricted license may be issued by the department without written notification from the authorized ignition interlock service provider that the ignition interlock device has been installed and confirmed to be in working order.

(E) If a person chooses to not have an ignition interlock device installed when required by law, the license will remain suspended indefinitely. If the person subsequently decides to have the ignition interlock device installed, the device must be installed for the length of time set forth in subsection (B).

(F) This provision does not affect nor bar the reckoning of prior offenses for reckless driving and driving under the influence of intoxicating liquor or narcotic drugs, as provided in Article 23, Chapter 5 of this title.

(G)(1) A person who does not own a vehicle, as shown in the Department of Motor Vehicles' records, and who certifies that the person:

(a) cannot obtain a vehicle owner's permission to have an ignition interlock device installed on a vehicle;

(b) will not be driving a vehicle other than a vehicle owned by the person's employer; and

(c) will not own a vehicle during the ignition interlock period, may petition the department, on a form provided by the department, for issuance of an ignition interlock restricted license that permits the person to operate a vehicle specified by the employee according to the employer's needs as contained in the employer's statement during the days and hours specified in the employer's statement without having to

show that an ignition interlock device has been installed.

(2) The form must contain:

(a) identifying information about the employer's noncommercial vehicles that the person will be operating;

(b) a statement that explains the circumstances in which the person will be operating the employer's vehicles; and

(c) the notarized signature of the person's employer.

(3) This subsection does not apply to:

(a) a person convicted of a second or subsequent violation of Section 56-5-2930, 56-5-2933, 56-5-2945, or a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs, unless the person's driving privileges have been suspended for not less than one year or the person has had an ignition interlock device installed for not less than one year on each of the motor vehicles owned or operated, or both, by the person;

(b) a person who is self-employed or to a person who is employed by a business owned in whole or in part by the person or a member of the person's household or immediate family unless during the defense of a criminal charge, the court finds that the vehicle's ownership by the business serves a legitimate business purpose and that titling and registration of the vehicle by the business was not done to circumvent the intent of this section; or

(c) a person participating in the Ignition Interlock Device Program as an habitual offender as provided for in Section 56-1-1090(A).

(4) Whenever the person operates the employer's vehicle pursuant to this subsection, the person shall have with the person a copy of the form specified by this subsection.

(5) The determination of eligibility for the waiver is subject to periodic review at the discretion of the department. The department shall revoke a waiver issued pursuant to this exemption if the department determines that the person has been driving a vehicle other than the vehicle owned by the person's employer or has been operating the person's employer's vehicle outside the locations, days, or hours specified by the employer in the department's records. The person may seek relief from the department's determination by filing a request for a contested case hearing with the Office of Motor Vehicle Hearings pursuant to the Administrative Procedures Act and the rules of procedure for the Office of Motor Vehicle Hearings.

(H) Nothing in this section shall be construed to require a person to obtain an ignition interlock device unless one or more of the offenses that resulted in the suspension were alcohol related.

Habitual offender

SECTION 4. Section 56-1-1090(A) of the S.C. Code is amended to read:

(A) No license to operate motor vehicles in this State may be issued to an habitual offender nor shall a nonresident habitual offender operate a motor vehicle in this State for a period of five years from the date of a determination by the Department of Motor Vehicles that a person is an habitual offender unless the period is reduced to two years as permitted in item (1) or (2) or, if one or more of the convictions that resulted in the person's habitual offender status were alcohol-related offenses, the person has enrolled in the Ignition Interlock Device Program pursuant to Section 56-5-2941 and has obtained a license with an ignition interlock restriction pursuant to Section 56-1-400. The ignition interlock device is required to be affixed to the motor vehicle equal to the length of time remaining on the person's suspension or denial of the issuance of a license or permit. If the length of time remaining is less than three months, the ignition interlock device is required to be affixed to the motor vehicle for three months. Once a person has enrolled in the Ignition Interlock Device Program and obtained an ignition interlock restricted license, the person is subject to Section 56-5-2941 and cannot subsequently choose to serve the suspension.

(1)(a) Upon request to the department on a form prescribed by it, the department may restore to the person the privilege to operate a motor vehicle in this State subject to other provisions of law relating to the issuance of drivers' licenses. The request permitted by this item may be filed after two years have expired from the beginning date of the habitual offender suspension and if the following conditions are met:

(i) the person must not have had a previous habitual offender suspension in this or another state;

(ii) the person must not have driven a motor vehicle during the habitual offender suspension period;

(iii) the person must not have been convicted of or have charges pending for any alcohol or drug violations committed during the habitual offender suspension period;

(iv) the person must not have been convicted of or have charges pending for any offense listed in Section 56-1-1020 committed during the habitual offender suspension period; and

(v) the person must not have any other mandatory driver's license suspension that has not yet reached its end date.

(b) The department will issue its decision within thirty days after

receipt of the request.

(2) If the department denies the request referenced in item (1), the person may seek relief from the department's determination by filing a request for a de novo contested case hearing with the Office of Motor Vehicle Hearings pursuant to the Administrative Procedures Act and the rules of procedure for the Office of Motor Vehicle Hearings. For good cause shown, the Office of Motor Vehicle Hearings may restore to the person the privilege to operate a motor vehicle in this State subject to other provisions of law relating to the issuance of driver's licenses. The provisions of item (1) shall not be construed to limit the discretion or authority of the Office of Motor Vehicle Hearings in considering the person's request for a reduction of the five-year suspension period; however, those provisions may be used as guidelines for determinations of good cause for relief from the normal five-year suspension period.

Provisional driver's license

SECTION 5. Section 56-1-1320(A) of the S.C. Code is amended to read:

(A) A person with a South Carolina driver's license, a person who had a South Carolina driver's license at the time of the offense referenced below, or a person exempted from the licensing requirements by Section 56-1-30, who is or has been convicted of a first offense violation of a law of this State that prohibits a person from operating a vehicle while under the influence of intoxicating liquor, drugs, or narcotics, including Sections 56-5-2930 and 56-5-2933, whose license is not presently suspended for any other reason, and whose offense date is prior to the effective date of this section, may apply to the Department of Motor Vehicles to obtain a provisional driver's license of a design to be determined by the department to operate a motor vehicle. The person shall enter an Alcohol and Drug Safety Action Program pursuant to Section 56-1-1330, and shall pay to the department a fee of one hundred dollars for the provisional driver's license. The provisional driver's license is not valid for more than six months from the date of issue shown on the license. The determination of whether or not a provisional driver's license may be issued pursuant to the provisions of this article as well as reviews of cancellations or suspensions under Sections 56-1-370 and 56-1-820 must be made by the director of the department or his designee.

Provisional driver's license

SECTION 6. Section 56-1-1340 of the S.C. Code is amended to read:

Section 56-1-1340. The applicant shall have a provisional driver's license in his possession at all times while driving a motor vehicle, and the issuance of such license and the violation convictions shall be entered in the records of the Department of Motor Vehicles for a period of ten years as required by Sections 56-5-2930, 56-5-2933, and 56-5-2990.

Ignition interlock device

SECTION 7. Section 56-5-2941 of the S.C. Code is amended to read:

Section 56-5-2941. (A)(1) The Department of Motor Vehicles shall require a person who is convicted of violating the provisions of Sections 56-5-2930, 56-5-2933, 56-5-2945, 56-5-2947 except if the conviction was for Section 56-5-750, or a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs, or who is issued a temporary alcohol license pursuant to Section 56-1-286 or 56-5-2951, to have installed on any motor vehicle the person drives, except a moped or motorcycle, an ignition interlock device designed to prevent driving of the motor vehicle if the person has consumed alcoholic beverages. This requirement shall not apply to a person who submitted to a breath test pursuant to Section 56-5-2950 and had an alcohol concentration of .00 one-hundredths of one percent.

(2) The department may waive the requirements of this section if the department determines that the person has a medical condition that makes the person incapable of properly operating the installed device. If the department grants a medical waiver, the department shall suspend the person's driver's license for the length of time that the person would have been required to hold an ignition interlock restricted license. The department may withdraw the waiver at any time that the department becomes aware that the person's medical condition has improved to the extent that the person has become capable of properly operating an installed device.

(3) The department also shall require a person who has enrolled in the Ignition Interlock Device Program in lieu of the remainder of a driver's license suspension, denial of license to operate a vehicle as an habitual offender pursuant to Section 56-1-1090, or denial of the issuance of a driver's license or permit to have an ignition interlock device installed on any motor vehicle the person drives, except a moped or motorcycle.

(4) The length of time that a device is required to be affixed to a

motor vehicle is set forth in Section 56-1-286; 56-1-1090; 56-5-2945; 56-5-2951; 56-5-2990; or 56-5-2947, except if the conviction was for Section 56-5-750.

(5) Nothing in this section shall be construed to require installation of an ignition interlock device until the suspension is upheld at a contested case hearing or the contested hearing is waived.

(B) Notwithstanding the pleadings, for purposes of a second or a subsequent offense, the specified length of time that a device is required to be affixed to a motor vehicle is based on the Department of Motor Vehicle's records for offenses pursuant to Section 56-1-286; 56-1-1090; 56-5-2930; 56-5-2933; 56-5-2945; 56-5-2950; 56-5-2951; or 56-5-2947, except if the conviction was for Section 56-5-750.

(C) If a resident of this State is convicted of violating a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs, and, as a result of the conviction, the person is subject to an ignition interlock device requirement in the other state, the person is subject to the requirements of this section for the length of time that would have been required for an offense committed in South Carolina, or for the length of time that is required by the other state, whichever is longer.

(D) If a person from another state becomes a resident of South Carolina while subject to an ignition interlock device requirement in another state, the person only may obtain a South Carolina driver's license if the person enrolls in the South Carolina Ignition Interlock Device Program pursuant to this section. The person is subject to the requirements of this section for the length of time that would have been required for an offense committed in South Carolina, or for the length of time that is required by the other state, whichever is longer.

(E) The person must be subject to an Ignition Interlock Device Point System managed by the Department of Probation, Parole and Pardon Services. A person accumulating a total of:

(1) two points or more, but less than three points, must have the length of time that the device is required extended by two months;

(2) three points or more, but less than four points, must have the length of time that the device is required extended by four months, shall submit to a substance abuse assessment pursuant to Section 56-5-2990, and shall successfully complete the plan of education and treatment, or both, as recommended by the certified substance abuse program. Should the person not complete the recommended plan, or not make progress toward completing the plan, the Department of Motor Vehicles shall suspend the person's ignition interlock restricted license until the plan is completed or progress is being made toward completing the plan;

(3) four points or more must have the person's ignition interlock restricted license suspended for a period of six months, shall submit to a substance abuse assessment pursuant to Section 56-5-2990, and successfully shall complete the plan of education and treatment, or both, as recommended by the certified substance abuse program. Should the person not complete the recommended plan or not make progress toward completing the plan, the Department of Motor Vehicles shall leave the person's ignition interlock restricted license in suspended status, or, if the license has already been reinstated following the six-month suspension, shall resuspend the person's ignition interlock restricted license until the plan is completed or progress is being made toward completing the plan. The Department of Alcohol and Other Drug Abuse Services is responsible for notifying the Department of Motor Vehicles of a person's completion and compliance with education and treatment programs. Upon reinstatement of driving privileges following the six-month suspension, the Department of Probation, Parole and Pardon Services shall reset the person's point total to zero points, and the person shall complete the remaining period of time on the ignition interlock device.

(F) The cost of the device must be borne by the person. However, unless a person is participating in the Ignition Interlock Device Program as an habitual offender pursuant to Section 56-1-1090(A), if the person is indigent and cannot afford the cost of the device, the person may submit an affidavit of indigency to the Department of Probation, Parole and Pardon Services for a determination of indigency as it pertains to the cost of the device. The affidavit of indigency form must be made publicly accessible on the Department of Probation, Parole and Pardon Services' internet website. If the Department of Probation, Parole and Pardon Services determines that the person is indigent as it pertains to the device, the Department of Probation, Parole and Pardon Services may authorize a device to be affixed to the motor vehicle and the cost of the initial installation and standard use of the device to be paid for by the Ignition Interlock Device Fund managed by the Department of Probation, Parole and Pardon Services. Funds remitted to the Department of Probation, Parole and Pardon Services for the Ignition Interlock Device Fund also may be used by the Department of Probation, Parole and Pardon Services to support the Ignition Interlock Device Program. For purposes of this section, a person is indigent if the person is financially unable to afford the cost of the ignition interlock device. In making a determination whether a person is indigent, all factors concerning the person's financial conditions should be considered including, but not limited to, income, debts, assets, number of

dependents claimed for tax purposes, living expenses, and family situation. A presumption that the person is indigent is created if the person's net family income is less than or equal to the poverty guidelines established and revised annually by the United States Department of Health and Human Services published in the Federal Register. "Net income" means gross income minus deductions required by law. The determination of indigency is subject to periodic review at the discretion of the Department of Probation, Parole and Pardon Services.

(G) The ignition interlock service provider shall collect and remit monthly to the Ignition Interlock Device Fund a fee as determined by the Department of Probation, Parole and Pardon Services not to exceed thirty dollars per month for each month the person is required to drive a vehicle with a device. A service provider who fails to properly remit funds to the Ignition Interlock Device Fund may be decertified as a service provider by the Department of Probation, Parole and Pardon Services. If a service provider is decertified for failing to remit funds to the Ignition Interlock Device Fund, the cost for removal and replacement of a device must be borne by the service provider.

(H)(1) The person shall have the device inspected every sixty days to verify that the device is affixed to the motor vehicle and properly operating, and to allow for the preparation of an ignition interlock device inspection report by the service provider indicating the person's alcohol content at each attempt to start and running retest during each sixty-day period. Failure of the person to have the interlock device inspected every sixty days must result in one ignition interlock device point.

(2) Only a service provider authorized by the Department of Probation, Parole and Pardon Services to perform inspections on ignition interlock devices may conduct inspections. The service provider immediately shall report devices that fail inspection to the Department of Probation, Parole and Pardon Services. The report must contain the person's name, identify the vehicle upon which the failed device is installed, and the reason for the failed inspection.

(3) If the inspection report reflects that the person has failed to complete a running retest, the person must be assessed one ignition interlock device point.

(4) If any inspection report or any photographic images collected by the device shows that the person has violated subsection (M), (O), or (P), the person must be assessed one and one-half ignition interlock device points.

(5) The inspection report must indicate the person's alcohol content at each attempt to start and running retest during each sixty-day period. If the report reflects that the person violated a running retest by having

an alcohol concentration of:

(a) two one-hundredths of one percent or more but less than four one-hundredths of one percent, the person must be assessed one-half ignition interlock device point;

(b) four one-hundredths of one percent or more but less than fifteen one-hundredths of one percent, the person must be assessed one ignition interlock device point; or

(c) fifteen one-hundredths of one percent or more, the person must be assessed two ignition interlock device points.

(6) A person may appeal less than four ignition interlock device points received to an administrative hearing officer with the Department of Probation, Parole and Pardon Services through a process established by the Department of Probation, Parole and Pardon Services. The administrative hearing officer's decision on appeal is final and no appeal from such decision is allowed.

(I)(1) If a person's license is suspended due to the accumulation of four or more ignition interlock device points, the Department of Probation, Parole and Pardon Services must provide a notice of assessment of ignition interlock points which must advise the person of his right to request a contested case hearing before the Office of Motor Vehicle Hearings. The notice of assessment of ignition interlock points also must advise the person that, if he does not request a contested case hearing within thirty days of the issuance of the notice of assessment of ignition interlock points, he waives his right to the administrative hearing and the person's driver's license is suspended pursuant to subsection (E).

(2) The person may seek relief from the Department of Probation, Parole and Pardon Services' determination that a person's license is suspended due to the accumulation of four or more ignition interlock device points by filing a request for a contested case hearing with the Office of Motor Vehicle Hearings pursuant to the Administrative Procedures Act. The filing of the request for a contested case hearing will stay the driver's license suspension pending the outcome of the hearing. However, the filing of the request for a contested case hearing will not stay the requirements of the person having the ignition interlock device.

(3) At the contested case hearing:

(a) the assessment of driver's license suspension can be upheld;

(b) the driver's license suspension can be overturned, or any or all of the contested ignition interlock points included in the device inspection report that results in the contested suspension can be overturned, and the penalties as specified pursuant to subsection (E) will then be imposed accordingly.

(4) A contested case hearing must be held after the request for the hearing is received by the Office of Motor Vehicle Hearings. Nothing in this section prohibits the introduction of evidence at the contested case hearing on the issue of the accuracy of the ignition interlock device. However, if the ignition interlock device is found to not be in working order due to failure of regular maintenance and upkeep by the person challenging the accumulation of ignition interlock points pursuant to the requirement of the ignition interlock program, such allegation cannot serve as a basis to overturn point accumulations.

(5) A written order must be issued by the Office of Motor Vehicle Hearings to all parties either reversing or upholding the assessment of ignition interlock points.

(6) A contested case hearing is governed by the Administrative Procedures Act, and a person has a right to appeal the decision of the hearing officer pursuant to that act to the Administrative Law Court in accordance with its appellate rules. The filing of an appeal does not stay the ignition interlock requirement.

(J) Five years from the date of the person's driver's license reinstatement and every five years thereafter, a fourth or subsequent offender whose license has been reinstated pursuant to Section 56-1-385, or a person with a lifetime ignition interlock requirement due to a conviction on or after October 1, 2014, may apply to the Department of Probation, Parole and Pardon Services for removal of the ignition interlock device and the removal of the restriction from the person's driver's license. The Department of Probation, Parole and Pardon Services may, for good cause shown, notify the Department of Motor Vehicles that the person is eligible to have the restriction removed from the person's license.

(K)(1) Except as otherwise provided in this section, it is unlawful for a person who is subject to the provisions of this section to drive a motor vehicle that is not equipped with a properly operating, certified ignition interlock device. A person who violates this subsection:

(a) for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than one thousand dollars or imprisoned not more than one year. The person must have the length of time that the ignition interlock device is required extended by six months;

(b) for a second offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than five thousand dollars or imprisoned not more than three years. The person must have the length of time that the ignition interlock device is required extended by one year; and

(c) for a third or subsequent offense, is guilty of a felony, and, upon conviction, must be fined not less than ten thousand dollars or imprisoned not more than ten years. The person must have the length of time that the ignition interlock device is required extended by three years.

(2) No portion of the minimum sentence imposed pursuant to this subsection may be suspended.

(3) Notwithstanding any other provision of law, a first or second offense punishable pursuant to this subsection may be tried in summary court.

(4) Nothing in this subsection shall be construed to prevent a person who is participating in the Ignition Interlock Device Program pursuant to Section 56-1-1090(A) and who drives a motor vehicle that is not equipped with a properly operating, certified ignition interlock device from being charged with a violation of Section 56-1-1100, or Section 56-1-1105.

(L)(1) A person who is required in the course and scope of the person's employment to drive a motor vehicle owned by the person's employer may drive the employer's motor vehicle without installation of an ignition interlock device, provided that the person's use of the employer's motor vehicle is solely for the employer's business purposes.

(2) This subsection does not apply to:

(a) a person convicted of a second or subsequent violation of Section 56-5-2930, 56-5-2933, 56-5-2945, or a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs, unless the person's driving privileges have been suspended for not less than one year or the person has had an ignition interlock device installed for not less than one year on each of the motor vehicles owned or operated, or both, by the person;

(b) a person who is self-employed or to a person who is employed by a business owned in whole or in part by the person or a member of the person's household or immediate family unless during the defense of a criminal charge, the court finds that the vehicle's ownership by the business serves a legitimate business purpose and that titling and registration of the vehicle by the business was not done to circumvent the intent of this section; or

(c) a person participating in the Ignition Interlock Device Program as an habitual offender pursuant to Section 56-1-1090(A).

(3) Whenever the person operates the employer's vehicle pursuant to this subsection, the person shall have with the person a copy of the Department of Motor Vehicles' form specified by Section 56-1-400(B).

(4) This subsection will be construed in parallel with the

requirements of Section 56-1-400(B). A waiver issued pursuant to this subsection will be subject to the same review and revocation as described in Section 56-1-400(B).

(M) It is unlawful for a person to tamper with or disable, or attempt to tamper with or disable, an ignition interlock device installed on a motor vehicle pursuant to this section. Obstructing or obscuring the camera lens of an ignition interlock device constitutes tampering. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(N) It is unlawful for a person to knowingly rent, lease, or otherwise provide a person who is subject to this section with a motor vehicle without a properly operating, certified ignition interlock device. This subsection does not apply if the person began the lease contract period for the motor vehicle prior to the person's arrest for a first offense violation of Section 56-5-2930 or 56-5-2933 or prior to a person who is participating in the Ignition Interlock Device Program as an habitual offender pursuant to Section 56-1-1090(A) receiving his license with an ignition interlock restriction. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(O) It is unlawful for a person who is subject to the provisions of this section to solicit or request another person, or for a person to solicit or request another person on behalf of a person who is subject to the provisions of this section, to engage an ignition interlock device to start a motor vehicle with a device installed pursuant to this section or to conduct a running retest while the vehicle is in operation. A person who violates this subsection is guilty of a misdemeanor, and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(P) It is unlawful for another person on behalf of a person subject to the provisions of this section to engage an ignition interlock device to start a motor vehicle with a device installed pursuant to this section or to conduct a running retest while that vehicle is in operation. A person who violates this subsection is guilty of a misdemeanor, and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(Q) Only ignition interlock devices certified by the Department of Probation, Parole and Pardon Services may be used to fulfill the requirements of this section.

(1) The Department of Probation, Parole and Pardon Services shall

certify whether a device meets the accuracy requirements and specifications provided in guidelines or regulations adopted by the National Highway Traffic Safety Administration, as amended from time to time. Manufacturers of ignition interlock devices shall apply to the Department of Probation, Parole and Pardon Services for certification of devices provided to South Carolina drivers who are subject to the ignition interlock restriction. The Department of Probation, Parole and Pardon Services may charge an initial annual fee on the manufacturer's application for certification of each device, and a subsequent fee for every year the manufacturer continues to provide the certified device to South Carolina drivers. This fee shall be remitted to the Ignition Interlock Device Fund for use by the Department of Probation, Parole and Pardon Services in support of the Ignition Interlock Device Program.

(2) All devices certified to be used in South Carolina must be set to prohibit the starting of a motor vehicle when an alcohol concentration of two one-hundredths of one percent or more is measured and all running retests must record violations of an alcohol concentration of two one-hundredths of one percent or more, and must capture a photographic image of the driver as the driver is operating the ignition interlock device. The photographic images recorded by the ignition interlock device may be used by the Department of Probation, Parole and Pardon Services to aid in the Department of Probation, Parole and Pardon Services' management of the Ignition Interlock Device Program; however, neither the Department of Probation, Parole and Pardon Services, the Department of Probation, Parole and Pardon Services' employees, nor any other political subdivision of this State may be held liable for any injury caused by a driver or other person who operates a motor vehicle after the use or attempted use of an ignition interlock device.

(3) The Department of Probation, Parole and Pardon Services shall maintain a current list of certified ignition interlock devices and manufacturers. The list must be updated at least quarterly. If a particular certified device fails to continue to meet federal requirements, the device must be decertified, may not be used until it is compliant with federal requirements, and must be replaced with a device that meets federal requirements. The cost for removal and replacement must be borne by the manufacturer of the noncertified device.

(4) Only ignition interlock installers certified by the Department of Probation, Parole and Pardon Services may install and service ignition interlock devices required pursuant to this section. The Department of Probation, Parole and Pardon Services shall maintain a current list of vendors that are certified to install the devices.

(R) In addition to availability under the Freedom of Information Act, any Department of Probation, Parole and Pardon Services' policy concerning ignition interlock devices must be made publicly accessible on the Department of Probation, Parole and Pardon Services' internet website. The information regarding a person's participation in the Ignition Interlock Device Program recorded by the ignition interlock device is collected at the direction of the Department of Probation, Parole and Pardon Services and is a record of the department. Information obtained by the Department of Probation, Parole and Pardon Services and ignition interlock service providers regarding a person's participation in the Ignition Interlock Device Program is to be used for internal purposes only and is not subject to the Freedom of Information Act. A person participating in the Ignition Interlock Device Program or the person's family member may request that the Department of Probation, Parole and Pardon Services provide the person or family member with information obtained by the department and ignition interlock service providers. The Department of Probation, Parole and Pardon Services may release the information to the person or family member at the department's discretion. The Department of Probation, Parole and Pardon Services and ignition interlock service providers must purge all photographic images collected by the device no later than twelve months from the date of the person's completion of the Ignition Interlock Device Program. The Department of Probation, Parole and Pardon Services may retain the images past twelve months if there are any pending appeals or contested case hearings involved with that person, and at their conclusion must purge the images. The Department of Probation, Parole and Pardon Services and ignition interlock service providers must purge all personal information regarding a person's participation in the Ignition Interlock Device Program no later than twelve months from the date of the person's completion of the Ignition Interlock Device Program except for that information which is relevant for pending legal matters.

(S) The Department of Probation, Parole and Pardon Services shall develop policies including, but not limited to, the certification, use, maintenance, and operation of ignition interlock devices and the Ignition Interlock Device Fund.

(T) This section shall apply retroactively to any person currently serving a suspension or denial of the issuance of a license or permit due to a suspension listed in subsection (A).

Driver's license suspension

SECTION 8. Section 56-5-2951 of the S.C. Code is amended to read:

Section 56-5-2951. (A) The Department of Motor Vehicles shall suspend the driver's license, permit, or nonresident operating privilege of, or deny the issuance of a license or permit to, a person who drives a motor vehicle and refuses to submit to a test provided for in Section 56-5-2950 or has an alcohol concentration of fifteen one-hundredths of one percent or more. The arresting officer shall issue a notice of suspension which is effective beginning on the date of the alleged violation of Section 56-5-2930, 56-5-2933, or 56-5-2945.

(B)(1) Within thirty days of the issuance of the notice of suspension, the person may:

(a) request a contested case hearing before the Office of Motor Vehicle Hearings pursuant to its rules of procedure;

(b) enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941; or

(c) obtain a temporary alcohol license from the Department of Motor Vehicles. A one hundred dollar fee must be assessed for obtaining a temporary alcohol license and such fee must be held in trust by the Department of Motor Vehicles until final disposition of any contested case hearing. Should the temporary suspension provided for in this subsection be upheld during the contested case hearing, twenty-five dollars of the fee must be distributed by the Department of Motor Vehicles to the Department of Public Safety for supplying and maintaining all necessary vehicle videotaping equipment, while the remaining seventy-five dollars must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167. The temporary alcohol license allows the person to drive without any restrictive conditions pending the outcome of the contested case hearing provided for in subsection (F), this section or the final decision or disposition of the matter. If the suspension is upheld at the contested case hearing, the temporary alcohol license remains in effect until the Office of Motor Vehicle Hearings issues the hearing officer's decision and the Department of Motor Vehicles sends notice to the person that the person is eligible to receive a restricted license pursuant to subsection (H); and

(2) request a contested case hearing before the Office of Motor Vehicle Hearings in accordance with the Office of Motor Vehicle Hearings' rules of procedure.

(3) At the contested case hearing, if:

(a) the suspension is upheld, the person's driver's license, permit, or nonresident operating privilege must be suspended or the person must be denied the issuance of a license or permit for the remainder of the suspension period provided for in subsection (I). Within thirty days of the issuance of the notice that the suspension has been upheld, the person shall enroll in an Alcohol and Drug Safety Action Program pursuant to Section 56-5-2990 and must enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941;

(b) the suspension is overturned, the person must have the person's driver's license, permit, or nonresident operating privilege reinstated and the person must be reimbursed by the Department of Motor Vehicles in the amount of the fees provided for in subsection (B)(1)(c).

(4) If the suspension is overturned, the person's driver's license, permit, or nonresident operating privilege must be reinstated.

(5) The provisions of this subsection do not affect the trial for a violation of Section 56-5-2930, 56-5-2933, or 56-5-2945.

(C) The period of suspension provided for in subsection (I) begins on the day the notice of suspension is issued, or at the expiration of any other suspensions, and continues until the person applies for a temporary alcohol license and requests a contested case hearing.

(D) If a person does not request a contested case hearing, the person waives the person's right to the hearing, and the person's suspension must not be stayed but continues for the period provided for in subsection (I).

(E) The notice of suspension must advise the person:

(1) of the person's right to obtain a temporary alcohol driver's license and to request a contested case hearing before the Office of Motor Vehicle Hearings;

(2) that, if the person does not request a contested case hearing within thirty days of the issuance of the notice of suspension, the person waives the person's right to the contested case hearing, and the suspension continues for the period provided for in subsection (I); and

(3) that, if the suspension is upheld at the contested case hearing or the person does not request a contested case hearing, the person shall enroll in an Alcohol and Drug Safety Action Program.

(F)(1) A contested case hearing must be held after the request for the hearing is received by the Office of Motor Vehicle Hearings. The scope of the hearing is limited to whether the person:

(a) was lawfully arrested or detained;

(b) was given a written copy of and verbally informed of the rights enumerated in Section 56-5-2950;

(c) refused to submit to a test pursuant to Section 56-5-2950; or

(d) consented to taking a test pursuant to Section 56-5-2950, and the:

(i) reported alcohol concentration at the time of testing was fifteen one-hundredths of one percent or more;

(ii) individual who administered the test or took samples was qualified pursuant to Section 56-5-2950;

(iii) tests administered and samples obtained were conducted pursuant to Section 56-5-2950; and

(iv) machine was working properly.

(2) Nothing in this section prohibits the introduction of evidence at the contested case hearing on the issue of the accuracy of the breath test result.

(3) A written order must be issued to all parties either reversing or upholding the suspension of the person's license, permit, or nonresident's operating privilege, or denying the issuance of a license or permit. If the suspension is upheld, the person must receive credit for the number of days the person's license was suspended before the person received a temporary alcohol license and requested the contested case hearing and must receive credit for the number of days, if any, the person maintained an ignition interlock restriction on the temporary alcohol license.

(4) The Department of Motor Vehicles and the arresting officer shall have the burden of proof in contested case hearings conducted pursuant to this section. If neither the Department of Motor Vehicles nor the arresting officer appears at the contested case hearing, the hearing officer shall rescind the suspension of the person's license, permit, or nonresident's operating privilege regardless of whether the person requesting the contested case hearing or the person's attorney appears at the contested case hearing.

(G) A contested case hearing is governed by the Administrative Procedures Act, and a person has a right to appeal the decision of the hearing officer pursuant to that act to the Administrative Law Court in accordance with the Administrative Law Court's appellate rules. The filing of an appeal stays the suspension until a final decision is issued on appeal.

(H) If the person did not request a contested case hearing or the suspension is upheld at the contested case hearing, the person shall enroll in an Alcohol and Drug Safety Action Program pursuant to Section 56-5-2990.

(I)(1) Except as provided in item (3), the period of a driver's license, permit, or nonresident operating privilege suspension for, or denial of

issuance of a license or permit to, an arrested person who has no previous convictions for violating Section 56-5-2930, 56-5-2933, or 56-5-2945, or a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs within the ten years preceding a violation of this section, and who has had no previous suspension imposed pursuant to Section 56-1-286, 56-5-2951, or 56-5-2990, within the ten years preceding a violation of this section is:

(a) six months for a person who refuses to submit to a test pursuant to Section 56-5-2950; or

(b) one month for a person who takes a test pursuant to Section 56-5-2950 and has an alcohol concentration of fifteen one-hundredths of one percent or more.

(2) The period of a driver's license, permit, or nonresident operating privilege suspension for, or denial of issuance of a license or permit to, a person who has been convicted previously for violating Section 56-5-2930, 56-5-2933, or 56-5-2945, or another law of this State or another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or another drug within the ten years preceding a violation of this section, or who has had a previous suspension imposed pursuant to Section 56-1-286, 56-5-2951, or 56-5-2990, within the ten years preceding a violation of this section is:

(a) for a second offense, nine months if the person refuses to submit to a test pursuant to Section 56-5-2950, or two months if the person takes a test pursuant to Section 56-5-2950 and has an alcohol concentration of fifteen one-hundredths of one percent or more;

(b) for a third offense, twelve months if the person refuses to submit to a test pursuant to Section 56-5-2950, or three months if the person takes a test pursuant to Section 56-5-2950 and has an alcohol concentration of fifteen one-hundredths of one percent or more; and

(c) for a fourth or subsequent offense, fifteen months if the person refuses to submit to a test pursuant to Section 56-5-2950, or four months if the person takes a test pursuant to Section 56-5-2950 and has an alcohol concentration of fifteen one-hundredths of one percent or more.

(3)(a) In lieu of serving the remainder of a suspension or denial of the issuance of a license or permit, a person may enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941, end the suspension or denial of the issuance of a license or permit, and obtain an ignition interlock restricted license pursuant to Section 56-1-400. The ignition interlock device is required to be affixed to the motor vehicle equal to the length of time remaining on the person's suspension or denial of the issuance of a license or permit. If the length of time remaining is less than three months, the ignition interlock device is

required to be affixed to the motor vehicle for three months.

(b) The person must receive credit for the number of days the person maintained an ignition interlock restriction on the temporary alcohol license.

(c) Once a person has enrolled in the Ignition Interlock Device Program and obtained an ignition interlock restricted license, the person is subject to Section 56-5-2941 and cannot subsequently choose to serve the suspension.

(J) A person's driver's license, permit, or nonresident operating privilege must be restored when the person's period of suspension or ignition interlock restricted license requirement pursuant to subsection (I) has concluded, even if the person has not yet completed the Alcohol and Drug Safety Action Program. After the person's driving privilege is restored, the person shall continue the services of the Alcohol and Drug Safety Action Program. If the person withdraws from or in any way stops making satisfactory progress toward the completion of the Alcohol and Drug Safety Action Program, the person's license must be suspended until the completion of the Alcohol and Drug Safety Action Program. A person shall be attending or have completed an Alcohol and Drug Safety Action Program pursuant to Section 56-5-2990 before the person's driving privilege can be restored at the conclusion of the suspension period or ignition interlock restricted license requirement.

(K) When a nonresident's privilege to drive a motor vehicle in this State has been suspended pursuant to the provisions of this section, the department shall give written notice of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license or permit.

(L) The department shall not suspend the privilege to drive of a person under the age of twenty-one pursuant to Section 56-1-286, if the person's privilege to drive has been suspended pursuant to this section arising from the same incident.

(M) A person whose driver's license or permit is suspended pursuant to this section is not required to file proof of financial responsibility.

(N) An insurer shall not increase premiums on, add surcharges to, or cancel the automobile insurance of a person charged with a violation of Section 56-1-286, 56-5-2930, 56-5-2933, 56-5-2945, or a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs based solely on the violation unless the person is convicted of the violation.

(O) The department shall administer the provisions of this section.

(P) Nothing in this section shall prevent the prosecuting authority from waiving or dismissing the charge.

Driving under the influence of alcohol or drugs

SECTION 9. Section 56-5-2990 of the S.C. Code is amended to read:

Section 56-5-2990. (A)(1) The Department of Motor Vehicles shall suspend the driver's license of a person who is convicted for a violation of Section 56-5-2930, 56-5-2933, or a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs.

(2) For a first offense, a person shall enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941, end the suspension, and obtain an ignition interlock restricted license pursuant to Section 56-1-400. The ignition interlock device is required to be affixed to the motor vehicle for six months. The person is not eligible for a provisional license pursuant to Article 7, Chapter 1, Title 56.

(3) For a second offense, a person shall enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941, end the suspension, and obtain an ignition interlock restricted license pursuant to Section 56-1-400. The ignition interlock device is required to be affixed to the motor vehicle for two years.

(4) For a third offense, a person shall enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941, end the suspension, and obtain an ignition interlock restricted license pursuant to Section 56-1-400. The ignition interlock device is required to be affixed to the motor vehicle for three years. If the third offense occurs within five years from the date of the first offense, the ignition interlock device is required to be affixed to the motor vehicle for four years.

(5) For a fourth or subsequent offense, a person shall enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941, end the suspension, and obtain an ignition interlock restricted license pursuant to Section 56-1-400. The ignition interlock device is required to be affixed to the motor vehicle for life.

(6) Except as provided in subsection (A)(4), only those offenses which occurred within ten years, including and immediately preceding the date of the last offense, shall constitute prior offenses within the meaning of this section.

(B) A person whose license is suspended pursuant to this section, Section 56-1-286, 56-5-2945, or 56-5-2951 must be notified by the department of the suspension and of the requirement to enroll in and successfully complete an Alcohol and Drug Safety Action Program certified by the Department of Alcohol and Other Drug Abuse Services. An assessment of the extent and nature of the alcohol and drug abuse

problem, if any, of the person must be prepared and a plan of education or treatment, or both, must be developed for the person. Entry into the services, if the services are necessary, recommended in the plan of education or treatment, or both, developed for the person is a mandatory requirement of the issuance of an ignition interlock restricted license to the person whose license is suspended pursuant to this section. Successful completion of the services, if the services are necessary, recommended in the plan of education or treatment, or both, developed for the person is a mandatory requirement of the full restoration of driving privileges to the person whose license is suspended pursuant to this section. The Alcohol and Drug Safety Action Program shall determine if the person has successfully completed the services. Alcohol and Drug Safety Action Programs shall meet at least once a month. The person whose license is suspended shall attend the first Alcohol and Drug Safety Action Program available after the date of enrollment.

(C) The Department of Alcohol and Other Drug Abuse Services shall determine the cost of services provided by each certified Alcohol and Drug Safety Action Program. Each person shall bear the cost of services recommended in the person's plan of education or treatment. The cost may not exceed five hundred dollars for education services, two thousand dollars for treatment services, and two thousand five hundred dollars in total for all services. No person may be denied services due to an inability to pay. Inability to pay for services may not be used as a factor in determining if the person has successfully completed services. A person who is unable to pay for services shall perform fifty hours of community service as arranged by the Alcohol and Drug Safety Action Program, which may use the completion of this community service as a factor in determining if the person has successfully completed services. The Department of Alcohol and Other Drug Abuse Services shall report annually to the House Ways and Means Committee and Senate Finance Committee on the number of first and multiple offenders completing the Alcohol and Drug Safety Action Program, the amount of fees collected and expenses incurred by each Alcohol and Drug Safety Action Program, and the number of community service hours performed in lieu of payment.

(D) If the person has not successfully completed the services as directed by the Alcohol and Drug Safety Action Program within one year of enrollment, a hearing must be provided by the Alcohol and Drug Safety Action Program whose decision is appealable to the Department of Alcohol and Other Drug Abuse Services. If the person is unsuccessful in the Alcohol and Drug Safety Action Program, the Department of Motor Vehicles may waive the successful completion of the program as

a mandatory requirement of the issuance of an ignition interlock restricted license upon the recommendation of the Medical Advisory Board as utilized by the Department of Motor Vehicles, if the Medical Advisory Board determines public safety and welfare of the person may not be endangered.

(E) The Department of Motor Vehicles and the Department of Alcohol and Other Drug Abuse Services shall develop procedures necessary for the communication of information pertaining to relicensing, or otherwise. These procedures must be consistent with the confidentiality laws of the State and the United States. If a person's driver's license is suspended pursuant to this section, an insurance company shall not refuse to issue insurance to cover the remaining members of the person's family, but the insurance company is not liable for any actions of the person whose license has been suspended or who has voluntarily turned the person's license in to the Department of Motor Vehicles.

Time effective

SECTION 10. A. Sections 56-5-2941(J), (Q)(1), and (R), as amended by this act, take effect upon approval by the Governor.

B. Except as otherwise provided, this act takes effect one year after the date approved by the Governor.

Ratified the 17th day of May, 2023

Approved the 19th day of May, 2023

No. 56

(R65, S252)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING ARTICLE 5 TO CHAPTER 2, TITLE 30 SO AS TO ENACT THE "LAW ENFORCEMENT PERSONAL INFORMATION PRIVACY PROTECTION ACT", TO GIVE LAW ENFORCEMENT OFFICERS THE OPTION OF MAKING PERSONAL CONTACT INFORMATION HELD BY STATE OR LOCAL GOVERNMENTS CONFIDENTIAL AND NOT SUBJECT TO DISCLOSURE, AND TO PROVIDE LIMITED

EXCEPTIONS, TO PROVIDE RELATED PROCEDURES FOR EXERCISING THIS OPTION, AMONG OTHER THINGS; TO PROVIDE THE SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY SHALL CREATE A FORM FOR USE BY LAW ENFORCEMENT OFFICERS WHEN REQUESTING NONDISCLOSURE OF PERSONAL CONTACT INFORMATION, AND TO SPECIFY REQUIREMENTS FOR THE FORM; BY ADDING ARTICLE 7 TO CHAPTER 2, TITLE 30 SO AS TO ENACT THE "JUDICIAL PERSONAL PRIVACY PROTECTION ACT", TO GIVE ACTIVE OR FORMER MEMBERS OF THE JUDICIARY THE OPTION OF MAKING PERSONAL CONTACT INFORMATION HELD BY STATE OR LOCAL GOVERNMENTS CONFIDENTIAL AND NOT SUBJECT TO DISCLOSURE, TO PROVIDE LIMITED EXCEPTIONS, AND TO PROVIDE RELATED PROCEDURES FOR EXERCISING THIS OPTION, AMONG OTHER THINGS; AND TO PROVIDE SOUTH CAROLINA COURT ADMINISTRATION SHALL CREATE A FORM FOR USE BY ACTIVE OR FORMER MEMBERS OF THE JUDICIARY WHEN REQUESTING NONDISCLOSURE OF PERSONAL CONTACT INFORMATION, AND TO SPECIFY REQUIREMENTS FOR THE FORM.

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

Law Enforcement Personal Information Privacy Protection Act

SECTION 1. Chapter 2, Title 30 of the S.C. Code is amended by adding:

Article 5

Law Enforcement Personal Privacy Protection Act

Section 30-2-500. For the purposes of this article:

(1) "Personal contact information" means the home address or personal cellular telephone number of the eligible requesting party.

(2) "Eligible requesting party" means an active or former law enforcement officer who has filed a formal request under the provision of this article.

(3) "Law enforcement officer" means an active or former federal, state, or local certified law enforcement officer or corrections officer.

Section 30-2-510. (A) Information that relates to the personal contact information of an eligible requesting party and is held or maintained by a state or local government agency is confidential and must not be disclosed to the public by the state or local government agency if the law enforcement officer:

(1) notifies the state or local government agency of the law enforcement officer's choice to restrict public access to or posting of personal contact information by submission of a form produced by the South Carolina Criminal Justice Academy; and

(2) provides a verification of current employment or previous employment as a law enforcement officer to include contact information for his employer.

(B) A choice made under this article remains valid with the following exceptions:

(1) the law enforcement officer rescinds the request in writing and provides notice to the state or local government agency;

(2) the state or local government agencies disclose personal contact information related to violations of law or regulation as permitted by law;

(3) the law enforcement officer requests release of the law enforcement officer's personal contact information from a state or local government agency for a specific purpose and for a limited time; or

(4) the personal contact information is included in a collision report or uniform traffic ticket maintained and provided by the South Carolina Department of Motor Vehicles as permitted by law.

(C) Information protected under the provisions of this article may be disclosed to another governmental agency, under subpoena, by order of the court, or upon written consent of the eligible law enforcement officer.

(D) Any personal contact information as defined under this article must be redacted from any public document otherwise eligible to be released under any other provision of law. The provisions of this article must not be construed to prevent the disclosure of any other otherwise public information allowed by law.

(E) A governmental agency that redacts or withholds information under this article shall provide to the requestor a description of the redacted or withheld information and a citation to this act.

(F) Nothing in this article shall be construed to limit access to otherwise protected information in public records by applicable law including, but not limited to, the Driver's Privacy Protection Act (18 U.S.C.A. Section 2721, et seq.) and the Fair Credit Reporting Act (15 U.S.C. Section 1681, et seq.).

Criminal Justice Academy responsibilities

SECTION 2. The South Carolina Criminal Justice Academy shall create a form for law enforcement officers to use to request a state or local government agency restrict public access or posting of personal contact information. The form must contain fields for the following information: legal name, date of birth, home address, driver's license number, personal email address, law enforcement identification number, law enforcement agency, federal employee number (if applicable), dates of service, service status, and an exception section to permit disclosure of personal contact information for a specific purpose for a limited time.

Judicial Personal Privacy Protection Act

SECTION 3. Chapter 2, Title 30 of the S.C. Code is amended by adding:

Article 7

Judicial Personal Privacy Protection Act

Section 30-2-700. For the purpose of this article:

(1) "Personal contact information" means the home address or personal cellular telephone number of the eligible requesting party.

(2) "Eligible requesting party" means an active or a former judge who has filed a formal request under the provisions of this article.

Section 30-2-710. (A) Information that relates to the personal contact information of an eligible requesting party and is held or maintained by a state or local government agency is confidential and must not be disclosed to the public by the state or local government agency if the judge:

(1) notifies the state or local government agency of the judge's choice to restrict public access to or posting online of personal contact information by submission of a form provided by the South Carolina Court Administration; and

(2) provides verification of current or prior service as a judge from the South Carolina Court Administration.

(B) A choice made under this article remains valid with the following exceptions:

(1) the judge rescinds in writing the request to restrict public access

to or posting online of personal contact information and provides notice to the state or local government agency;

(2) the state or local government agencies disclose personal contact information related to violations of law or regulation, as permitted by law;

(3) the judge requests release of the judge's personal contact information from a state or local government agency for a specific purpose and for a limited time; or

(4) the personal contact information is included in a collision report or uniform traffic ticket maintained and provided by the South Carolina Department of Motor Vehicles, as permitted by law.

(C) Personal contact information provided under the provisions of this article may be disclosed to another government agency, under subpoena, by order of the court, or upon written consent of the eligible judge.

(D) Any personal contact information, as defined under this article, must be redacted from any public document otherwise eligible to be released under any other provision of law. The provisions of this article must not be construed to prevent disclosure of other public information otherwise allowed by law.

(E) A state or local government agency that redacts or withholds information under this article shall provide to the requestor a description of the redacted or withheld information and a citation to this article.

(F) Nothing in this article shall be construed to limit access to otherwise protected information available by applicable law including, but not limited, to the Driver's Privacy Protection Act (18 U.S.C.A. Section 2721, et seq.) and the Fair Credit Reporting Act (15 U.S.C.A. Section 1681, et seq.).

Court Administration responsibilities

SECTION 4. The South Carolina Court Administration shall create a form for judges to use to request a state or local government agency restrict public access or posting of personal contact information. The form must contain fields for the following information: legal name, date of birth, home address, driver's license number, personal email address, dates of service, status of service, and an exception section to notify a state or local government agency of rescission of the request to protect personal contact information and to permit disclosure of personal contact information for a specific purpose and for a limited time.

Time effective

SECTION 5. This act takes effect on July 1, 2024.

Ratified the 17th day of May, 2023

Approved the 19th day of May, 2023

No. 57

(R66, S284)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 6-1-530, RELATING TO USE OF REVENUE FROM LOCAL ACCOMMODATIONS TAX, SO AS TO PROVIDE THAT THE DEVELOPMENT OF WORKFORCE HOUSING IS ONE OF THE PURPOSES FOR WHICH LOCAL ACCOMMODATIONS TAXES MAY BE USED; BY AMENDING SECTION 6-4-10, RELATING TO THE USE OF CERTAIN REVENUE FROM THE ACCOMMODATIONS TAX, SO AS TO PROVIDE THAT THE DEVELOPMENT OF WORKFORCE HOUSING IS ONE OF THE PURPOSES FOR WHICH THE FUNDS MAY BE USED; BY AMENDING SECTION 6-4-15, RELATING TO THE USE OF REVENUES TO FINANCE BONDS, SO AS TO PROVIDE THAT THE DEVELOPMENT OF WORKFORCE HOUSING IS ONE OF THE PURPOSES FOR WHICH BONDS MAY BE ISSUED; BY ADDING SECTION 6-4-12 SO AS TO REQUIRE A LOCAL GOVERNMENT TO PREPARE A HOUSING IMPACT ANALYSIS BEFORE USING SUCH FUNDS FOR WORKFORCE HOUSING; BY AMENDING SECTIONS 6-4-5 AND 6-1-510, RELATING TO DEFINITIONS, SO AS TO ADD CERTAIN DEFINITIONS; BY AMENDING SECTION 6-29-510, RELATING TO LOCAL PLANNING, SO AS TO REQUIRE THE PLANNING COMMISSION MUST SOLICIT INPUT FOR THE ANALYSIS FROM HOMEBUILDERS AND OTHER EXPERTS WHEN DEVELOPING A HOUSING ELEMENT FOR THE LOCAL COMPREHENSIVE PLAN; TO CREATE THE LAND DEVELOPMENT STUDY COMMITTEE TO EXAMINE CURRENT AND PROSPECTIVE METHODS TO PLAN FOR

AND MANAGE LAND DEVELOPMENT; AND TO REQUIRE A REPORT DETAILING THE EFFECTS OF THIS ACT ON TOURISM AND WORKFORCE HOUSING.

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

Local accommodations tax for workforce housing

SECTION 1. Section 6-1-530(A) of the S.C. Code is amended to read:

(A) The revenue generated by the local accommodations tax must be used exclusively for the following purposes:

(1) tourism-related buildings including, but not limited to, civic centers, coliseums, and aquariums;

(2) tourism-related cultural, recreational, or historic facilities;

(3) beach access, renourishment, or other tourism-related lands and water access;

(4) highways, roads, streets, and bridges providing access to tourist destinations;

(5) advertisements and promotions related to tourism development;

(6) water and sewer infrastructure to serve tourism-related demand; or

(7) development of workforce housing, which must include programs to promote home ownership. However, a county or municipality may not expend or dedicate more than fifteen percent of its annual local accommodations tax revenue for the purposes set forth in this item. The provisions of this item are no longer effective after December 31, 2030.

State accommodations tax for workforce housing

SECTION 2. Section 6-4-10(4) of the S.C. Code is amended to read:

(4)(a) The remaining balance plus earned interest received by a municipality or county must be allocated to a special fund and used for tourism-related expenditures. This section does not prohibit a municipality or county from using accommodations tax general fund revenues for tourism-related expenditures.

(b) The funds received by a county or municipality which has a high concentration of tourism activity may be used to provide additional county and municipal services including, but not limited to, law enforcement, traffic control, public facilities, and highway and street

maintenance, as well as the continual promotion of tourism. The funds must not be used as an additional source of revenue to provide services normally provided by the county or municipality but to promote tourism and enlarge its economic benefits through advertising, promotion, and providing those facilities and services which enhance the ability of the county or municipality to attract and provide for tourists.

"Tourism-related expenditures" include:

(i) advertising and promotion of tourism so as to develop and increase tourist attendance through the generation of publicity;

(ii) promotion of the arts and cultural events;

(iii) construction, maintenance, and operation of facilities for civic and cultural activities including construction and maintenance of access and other nearby roads and utilities for the facilities;

(iv) the criminal justice system, law enforcement, fire protection, solid waste collection, and health facilities when required to serve tourists and tourist facilities. This is based on the estimated percentage of costs directly attributed to tourists;

(v) public facilities such as restrooms, dressing rooms, parks, and parking lots;

(vi) tourist shuttle transportation;

(vii) control and repair of waterfront erosion, including beach renourishment;

(viii) operating visitor information centers;

(ix) development of workforce housing, which must include programs to promote home ownership. However, a county or municipality may not expend or dedicate more than fifteen percent of its annual local accommodations tax revenue for the purposes set forth in this item (4)(b)(ix). The provisions of this item (4)(b)(ix) are no longer effective after December 31, 2030.

(c)(i) Allocations to the special fund must be spent by the municipality or county within two years of receipt. However, the time limit may be extended upon the recommendation of the local governing body of the county or municipality and approval of the oversight committee established pursuant to Section 6-4-35. An extension must include provisions that funds be committed for a specific project or program.

(ii) Notwithstanding the provisions of subsubitem (i), upon a two-thirds affirmative vote of the membership of the appropriate local governing body, a county or municipality may carry forward unexpended allocations to the special fund beyond two years provided that the county or municipality commits use of the funds exclusively to the control and repair of waterfront erosion, including beach

renourishment or development of workforce housing, which must include programs to promote home ownership. The county or municipality annually shall notify the oversight committee, established pursuant to Section 6-4-35, of the basic activity of the committed funds, including beginning balance, deposits, expenditures, and ending balance.

(d) In the expenditure of these funds, counties and municipalities are required to promote tourism and make tourism-related expenditures primarily in the geographical areas of the county or municipality in which the proceeds of the tax are collected where it is practical.

Bonds for workforce housing

SECTION 3. Section 6-4-15 of the S.C. Code is amended to read:

Section 6-4-15. A municipality or county may issue bonds, enter into other financial obligations, or create reserves to secure obligations to finance all or a portion of the cost of constructing facilities, all of which must fulfill the purpose of this chapter, for civic activities, the arts, cultural events, or workforce housing that includes programs to promote home ownership. The annual debt service of indebtedness incurred to finance the facilities or lease payments for the use of the facilities may be provided from the funds received by a municipality or county from the accommodations tax in an amount not to exceed the amount received by the municipality or county after deduction of the accommodations tax funds dedicated to the general fund and the advertising and promotion fund. However, none of the revenue received by a municipality or county from the accommodations tax may be used to retire outstanding bonded indebtedness unless accommodations tax revenue was obligated for that purpose when the debt was incurred.

Housing impact analysis

SECTION 4. Chapter 4, Title 6 of the S.C. Code is amended by adding:

Section 6-4-12. (A) If a local government intends to use the funds for the development of workforce housing, then the local government shall prepare a housing impact analysis prior to giving second reading to the ordinance.

(B) The analysis required by subsection (A) must include:

(1) information about the effect of the ordinance on housing, including the effect of the ordinance on each of the following:

(a) the cost of developing, construction, rehabilitating, improving, maintaining, or owning single-family or multifamily dwellings;

(b) the purchase price of new homes or the fair market value of existing homes;

(c) the cost and availability of financing to purchase or develop housing;

(d) housing costs; and

(e) the density, location, setback, size, or height development on a lot, parcel, land division, or subdivision; and

(2) an analysis of the relative impact of the ordinance on low- and moderate-income households.

(C) The following applies to information on housing costs required to be included in the analysis conducted pursuant to subsection (B)(1)(d):

(1) the analysis must include reasonable estimates of the effect of the ordinance on housing costs, expressed in dollar amounts. The local government shall include a brief summary of, or worksheet demonstrating, the computations used in determining the dollar amounts. However, if the local government determines that it is not possible to make an estimate expressed in dollar amounts, then the analysis must include a statement setting forth the reasons for the local government's determination; and

(2) the analysis must include descriptions of both the immediate effect and, to the extent ascertainable, the long-term effect of the ordinance on housing costs.

(D) Except as otherwise provided in this section, a housing impact analysis required pursuant to this section must be based on costs associated with the development, construction, financing, purchasing, sale, ownership, or availability of a median-priced single-family residence. However, the analysis may include estimates for larger developments as part of an analysis of the long-term effects of the ordinance.

(E) A local government may request information from any state agencies, local units of government, universities or colleges, organizations, or individuals as necessary to prepare a housing impact analysis pursuant to this section.

(F) The local government shall provide the housing impact analysis for an ordinance to the members of the legislative body of the local government, the Department of Revenue, and the Tourism Expenditure Revenue Committee before the ordinance is considered by the legislative body. The Department of Revenue may not disburse any accommodations taxes to the local government for purposes of

development of workforce housing unless and until the local government has provided the housing impact analysis to the parties required pursuant to this subsection.

Definitions

SECTION 5. Section 6-4-5 of the S.C. Code is amended to read:

Section 6-4-5. As used in this chapter:

(1) "County area" means a county and municipalities within the geographical boundaries of the county.

(2) "Cultural", as it applies to members of advisory committees in Section 6-4-25, means persons actively involved and familiar with the cultural community of the area including, but not limited to, the arts, historical preservation, museums, and festivals.

(3) "Hospitality", as it applies to members of the committees in item (2), means persons directly involved in the service segment of the travel and tourism industry including, but not limited to, businesses that primarily serve visitors such as lodging facilities, restaurants, attractions, recreational amenities, transportation facilities and services, and travel information and promotion entities.

(4) "Travel" and "tourism" mean the action and activities of people taking trips outside their home communities for any purpose, except daily commuting to and from work.

(5) "Housing costs" for housing occupied by the owner means:

(a) the principal and interest on a mortgage loan that finances the purchase of the housing;

(b) the closing costs and other costs associated with a mortgage loan;

(c) mortgage insurance;

(d) property insurance;

(e) utility-related costs;

(f) property taxes; and

(g) if the housing is owned and occupied by members of a cooperative or an unincorporated cooperative association, fees paid to a person for managing the housing.

(6) "Housing costs" for rented housing means:

(a) rent; and

(b) utility-related costs, if not included in the rent.

(7) "Ordinance" means an ordinance adopted pursuant to Section 6-29-530.

(8) "Utility-related costs" means costs related to power, heat, gas,

light, water, and sewage.

(9) "Workforce housing" means residential housing for rent or sale that is appropriately priced for rent or sale to a person or family whose income falls within thirty percent and one hundred twenty percent of the median income for the local area, with adjustments for household size, according to the latest figures available from the United States Department of Housing and Urban Development (HUD).

Definition

SECTION 6. Section 6-1-510 of the S.C. Code is amended by adding:

(4) "Workforce housing" means residential housing for rent or sale that is reasonably and appropriately priced for rent or sale to a person or family whose income falls within thirty percent and one hundred twenty percent of the median income for the local area, with adjustments for household size, according to the latest figures available from the United States Department of Housing and Urban Development (HUD).

Local comprehensive plan

SECTION 7. Section 6-29-510(D)(6) of the S.C. Code is amended to read:

(6) a housing element which considers location, types, age, and condition of housing, owner and renter occupancy, and affordability of housing. This element includes an analysis to ascertain nonessential housing regulatory requirements, as defined in this chapter, that add to the cost of developing affordable housing but are not necessary to protect the public health, safety, or welfare and an analysis of market-based incentives that may be made available to encourage development of affordable housing, which incentives may include density bonuses, design flexibility, and streamlined permitting processes. The planning commission must solicit input for this analysis from homebuilders, developers, contractors, and housing finance experts when developing this element;

Land Development Study Committee

SECTION 8. (A) There is created the Land Development Study Committee to examine current and prospective methods to plan for and manage land development in South Carolina.

(B) The study committee must be comprised of three members of the Senate appointed by the President of the Senate and three members of the House of Representatives appointed by the Speaker of the House. Staff from the Senate and House of Representatives shall assist the study committee.

(C) The members of the study committee shall seek assistance from governmental agencies including the South Carolina Building Codes Council, the South Carolina Housing Authority, and the South Carolina Department of Agriculture, and from members of the private sector including, but not limited to, the Homebuilders Association of South Carolina, Habitat for Humanity South Carolina, the Realtors Association of South Carolina, the Municipal Association of South Carolina, the South Carolina Association of Counties, South Carolina Land Trust, Conservation Voters of South Carolina, the South Carolina Chapter of the American Planning Association, and the Manufactured Housing Institute of South Carolina.

(D) The study committee shall provide a report to the General Assembly by December 31, 2023, at which time the study committee shall dissolve.

Report

SECTION 9. Before the beginning of the 2030 Legislative Session, the Director of the Department of Parks, Recreation and Tourism, in consultation with the Secretary of Commerce and the Commissioner of Agriculture, shall issue a report to the General Assembly detailing the effects on tourism and workforce housing resulting from the codified provisions of this act.

Time effective

SECTION 10. This act takes effect upon approval by the Governor.

Ratified the 17th day of May, 2023

Approved the 19th day of May, 2023

No. 58

(R67, S317)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 25-21-20, RELATING TO THE ESTABLISHMENT OF THE BOARD OF TRUSTEES FOR THE VETERANS' TRUST FUND OF SOUTH CAROLINA, SO AS TO REDUCE THE NUMBER OF BOARD MEMBERS FROM NINETEEN TO ELEVEN, TO PROVIDE FOR APPOINTMENT OF THOSE MEMBERS BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE, TO PROVIDE REQUIREMENTS FOR THE APPOINTMENT OF THE MEMBERS, AND TO ESTABLISH A FOUR-YEAR TERM.

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

Veterans' Trust Fund

SECTION 1. Section 25-21-20 of the S.C. Code is amended to read:

Section 25-21-20. (A) There is created the Board of Trustees for the Veterans' Trust Fund of South Carolina composed of eleven voting members. The Governor, with the advice and consent of the Senate, shall appoint the board consisting of seven members selected at large, two members currently serving as county veterans' affairs officers, and two members who represent veterans' service organizations. Of the seven members appointed at large, three must come from a rural county as designated by the U.S. Census Bureau. Of the eleven appointed members, at least six must be United States Armed Forces veterans. Any veteran who serves on the board, must have been honorably discharged from the armed services. No more than one appointed member may reside in the same county. The Secretary of the Department of Veterans' Affairs shall serve as the Executive Director of the Trust Fund and an ex officio non-voting member of the board. The members of the board shall elect officers from among themselves as necessary and shall utilize the staff of the Veterans' Affairs Department in order to carry out its duties, as provided in Section 25-21-30.

(B) Individuals appointed at large by the Governor shall serve four-year terms, and the remaining initial appointees shall serve two-year terms. Upon the expiration of the terms of those members initially appointed, the term of office for the members of the board is

four years, and until their successors are appointed and qualify. Members may succeed themselves; however, no member may serve more than two consecutive terms or eight continuous years, whichever is greater. A member shall not serve on the board in a hold-over capacity at the conclusion of his term for more than 180 days. Vacancies on the board must be filled in the same manner as the initial appointment for the unexpired term.

(C) Members of the board who are not full-time employees of the State of South Carolina or any of its political subdivisions may be paid per diem, mileage, and subsistence at rates established by the board, not to exceed standards provided by law for state boards, commissions, and committees. Per diem, mileage, and subsistence may be paid to members of the board only for travel and costs incurred due to meetings of the board.

(D) A complete report of the activities of the Veterans' Trust Fund must be made to the General Assembly annually.

Time effective

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

Ratified the 17th day of May, 2023

Approved the 19th day of May, 2023

No. 59

(R68, S343)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 44-7-130, RELATING TO DEFINITIONS IN THE STATE HEALTH FACILITY LICENSURE ACT, SO AS TO INCLUDE ALL SHORT-TERM RESIDENTIAL STABILIZATION AND INTENSIVE CRISIS SERVICES IN THE DEFINITION OF CRISIS STABILIZATION UNIT FACILITIES AND TO CHANGE THE AGE OF THE INDIVIDUALS SERVED IN SAME.

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

Definitions

SECTION 1. Section 44-7-130(26) of the S.C. Code is amended to read:

(26) "Crisis stabilization unit facility" means a facility, other than a health care facility, that provides a short-term residential program, offering psychiatric stabilization services and brief, intensive crisis services to individuals five and older, twenty-four hours a day, seven days a week.

Time effective

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

Ratified the 17th day of May, 2023

Approved the 19th day of May, 2023

No. 60

(R70, S399)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 44-1-20, RELATING TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, SO AS TO PROVIDE FOR THE CREATION OF A DEPARTMENT OF PUBLIC HEALTH TO ASSUME THE HEALTH-RELATED FUNCTIONS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL AND FOR OTHER PURPOSES; BY AMENDING SECTIONS 44-1-60, 44-1-140, AND 44-1-150, ALL RELATING TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, ALL SO AS TO MAKE CONFORMING CHANGES; BY REPEALING SECTIONS 1-30-45 AND 44-1-65 RELATING TO THE DEPARTMENT OF HEALTH AND

ENVIRONMENTAL CONTROL AND THE PERMITTING OF CERTAIN ANIMAL FACILITIES; BY RENAMING CHAPTER 1 OF TITLE 44, "DEPARTMENT OF PUBLIC HEALTH"; BY ADDING CHAPTER 6 TO TITLE 48 SO AS TO CREATE THE DEPARTMENT OF ENVIRONMENTAL SERVICES TO ASSUME THE ENVIRONMENTAL-RELATED FUNCTIONS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, TO PROVIDE FOR THE APPOINTMENT OF A DIRECTOR BY THE GOVERNOR, AND FOR OTHER PURPOSES; BY AMENDING CHAPTER 3 OF TITLE 49, RELATING TO WATER RESOURCES, SO AS TO TRANSFER THE WATER RESOURCES DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES TO THE DEPARTMENT OF ENVIRONMENTAL SERVICES AND FOR OTHER PURPOSES; BY AMENDING SECTION 1-30-10, RELATING TO DEPARTMENTS OF STATE GOVERNMENT, SO AS TO ADD THE DEPARTMENT OF PUBLIC HEALTH AND THE DEPARTMENT OF ENVIRONMENTAL SERVICES; BY ADDING SECTIONS 1-30-135 AND 1-30-140 SO AS TO MAKE CONFORMING CHANGES; BY ADDING ARTICLE 7 TO CHAPTER 11, TITLE 25 SO AS TO TRANSFER TO THE DEPARTMENT OF VETERANS' AFFAIRS THE AUTHORITY TO ESTABLISH AND OPERATE VETERANS HOMES; BY ADDING CHAPTER 57 TO TITLE 46 SO AS TO CREATE THE DIVISION OF FOOD SAFETY WITHIN THE DEPARTMENT OF AGRICULTURE AND TO TRANSFER CERTAIN FOOD SAFETY RESPONSIBILITIES FROM THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO THE DEPARTMENT OF AGRICULTURE; BY AMENDING SECTION 24-9-20, RELATING TO CERTAIN FOOD INSPECTIONS IN PRISON FACILITIES, SO AS TO TRANSFER INSPECTION RESPONSIBILITY TO THE DEPARTMENT OF AGRICULTURE; BY AMENDING SECTION 39-37-120, RELATING TO FROZEN MILK PRODUCT CONSUMER SAFETY, SO AS TO TRANSFER RESPONSIBILITY TO THE DEPARTMENT OF AGRICULTURE; BY AMENDING SECTION 1-23-600, RELATING TO CONTESTED CASE HEARINGS DECIDED BY CERTAIN BOARDS OR COMMISSIONS, SO AS TO MAKE CONFORMING CHANGES; BY REQUIRING THE DEPARTMENT OF ADMINISTRATION TO PERFORM CERTAIN FUNCTIONS TO EFFECT THE RESTRUCTURING OF THE DEPARTMENT OF HEALTH AND

ENVIRONMENTAL CONTROL AND THE CREATION OF THE DEPARTMENT OF PUBLIC HEALTH AND DEPARTMENT OF ENVIRONMENTAL SERVICES, INCLUDING THE ANALYSIS OF THE PROGRAMS, SERVICES, AND POPULATIONS SERVED BY THE PREDECESSOR AGENCIES AND THE PREPARATION OF REPORTS SUMMARIZING THE ANALYSIS AND MAKING RECOMMENDATIONS AS TO THE APPROPRIATE STRUCTURE AND OPERATION OF THE RESTRUCTURED STATE AGENCIES; AND FOR OTHER PURPOSES.

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

Governmental agency restructuring

SECTION 1. On July 1, 2024:

(1) There is created the Department of Public Health to be headed by a director who is appointed by the Governor pursuant to Section 1-30-10, with the advice and consent of the Senate; provided, however, until the Governor appoints the initial director after creation of the Department of Public Health, the Director of the Department of Health and Environmental Control shall serve as the Director of the Department of Public Health.

(2) There is created the Department of Environmental Services to be headed by a director who is appointed by the Governor pursuant to Section 1-30-10, with the advice and consent of the Senate; provided, however, until the Governor appoints the initial director after creation of the Department of Environmental Services, the Director of Environmental Affairs of the Department of Health and Environmental Control shall serve as the Director of the Department of Environmental Services.

(3) The South Carolina Department of Health and Environmental Control and the South Carolina Board of Health and Environmental Control are abolished.

(4) The food safety program in the Division of Food and Lead Risk Assessment and the Milk and Dairy Lab of the Department of Health and Environmental Control shall become a division of the Department of Agriculture with the director of that department being deemed the head of the division unless otherwise specified, and all relevant powers and duties assigned to the Department of Health and Environmental Control being transferred to and devolved upon the Department of Agriculture.

(5) The authority to establish, manage, and operate veterans homes

shall be transferred to the Department of Veterans' Affairs, and all powers and duties assigned to the Department of Mental Health regarding veterans homes being transferred to and devolved upon the Department of Veterans' Affairs. To the extent, the Department of Mental Health owns the grounds upon which these veterans homes are located, title shall be transferred to the Department of Veterans' Affairs.

(6) The hydrology and aquatic nuisance species programs of the Land, Water and Conservation Division of the Department of Natural Resources shall become a division of the Department of Environmental Services, and all relevant powers and duties assigned to the Department of Natural Resources being transferred to and devolved upon the Department of Environmental Services.

Department of Administration, restructuring analysis and reporting responsibilities

SECTION 2. (A) It is the intent of the General Assembly to restructure and transfer the programs, services, duties, and authority of the Department of Health and Environmental Control into the Department of Public Health or the Department of Environmental Services. Accordingly, the Department of Administration immediately shall commence the process of analyzing the circumstances and determining the best manner to efficiently and effectively restructure and transfer all programs, services, duties, and authority of the Department of Health and Environmental Control to the Department of Public Health or the Department of Environmental Services, consistent with the provisions of this act. The Department of Health and Environmental Control shall cooperate with the Department of Administration and assign such personnel as requested by the Executive Director of the Department of Administration to assist the department and enable it to complete its duties under this SECTION. To complete its duties under this SECTION the Department of Administration shall consult with the existing Director of the Department of Health and Environmental Control and the existing Director of Environmental Affairs of the Department of Health and Environmental Control.

(B) The Department of Administration's analysis required by this SECTION must include the submission of a report to the General Assembly no later than December 31, 2023, with specific recommendations of statutory changes needed throughout the South Carolina Code of Laws to reflect the restructuring and transfer of the health-related programs, services, duties, and authority of the Department of Health and Environmental Control to the Department of

Public Health and to reflect the restructuring and transfer of the environmental related programs, services, duties, and authority of the Department of Health and Environmental Control to the Department of Environmental Services. The Department of Health and Environmental Control shall assign such legal, programmatic and administrative personnel as requested by the Executive Director of Department of Administration to assist the department in identifying statutory provisions requiring change and in suggesting appropriate language to effectuate required changes. The Code Commissioner shall be available to consult with and assist the Department of Administration in making the recommendations required by this SECTION.

(C) The Department of Administration may procure such supplies, services, information technology, and experts, including attorneys, as are necessary to perform the requirements of this SECTION. Such procurements are exempt from the purchasing procedures of the South Carolina Consolidated Procurement Code but must be made with as much competition as is practicable. Additionally, if determined necessary, the State Fiscal Accountability Authority shall assign such personnel as requested by the Executive Director of Department of Administration to assist the department in any required procurements. The Department of Health and Environmental Control shall pay the costs of any supplies, services, information technology, and experts, including attorneys, procured pursuant to this subsection.

Department of Public Health

SECTION 3.A. Section 44-1-20 of the S.C. Code is amended to read:

Section 44-1-20. There is created the South Carolina Department of Public Health.

B. Section 44-1-60(A) of the S.C. Code is amended to read:

(A) All department decisions involving the issuance, denial, renewal, suspension, or revocation of permits, licenses, or other actions of the department which may give rise to a contested case must be made using the procedures set forth in this section.

C. Section 44-1-140 of the S.C. Code is amended to read:

Section 44-1-140. (A) The Department of Public Health may make, adopt, promulgate, and enforce reasonable rules and regulations

from time to time requiring and providing for:

(1) the thorough sanitation and disinfection of all passenger cars, sleeping cars, steamboats, and other vehicles of transportation in this State and all convict camps, penitentiaries, jails, hotels, schools, and other places used by or open to the public;

(2) the sanitation of hotels, restaurants, cafes, drugstores, hot dog and hamburger stands, and all other places or establishments providing eating or drinking facilities and all other places known as private nursing homes or places of similar nature, operated for gain or profit;

(3) the safety and sanitation in the harvesting, storing, processing, handling and transportation of mollusks, fin fish, and crustaceans;

(4) the safety, safe operation and sanitation of public swimming pools and other public bathing places, construction, tourist and trailer camps, and fairs;

(5) the care, segregation, and isolation of persons having or suspected of having any communicable, contagious, or infectious disease; and

(6) the thorough investigation and study of the causes of all diseases, epidemic and otherwise, in this State, the means for the prevention of contagious disease and the publication and distribution of such information as may contribute to the preservation of the public health and the prevention of disease.

(B) The department may make separate orders and rules to meet any emergency not provided for by general rules and regulations, for the purpose of suppressing nuisances dangerous to the public health and communicable, contagious, and infectious diseases and other danger to the public life and health.

D. Section 44-1-150(A) and (E) of the S.C. Code is amended to read:

(A) Except as provided in Section 44-1-151, a person who after notice violates, disobeys, or refuses, omits, or neglects to comply with a regulation of the Department of Public Health, made by the department pursuant to Section 44-1-140, is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned for thirty days.

(E) Reserved.

E. Sections 1-30-45 and 44-1-65 of the S.C. Code are repealed.

F. Chapter 1, Title 44 of the S.C. Code is renamed “Department of Public

Health".

Department of Environmental Services

SECTION 4. Title 48 of the S.C. Code is amended by adding:

CHAPTER 6

Department of Environmental Services

Section 48-6-10. (A) There is created the Department of Environmental Services which shall be headed by a director appointed by the Governor, upon the advice and consent of the Senate. The director is subject to removal by the Governor as provided for in Section 1-3-240.

(B) As the governing authority of the department, the director is vested with all authorities and duties as provided for in Section 1-30-10.

(C) The Department of Environmental Services is comprised of:

(1) the Division of Air Quality;

(2) the Division of Land and Waste Management;

(3) the Division of Water;

(4) the Division of Regional and Laboratory Services, which includes the Office of Emergency Response and the Office of Onsite Wastewater and Enforcement; and

(5) the Division of Coastal Management.

(D) The Director of the Department of Environmental Services may realign the bureaus, divisions, offices, and programs to gain additional efficiencies or to better align resources with changes in environmental statutes or regulation.

Section 48-6-20. (A) The Department of Environmental Services is vested with all the functions, powers, and duties of the environmental divisions, offices, and programs of the Department of Health and Environmental Control on the effective date of this act.

(B) The department may promulgate regulations necessary to implement the provisions of this chapter.

(C) The department may apply for and accept funds, grants, gifts, and services from the State, the United States government or any of its agencies, or any other public or private source and may use funds derived from these sources to defray clerical and administrative costs, as may be necessary for carrying out the department's duties.

Section 48-6-30. (A) All decisions of the Department of

Environmental Services involving the issuance, denial, renewal, suspension, or revocation of permits, licenses, certificates, or other actions of the department which may give rise to a contested case, except a decision to establish a baseline or setback line, must be made using the procedures set forth in this section. A department decision referenced in this subsection relating to a poultry facility or another animal facility, except a swine facility, also must comply with the provisions of Section 48-6-40.

(B) The department shall comply with all requirements for public notice, receipt of public comments, and public hearings before making a decision. To the maximum extent possible, the department shall use a uniform system of public notice of permit applications, opportunity for public comment, and public hearings.

(C) In making a decision about a permit, license, certification, or other approval, the department shall take into consideration all material comments received in response to the public notice in determining whether to issue, deny, or condition a permit, license, certification, or other approval. At the time that a decision is made, the department shall issue a written decision and shall base its decision on the administrative record, which must consist of the application and supporting exhibits, all public comments and submissions, and other documents contained in the supporting file for the permit, license, certification, or other approval. The administrative record also may include material readily available at the department, or published materials which are generally available and need not be physically included in the same file as the rest of the record as long as those materials are referred to specifically in the department decision. The department is not required to issue a written decision for issuance of routine permits for which the department has not received adverse public comments.

(D)(1) The department shall send notice of a decision by certified mail, return receipt requested to the applicant, permittee, licensee, certificate holder, and affected persons who have requested in writing to be notified. Affected persons may request in writing to be notified by regular mail or electronic mail in lieu of certified mail. Notice of decisions for which a department decision is not required pursuant to subsection (C) must be provided by mail, delivery, or other appropriate means to the applicant, permittee, licensee, certificate holder, and affected persons who have requested in writing to be notified.

(2) Within thirty calendar days after the mailing of a decision pursuant to item (1), an applicant, permittee, licensee, certificate holder, or affected person desiring to contest the department decision may request a contested case hearing before the Administrative Law Court,

in accordance with the Administrative Procedures Act. Notwithstanding Section 1-23-600(H)(1), the entirety of Section 1-23-600(H) shall apply to timely requests for a contested hearing of decisions from the Department of Environmental Services. The court shall give consideration to the provisions of Section 1-23-330 regarding the department's specialized knowledge.

(E) If a deadline provided for in this section falls on a Saturday, Sunday, or state holiday, the deadline must be extended until the next calendar day that is not a Saturday, Sunday, or state holiday.

Section 48-6-40. (A) In making a decision on a permit, license, certification, or other approval of a poultry facility or another animal facility, except a swine facility, pursuant to Section 48-6-30(C), the department shall base its decision solely on whether the permit complies with the applicable department regulations governing the permitting of poultry and other animal facilities, other than swine facilities.

(B) For purposes of permitting, licensing, certification, or other approval of a poultry facility or another animal facility, other than a swine facility:

(1) only an applicant, permittee, licensee, or affected person may request a contested case hearing pursuant to Section 48-6-30(D)(2);

(2) only an applicant, permittee, licensee, or affected person may become a party to a contested case hearing; and

(3) only an applicant, permittee, licensee, or affected person is entitled as of right to be admitted as a party pursuant to Section 1-23-310(5) of the Administrative Procedures Act.

(C)(1) In determining whether to issue a permit, license, certification, or other approval of a poultry facility or another animal facility, except a swine facility, the department only may take into consideration the existing development on and use of property owned or occupied by an affected person on the date the department receives the applicant's complete application package as prescribed by regulation. The department must not take into consideration any changes to the development or use of property after receipt of the application including, but not limited to, the construction of a residence.

(2) If a property owner signs a setback waiver of the right to contest the issuance of a permit, license, certification, or other approval of a poultry facility or another animal facility, except a swine facility, including waiver of the right to notice and a public hearing on a permit, license, certification, or other approval and to file a contested case or other action, then the affected person has seventy-two hours to provide in writing a withdrawal or rescission of the waiver.

(D)(1) An applicant, permittee, licensee, or affected person who is aggrieved by a decision to issue or deny a permit, license, certification, or other approval of a poultry facility or another animal facility, except a swine facility, may request a contested case hearing before the Administrative Law Court, in accordance with the Administrative Procedures Act.

(2) Notwithstanding any other provision of law, a decision to issue a permit, license, certification, or other approval of a poultry facility or another animal facility, except a swine facility, may not be contested if the proposed building footprint is located eight hundred feet or more from the facility owner's property line or located one thousand feet or more from an adjacent property owner's residence.

(E) For purposes of this section, "affected person" means a property owner with standing within a one mile radius of the proposed building footprint or permitted poultry facility or other animal facility, except a swine facility, who is challenging on his own behalf the permit, license, certificate, or other approval for the failure to comply with the specific grounds set forth in the applicable department regulations governing the permitting of poultry facilities and other animal facilities, other than swine facilities.

Section 48-6-50. All rules and regulations promulgated by the department shall be null and void unless approved by a concurrent resolution of the General Assembly at the session of the General Assembly following their promulgation.

Section 48-6-60. (A) The Department of Environmental Services may make, adopt, promulgate, and enforce reasonable rules and regulations from time to time requiring and providing for:

(1) the classification of waters;

(2) the control of disease-bearing insects, including the impounding of waters;

(3) the control of industrial plants, including the protection of workers from fumes, gases, and dust, whether obnoxious or toxic;

(4) the use of water in air humidifiers;

(5) the regulation of the methods of disposition of garbage or sewage and any like refuse matter in or near any village, town, or city of the State, incorporated or unincorporated, and to abate obnoxious and offensive odors caused or produced by septic tank toilets by prosecution, injunction, or otherwise; and

(6) the alteration of safety glazing material standards and the defining of additional structural locations as hazardous areas, and for

notice and hearing procedures by which to effect these changes.

(B) The department may make separate orders and rules to meet any emergency not provided for by general rules and regulations, for the purpose of suppressing nuisances dangerous to the environment.

Section 48-6-70. (A) A person who after notice violates, disobeys, or refuses, omits, or neglects to comply with a regulation of the Department of Environmental Services, made by the department pursuant to Section 48-6-60, is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned for thirty days.

(B) A person who after notice violates a rule, regulation, permit, permit condition, final determination, or order of the department issued pursuant to Section 48-6-60 is subject to a civil penalty not to exceed one thousand dollars a day for each violation.

(C) Fines collected pursuant to subsection (B) must be remitted by the department to the State Treasurer for deposit in the state general fund.

(D) The term "notice" as used in this section means either actual notice or constructive notice.

(E) This section does not apply to fines levied pursuant to Section 48-6-60(3) or any other areas regulated by the South Carolina Occupational Health and Safety Act, Section 41-12-10, et seq.

Section 48-6-80. Nothing contained in Section 48-6-60 in any way abridges or limits the right of a person to maintain or prosecute a civil or criminal proceeding against a person maintaining a nuisance.

Transfer of Water Resources Division to Department of Environmental Services

SECTION 5. Chapter 3, Title 49 of the S.C. Code is amended to read:

CHAPTER 3

Water Resources Planning and Coordination Act

Section 49-3-10. The former Water Resources Division of the Department of Natural Resources is transferred to the Division of Water in the Department of Environmental Services. The regulatory functions of the former Water Resources Commission that were transferred to the Department of Health and Environmental Control are further transferred

to the Department of Environmental Services.

Section 49-3-20. As used in this chapter:
"Department" means the Department of Environmental Services.

Section 49-3-40. (A) The department shall advise and assist the Governor and the General Assembly in:

(1) formulating and establishing a comprehensive water resources policy for the State, such as a State Water Plan, including coordination of policies and activities among the state departments and agencies;

(2) developing and establishing policies and proposals designed to meet and resolve special problems of water resource use and control within or affecting the State, including consideration of the requirements and problems of urban and rural areas;

(3) reviewing the actions and policies of state agencies with water resource responsibilities to determine the consistency of such actions and policies with the comprehensive water policy of the State and to recommend appropriate action where deemed necessary;

(4) reviewing any project, plan, or program of federal aid affecting the use or control of any waters within the State and to recommend appropriate action where deemed necessary;

(5) developing policies and recommendations to assure that the long-range interests of all groups, urban, suburban, and rural, are provided for in the state's representation on interstate water issues;

(6) recommending to the General Assembly any changes of law or regulation required to implement the policy declared in this chapter; and

(7) such other water resources planning, policy formulation, and coordinating functions as the Governor and the General Assembly may designate.

(B) The department is authorized to conduct or arrange for such studies, inquiries, surveys, or analyses as may be relevant to its duties in assisting the Governor and the General Assembly in the implementation of the policy declared in this chapter, and in developing recommendations for the General Assembly. For these purposes, the department shall have full access to the relevant records of other state departments and agencies and political subdivisions of the State, and may hold public hearings, and may cooperate with or contract with any public or private agency, including educational, civic, and research organizations. The studies, inquiries, surveys, or analyses shall incorporate and integrate, to the maximum extent feasible, plans, programs, reports, research, and studies of federal, state, interstate, regional, metropolitan, and local units, agencies and departments of

government.

(C) In developing recommendations for the Governor and the General Assembly relating to the use and control of the water resources of the State, the department shall:

(1) coordinate its activities by distribution of copies of its notices of meetings with agenda, minutes and reports of all state agencies concerned with water resources;

(2) consult with representatives of any federal, state, interstate, or local units of government which would be affected by such recommendations; and

(3) be authorized to appoint such interdepartmental and public advisory boards as necessary to advise them in developing policies for recommendations to the Governor and the General Assembly.

(D) The department shall encourage, assist, and advise regional, metropolitan, and local governmental agencies, officials, or bodies responsible for planning in relation to water aspects of their programs, and shall assist in coordinating local and regional water resources activities, programs, and plans.

(E) The department may publish reports, including the results of such studies, inquiries, surveys, and analyses as may be of general interest, and shall make an annual report of its activities to the Governor and the General Assembly within ten days after the convening of each session of the General Assembly.

(F) The department may receive and expend grants, gifts, and monies donated or given by any state, federal, or private agency, person, corporation, water or sewer authority, or political subdivision in connection with water resource investigations in which the results of such investigations will be made publicly available.

(G) The department is authorized and required to review and approve the expenditure of funds derived from the United States Army Corps of Engineers when any funds are authorized and appropriated for any water resources related projects or purposes including, but not limited to, the following:

(1) navigation,

(2) irrigation,

(3) water storage,

(4) aquatic weed management,

(5) flood control,

(6) salinity control,

(7) interstate water concerns, and

(8) any studies, surveys, or analyses performed by the Corps of Engineers.

The review and approval required by this subsection is not applicable to any Corps of Engineers funds which must be expended in a different manner pursuant to express statutory direction.

Section 49-3-50. In exercising its responsibilities under this chapter, the department shall take into consideration the need for:

(1) adequate supplies of surface and groundwaters of suitable quality for all uses, including domestic, municipal, agricultural, and industrial;

(2) water of suitable quality for all purposes;

(3) water availability for recreational and commercial needs;

(4) hydroelectric power;

(5) flood damage control or prevention measures including zoning to protect people, property, and productive lands from flood losses;

(6) land stabilization measures;

(7) drainage measures, including salinity control;

(8) watershed protection and management measures;

(9) outdoor recreational and fish and wildlife opportunities;

(10) studies on saltwater intrusion into groundwater and surface water;

(11) measures to protect the state's fisheries and other aquatic resources;

(12) any other means by which development of water and related land resources can contribute to economic growth and development, the long-term preservation of water resources, and the general well-being of all the people of the State.

Section 49-3-60. (A) All decisions of the Department of Environmental Services involving the issuance, denial, renewal, suspension, or revocation of permits, licenses, certificates, or other actions of the department which may give rise to a contested case, except a decision to establish a baseline or setback line, must be made using the procedures set forth in this section. A department decision referenced in this subsection relating to a poultry facility or another animal facility, except a swine facility, also must comply with the provisions of Section 49-3-65.

(B) The department shall comply with all requirements for public notice, receipt of public comments, and public hearings before making a decision. To the maximum extent possible, the department shall use a uniform system of public notice of permit applications, opportunity for public comment, and public hearings.

(C) In making a decision about a permit, license, certification, or other approval giving rise to a contested case, the department shall take into consideration all material comments received in response to the public

notice in determining whether to issue, deny, or condition a permit, license, certification, or other approval. At the time that a final departmental decision is made, the department shall issue a final written decision and shall base its decision on the administrative record, which must consist of the application and supporting exhibits, all public comments and submissions, and other documents contained in the supporting file for the permit, license, certification, or other approval. The administrative record also may include material readily available at the department, or published materials which are generally available and need not be physically included in the same file as the rest of the record as long as such materials are specifically referred to in the department decision. The department is not required to issue a final written departmental decision for issuance of routine permits for which the department has not received adverse public comments. The department is required to make a final decision granting the permit where the applicant has met all conditions in statutes and regulations governing that permit.

(D)(1) The department shall send a notice of a final departmental decision by certified mail, returned receipt requested to the applicant, permittee, licensee, certificate holder, and affected persons who have requested in writing to be notified. Affected persons may request in writing to be notified by regular mail or electronic mail in lieu of certified mail. Notice of decisions for which a written decision is not required pursuant to subsection (C) must be provided by mail, delivery, or other appropriate means to the applicant, permittee, licensee, certificate holder, and affected persons who have requested in writing to be notified.

(2) Decisions by the department become final thirty days after the mailing of a notice pursuant to item (1) unless the applicant, permittee, licensee, certificate holder, or affected person files a request for a contested case hearing with the Administrative Law Court.

(3) Within thirty calendar days after the mailing of the decision pursuant to item (1), an applicant, permittee, licensee, certificate holder, or affected person desiring to contest the agency decision may request a contested case hearing before the Administrative Law Court, in accordance with the Administrative Procedures Act. Notwithstanding Section 1-23-600(H)(1), the entirety of Section 1-23-600(H) shall apply to timely requests for a contested case hearing of decisions from the Department of Environmental Services. The court shall give consideration to the provisions of Section 1-23-330 regarding the department's specialized knowledge.

(E) If a deadline provided for in this section falls on a Saturday,

Sunday, or state holiday, the deadline must be extended until the next calendar day that is not a Saturday, Sunday, or state holiday.

Departments of state government

SECTION 6.A. Section 1-30-10(A)8. of the S.C. Code is amended to read:

8. Department of Public Health

B. Section 1-30-10(A) of the S.C. Code is amended by adding:

25. Department of Environmental Services

Creation of Department of Public Health and Department of Environmental Services

SECTION 7.A. Chapter 30, Title 1 of the S.C. Code is amended by adding:

Section 1-30-135. There is hereby created, within the executive branch of the state government, the Department of Public Health, headed by a director appointed by the Governor, with the advice and consent of the Senate. The divisions, offices, and programs of the Department of Health and Environmental Control performing functions related to regulation and protection of the public health prior to the effective date of this act, 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 these divisions, offices, programs, and other related entities, 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 Health.

B. Chapter 30, Title 1 of the S.C. Code is amended by adding:

Section 1-30-140. There is hereby created, within the executive branch of the state government, the Department of Environmental Services, headed by a director appointed by the Governor pursuant to Section 48-6-10. The divisions, offices, and programs of the Department of Health and Environmental Control performing functions related to regulation and protection of the environment prior to the effective date

of this act, 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 these divisions, offices, programs, and other related entities, 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 Environmental Services.

South Carolina Veterans Homes

SECTION 8. Chapter 11, Title 25 of the S.C. Code is amended by adding:

Article 7

South Carolina Veterans Homes

Section 25-11-710. The Department of Veterans' Affairs, in mutual agreement with the authorities of the United States Veterans Administration, may establish and operate South Carolina veterans homes to provide treatment for South Carolina veterans who require long-term nursing care. The Department of Veterans' Affairs is designated as the agency of the State to apply for and to accept gifts, grants, and other contributions from the federal government or from any other governmental unit for the operation and construction of South Carolina veterans homes. The Department of Veterans' Affairs may consult with the Department of Public Health and the Office of the Governor concerning the policies, management, and operation of the South Carolina veterans homes.

Section 25-11-720. For the purpose of Section 25-11-710, “South Carolina veterans” means any ex service South Carolina citizen who was discharged under other than dishonorable conditions and who served in any branch of the military or naval service of the United States.

Food Safety, Department of Agriculture

SECTION 9. Title 46 of the S.C. Code is amended by adding:

CHAPTER 57

Food Safety

Section 46-57-10. The Department of Agriculture shall administer and enforce the provisions contained in this chapter.

Section 46-57-20. (A) For the purposes of this section:

(1) “Home-based food production operation” means an individual, operating out of the individual's dwelling, who prepares, processes, packages, stores, and distributes nonpotentially hazardous foods for sale directly to a person.

(2) “Nonpotentially hazardous foods” means candy and baked goods that are not potentially hazardous foods.

(3) “Person” means an individual consumer.

(4) “Potentially hazardous foods” means:

(a) an animal food that is raw or heat treated, a plant food that is heat treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes, or mixtures of cut tomatoes not modified to prevent microorganism growth or toxin formation, or garlic in oil mixtures not modified to prevent microorganism growth or toxin formation;

(b) certain foods that are designated as Product Assessment Required (PA) because of the interaction of the pH and Aw values in these foods. Below is a table indicating the interaction of pH and Aw for control of spores in food heat treated to destroy vegetative cells and subsequently packaged:

	Aw values	pH values		
		4.6 or less	> 4.6 - 5.6	> 5.6
(1)	< 0.92	non-PHF	non-PHF	non-PHF
(2)	> 0.92 - 0.95	non-PHF	non-PHF	PHF
(3)	> 0.95	non-PHF	PHF	PHF

Foods in item (2) with a pH value greater than 5.6 and foods in item (3) with a pH value greater than 4.6 are considered potentially hazardous unless a product assessment is conducted pursuant to the 2009 Federal Drug Administration Food Code.

(B) The operator of the home-based food production operation must take all reasonable steps to protect food items intended for sale from contamination while preparing, processing, packaging, storing, and distributing the items including, but not limited to:

(1) maintaining direct supervision of any person, other than the operator, engaged in the processing, preparing, packaging, or handling of food intended for sale;

(2) prohibiting all animals, including pets, from entering the area in the dwelling in which the home-based food production operation is located while food items are being prepared, processed, or packaged and prohibiting these animals from having access to or coming in contact with stored food items and food items being assembled for distribution;

(3) prohibiting all domestic activities in the kitchen while the home-based food production operation is processing, preparing, packaging, or handling food intended for sale;

(4) prohibiting any person who is infected with a communicable disease that can be transmitted by food, who is a carrier of organisms that can cause a communicable disease that can be transmitted by food, who has an infected wound, or who has an acute respiratory infection from processing, preparing, packaging, or handling food intended for sale by the home-based food production operation; and

(5) ensuring that all people engaged in processing, preparing, packaging, or handling food intended for sale by the home-based food production operation are knowledgeable of and follow safe food handling practices.

(C) Each home-based food production operation shall maintain a clean and sanitary facility to produce nonpotentially hazardous foods including, but not limited to:

(1) department-approved water supply;

(2) a separate storage place for ingredients used in foods intended for sale;

(3) a properly functioning refrigeration unit;

(4) adequate facilities, including a sink with an adequate hot water supply to meet the demand for the cleaning and sanitization of all utensils and equipment;

(5) adequate facilities for the storage of utensils and equipment;

(6) adequate hand washing facilities separate from the utensil and equipment cleaning facilities;

(7) a properly functioning toilet facility;

(8) no evidence of insect or rodent activity; and

(9) department-approved sewage disposal, either on-site treatment or publicly provided.

(D) All food items packaged at the operation for sale must be properly labeled. The label must comply with federal laws and regulations and must include:

(1) the name and address of the home-based food production operation;

(2) the name of the product being sold;

(3) the ingredients used to make the product in descending order of

predominance by weight; and

(4) a conspicuous statement printed in all capital letters and in a color that provides a clear contrast to the background that reads: "NOT FOR RESALE PROCESSED AND PREPARED BY A HOME-BASED FOOD PRODUCTION OPERATION THAT IS NOT SUBJECT TO SOUTH CAROLINA'S FOOD SAFETY REGULATIONS."

(E) Home-based food operations only may sell, or offer to sell, food items directly to a person for his own use and not for resale. A home-based food operation may not sell, or offer to sell, food items at wholesale. Food produced from a home-based food production operation must not be considered to be from an approved source, as required of a retail food establishment pursuant to Regulation 61-25.

(F) A home-based food production operation is not a retail food establishment and is not subject to regulation by the department pursuant to Regulation 61-25.

(G) The provisions of this section do not apply to an operation with net earnings of less than five hundred dollars annually but that would otherwise meet the definition of a home-based food operation provided in subsection (A)(1).

Section 46-57-30. (A) Notwithstanding any other provision of law, ground beef or any food containing ground beef prepared by a food service provider for public consumption must be cooked to heat all parts of the food to at least one hundred fifty-five degrees Fahrenheit, or sixty-eight degrees Celsius, unless otherwise ordered by the immediate consumer.

(B) The food service provider, its business, or its employees or agents, are not liable for any adverse effects to the purchaser or anyone else for providing a ground beef product cooked at an internal temperature less than one hundred fifty-five degrees Fahrenheit, or sixty-eight degrees Celsius, if providing the product is at the request of the purchaser and if the food service provider has notified the purchaser in advance that a possible health risk may exist by eating the product. The notice must state that a possible health risk may exist in eating undercooked ground beef at an internal temperature less than one hundred fifty-five degrees Fahrenheit, or sixty-eight degrees Celsius, and be given to the purchaser:

(1) in writing;

(2) as stated on the menu; or

(3) by visible sign warning.

(C) In order for an immediate consumer or purchaser, as used in this section, to request or order ground beef to be cooked to a temperature less than one hundred fifty-five degrees Fahrenheit (sixty-eight degrees

Celsius), the individual must be eighteen years of age or older.

Section 46-57-40. Fresh meat or fresh meat products sold to a consumer may not be offered to the public for resale for human consumption if the fresh meat or fresh meat products have been returned by the consumer.

Section 46-57-50. The Department of Agriculture may make, adopt, promulgate, and enforce reasonable rules and regulations from time to time requiring and providing for:

(1) the sanitation of hotels, restaurants, cafes, drugstores, hot dog and hamburger stands, all other places or establishments providing eating or drinking facilities, and all other places known as private nursing homes or places of similar nature, operated for gain or profit; and

(2) the production, storing, labeling, transportation, and selling of milk and milk products, filled milk and filled milk products, imitation milk and imitation milk products, synthetic milk and synthetic milk products, milk derivatives, and any other products made in semblance for milk or milk products; and

(3) the sanitation and control of abattoirs, meat markets, whether the same be definitely provided for that purpose or used in connection with other businesses, and bottling plants; and

(4) the sanitation and control of abattoirs, meat markets, whether the same be definitely provided for that purpose or used in connection with other business, and bottling plants.

Section 46-57-60. The department may not use any funds appropriated or authorized to the department to enforce Regulation 61-25 to the extent that its enforcement would prohibit a church or charitable organization from preparing and serving food to the public on their own premises at not more than one function a month or not more than twelve functions a year.

Section 46-57-70. (A) Except as provided in Section 46-57-50, a person who after notice violates, disobeys, or refuses, omits, or neglects to comply with a regulation of the Department of Agriculture promulgated pursuant to this chapter, is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned for thirty days.

(B) A person who after notice violates a rule, regulation, permit, permit condition, final determination, or order of the department issued pursuant to this chapter is subject to a civil penalty not to exceed one

thousand dollars a day for each violation.

(C) Fines collected pursuant to subsection (B) must be remitted by the department to the State Treasurer for deposit in the state general fund.

(D) The term "notice" as used in this section means either actual notice or constructive notice.

Food service inspections, prisons

SECTION 10. Section 24-9-20 of the S.C. Code is amended to read:

Section 24-9-20. The division shall be responsible for inspecting, in conjunction with a representative of the State Fire Marshal, at least annually every facility in this State housing prisoners or pretrial detainees operated by or for a state agency, county, municipality, or any other political subdivision, and such inspections shall include all phases of operation, fire safety, and health and sanitation conditions at the respective facilities. Food service operations of the facilities must be inspected at least annually by an employee of the Department of Agriculture. The inspections of local confinement facilities shall be based on standards established by the South Carolina Association of Counties and adopted by the Department of Corrections, and appropriate fire and health codes and regulations. The division, the inspecting fire marshal, and the food service inspector of the Department of Agriculture shall each prepare a written report on the conditions of the inspected facility. Copies of the reports shall be filed with the chairman of the governing body of the political subdivision having jurisdiction of the facility inspected, the chairman of the governing body of each political subdivision involved in a multi-jurisdictional facility, the administrator, manager, or supervisor for the political subdivision, the responsible sheriff or police chief if he has operational custody of the inspected facility, and the administrator or director of the inspected facility. All reports shall be filed through the Director of the Department of Corrections.

Frozen milk product consumer safety, Department of Agriculture

SECTION 11. Section 39-37-120 of the S.C. Code is amended to read:

Section 39-37-120. The Department of Agriculture shall enforce the provisions of this chapter and shall from time to time, after inquiry and public hearing, adopt and promulgate rules and regulations to supplement and give full effect to the provisions of this chapter. The

Department of Agriculture shall establish and enforce sanitary regulations pertaining to the manufacture and distribution of frozen desserts, including the sanitary condition of (a) buildings, ground, and equipment where frozen desserts are manufactured, (b) persons in direct physical contact with frozen desserts during manufacture, (c) containers in which frozen desserts are held or shipped and (d) premises, buildings, surroundings, and equipment where frozen desserts are sold. Such rules and regulations shall be filed and open for public inspection at the principal office of the department and shall have the force of law.

Contested case hearings

SECTION 12. Section 1-23-600(H)(1) of the S.C. Code is amended to read:

(1) This subsection applies to timely filed requests for a contested case hearing of decisions by the Department of Environmental Services. Emergency actions taken by the Department of Environmental Services pursuant to an applicable statute or regulation are not subject to the provisions of this subsection.

Department of Administration analysis

SECTION 13. (A) This SECTION is effective upon approval by the Governor.

(B) The Department of Administration shall identify, select, retain, and procure the services of independent, third-party experts, consultants, or advisors to analyze the missions and delivery models of all state agencies concerned with the overall public health of the State, as well as certain specific populations including, but not limited to, children and adolescents, newborns, pregnant women, the elderly, disabled, mentally ill, special needs individuals, those with chemical dependencies, the chronically ill, economically disadvantaged, and veterans. This analysis will include, but not be limited to, the Department of Health and Environmental Control and its successor entities, the Department of Mental Health, the Department of Alcohol and Other Drug Abuse Services, the Department of Disabilities and Special Needs, and the Department on Aging. Any agencies identified by the Department of Administration as being subject to this analysis shall provide the department with any and all information requested and shall fully participate as requested and required.

(C) The analysis procured by the Department of Administration shall

consider whether structural changes are necessary to improve health services delivery in the State, recognize operational efficiencies, and maximize resource utilization. Structural changes to be analyzed include reorganizations or mergers of existing health agencies, or divisions or components thereof, as well as the establishment of any new health agencies or the privatization of services currently provided by existing health agencies.

(D) The third-party experts, consultants, or advisors must make appropriate recommendations based on the analysis required pursuant to this section and the benefits of each recommendation.

(E) The Department of Administration shall prepare a final report summarizing the aforementioned analysis and recommendations and shall submit the final report to the President of the Senate, the Speaker of the House of Representatives, the Chairman of the Medical Affairs Committee, the Chairman of the Medical, Military and Municipal Affairs Committee, the Chairman of the Finance Committee, the Chairman of the Ways and Means Committee, and the Governor by April 1, 2024, and shall submit interim reports on October 1, 2023, and January 1, 2024. Procurements by the Department of Administration of all experts, consultants, and advisors pursuant to and required by this SECTION are exempt from the purchasing procedures of the South Carolina Consolidated Procurement Code in Chapter 35, Title 11 of the S.C. Code. If requested by the Executive Director of the Department of Administration, staff from the State Fiscal Accountability Authority's Procurement Services Division shall assist in procuring the necessary services.

(F) The Department of Health and Human Services shall give support to the Department of Administration in fulfilling the purposes of this SECTION.

State agency restructuring, effect of transfer of agencies and parts of agencies

SECTION 14. (A) When the provisions of this act transfer particular state agencies, departments, boards, commissions, committees, or entities, or sections, divisions, or portions thereof (transferring departments), to another state agency, department, division, or entity or make them a part of another department or division (receiving departments), the employees, authorized appropriations, bonded indebtedness, if applicable, real and personal property, assets, and liabilities of the transferring department also are transferred to and become part of the receiving department or division unless otherwise

specifically provided. All classified or unclassified personnel of the affected agency, department, board, commission, committee, entity, section, division, or position employed by these transferring departments on the effective date of this act, either by contract or by employment at will, shall become employees of the receiving department or division, with the same compensation, classification, and grade level, as applicable. The Department of Administration shall cause all necessary actions to be taken to accomplish this transfer and shall in consultation with the agency head of the transferring and receiving agencies prescribe the manner in which the transfer provided for in this section shall be accomplished. The Department of Administration's action in facilitating the provisions of this section are ministerial in nature and shall not be construed as an approval process over any of the transfers.

(B) When an agency, department, entity, or official is transferred to or consolidated with another agency, department, division, entity, or official, regulations promulgated by that transferred agency, department, entity, or official under the authority of former provisions of law pertaining to it are continued and are considered to be promulgated under the authority of present provisions of law pertaining to it. When powers and duties of an agency, department, entity, or official are transferred to and devolved upon another department, agency, or subdivision thereof, the power and duty to promulgate regulations is also transferred to and devolved upon that department, agency, or subdivision thereof.

(C) References to the names of agencies, departments, entities, or public officials changed by this act, to their duties or functions herein devolved upon other agencies, departments, entities, or officials, or to provisions of law consolidated with or transferred to other parts of the S.C. Code are considered to be and must be construed to mean appropriate references.

(D) Unless otherwise provided herein or by law, all fines, fees, forfeitures, or revenues imposed or levied by agencies, personnel, or portions thereof, so transferred to other agencies or departments must continue to be used and expended for those purposes provided prior to the effective date of this act. If a portion of these fines, fees, forfeitures, or revenues were required to be used for the support, benefit, or expense of personnel transferred, these funds must continue to be used for these purposes.

Savings

SECTION 15. 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 16. The provisions contained in SECTION 8 of this act relating to South Carolina Veterans Homes go into effect on July 1, 2024, for the veterans homes for which the Department of Mental Health has a service contract with a third-party provider as of May 1, 2023. The provisions contained in SECTION 8 of this act relating to South Carolina Veterans Homes go into effect on July 1, 2025, for the veterans homes for which the Department of Mental Health does not have a service contract with a third-party provider as of May 1, 2023.

Time effective

SECTION 17. This act takes effect on July 1, 2024, except that the provisions of SECTION 2 and SECTION 13, relating to the Department of Administration's duties, take effect upon approval by the Governor.

Ratified the 17th day of May, 2023

Approved the 19th day of May, 2023

No. 61

(R71, S459)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 55-9-235, SO AS TO PROVIDE FOR THE SALE AND CONSUMPTION OF LIQUOR BY THE DRINK THROUGHOUT THE TRANSPORTATION SECURITY ADMINISTRATION-SCREENED PORTION OF QUALIFYING SOUTH CAROLINA AIRPORTS.

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

Alcohol sales at airports

SECTION 1. Chapter 9, Title 55 of the S.C. Code is amended by adding:

Section 55-9-235. (A) During the hours of airport operation, any business establishment or concessionaire operating in the Transportation Security Administration-screened portion of Charleston International Airport, Columbia Metropolitan Airport, Florence Regional Airport, Greenville-Spartanburg Airport, Hilton Head Island Airport, or Myrtle Beach International Airport may, upon the written approval of the respective airport authority, sell alcoholic liquor by the drink to a person twenty-one years of age or older for consumption throughout the Transportation Security Administration-screened portion of the establishment's or concessionaire's respective airport terminal, provided that the establishment or concessionaire is licensed in South Carolina to sell alcoholic liquor by the drink for on-premise consumption.

(B) A person twenty-one years of age or older may purchase and consume alcoholic liquor by the drink throughout the interior of the Transportation Security Administration-screened portion of the respective airport terminal, provided that the purchase is from an approved business establishment or concessionaire licensed in South Carolina to sell alcoholic liquor by the drink for on-premise consumption.

Time effective

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

Ratified the 17th day of May, 2023

Approved the 19th day of May, 2023

No. 62

(R74, S569)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 44-36-320, RELATING TO THE DUTIES OF THE ALZHEIMER'S DISEASE AND RELATED DISORDERS RESOURCE COORDINATION CENTER, SO AS TO ADD TO THE CENTER'S DUTIES CONCERNING THE STATEWIDE PLAN TO ADDRESS ALZHEIMER'S DISEASE AND RELATED DEMENTIAS; BY AMENDING SECTION 44-36-330, RELATING TO THE ADVISORY COUNCIL TO THE ALZHEIMER'S DISEASE AND RELATED DISORDERS RESOURCE COORDINATION CENTER, SO AS TO PROVIDE THAT THE ADVISORY COUNCIL MUST DEVELOP A STATEWIDE PLAN TO ADDRESS ALZHEIMER'S DISEASE AND RELATED DEMENTIAS AND TO PROVIDE THAT THE STATEWIDE PLAN MUST BE UPDATED EVERY FIVE YEARS; AND TO PROVIDE THAT THE STATEWIDE PLAN MUST BE UPDATED IN 2028 AND EVERY FIVE YEARS THEREAFTER.

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

Alzheimer's Disease and Related Disorders Resource Coordination Center, duties

SECTION 1. Section 44-36-320 of the S.C. Code is amended by adding:

(9) convene the advisory council to update the statewide plan to address Alzheimer's disease and related dementias;

(10) when updating the statewide plan, the advisory council must solicit input from the Department of Health and Environmental Control,

the Department of Health and Human Services, and the Department of Social Services to ensure the formulation of a comprehensive statewide plan that meets the needs of the State; and

(11) submit an annual report to the Governor and the General Assembly by September thirtieth concerning progress toward fulfilling the statewide plan.

Advisory council

SECTION 2. Section 44-36-330 of the S.C. Code is amended by adding:

(C) The advisory council shall maintain and update a statewide plan to address Alzheimer's disease and related dementias. The plan must be updated every five years.

Statewide plan

SECTION 3. The statewide plan to address Alzheimer's disease and related dementias must be updated in 2028 and every five years thereafter.

Time effective

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

Ratified the 17th day of May, 2023

Approved the 19th day of May, 2023

No. 63

(R79, H3340)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 23-3-330, RELATING TO THE ENDANGERED PERSON NOTIFICATION SYSTEM, SO AS TO PROVIDE THE SYSTEM ALSO SHALL PROVIDE FOR THE

DISSEMINATION OF INFORMATION REGARDING MISSING PERSONS BELIEVED TO BE SUFFERING ALZHEIMER'S DISEASE OR A DEVELOPMENTAL DISABILITY SUCH AS AUTISM SPECTRUM DISORDER THROUGH THE USE OF WIRELESS EMERGENCY ALERT NOTIFICATIONS, DEPARTMENT OF TRANSPORTATION MESSAGE SIGNS, SLED WIRELESS EMERGENCY ALERTS, AND CERTAIN MEDIA OUTLETS.

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

Endangered person notification system

SECTION 1. Section 23-3-330 of the S.C. Code is amended to read:

Section 23-3-330. (A) The Endangered Person Notification System is established within the Missing Person Information Center. The purpose of the Endangered Person Notification System is to provide a statewide system for the rapid dissemination of information regarding a missing person who is believed to be suffering from Alzheimer's disease, dementia, a developmental disability such as autism spectrum disorder, or some other cognitive impairment.

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

(C) The center shall adopt guidelines and develop procedures for issuing notifications, including wireless emergency alert notifications, for missing persons believed to be suffering from Alzheimer's disease, dementia, a developmental disability such as autism spectrum disorder, or some other cognitive impairment, provide education and training to local law enforcement agencies, and encourage radio and television broadcasters to participate in the notifications.

(D) The center shall consult with the Department of Transportation and develop a procedure for the use of overhead permanent changeable message signs to provide information on a missing person who is believed to be suffering from Alzheimer's disease, dementia, a developmental disability such as autism spectrum disorder, or some other cognitive impairment when the person's vehicle and license tag

information is available. The Department of Transportation shall utilize current protocol for the content, length, and frequency of any message to be placed on an overhead permanent changeable message sign.

(E) The South Carolina Law Enforcement Division shall be authorized to send wireless emergency alerts pursuant to this section.

Time effective

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

Ratified the 17th day of May, 2023

Approved the 19th day of May, 2023

No. 64

(R80, H3433)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY REPEALING SECTION 50-5-2545 RELATING TO POINTS AND SUSPENSIONS PRIOR TO THE MARINE RESOURCES ACT OF 2000; BY REPEALING SECTION 50-9-1160 RELATING TO JUDICIAL REVIEW OF A SUSPENSION OF HUNTING AND FISHING PRIVILEGES; BY AMENDING SECTION 50-5-2510, RELATING TO THE SUSPENSION OF SALTWATER PRIVILEGES FOR THE ACCUMULATION OF POINTS, SO AS TO CHANGE THE METHOD FOR THE NOTICE OF SUSPENSION; BY AMENDING SECTION 50-5-2515, RELATING TO THE NOTICE OF SUSPENSION OF SALTWATER PRIVILEGES, SO AS TO ALLOW FOR WRITTEN NOTICE BY UNITED STATES MAIL; BY AMENDING SECTION 50-9-1140, RELATING TO THE SUSPENSION OF HUNTING AND FISHING PRIVILEGES, SO AS TO CHANGE THE METHOD FOR THE NOTICE OF SUSPENSION; AND BY AMENDING SECTION 50-9-1150, RELATING TO THE NOTICE OF SUSPENSION OF HUNTING AND FISHING PRIVILEGES, SO AS TO ALLOW FOR WRITTEN NOTICE BY UNITED STATES MAIL AND TO

PROVIDE FOR A METHOD OF APPEAL.

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

Repeal

SECTION 1. Sections 50-5-2545 and 50-9-1160 of the S.C. Code are repealed.

Suspension of saltwater privileges, notice

SECTION 2.A. Section 50-5-2510 of the S.C. Code is amended to read:

Section 50-5-2510. (A) The department must suspend for one year the related saltwater privileges and associated licenses and permits issued to a person or entity that has accumulated eighteen or more points under any point category. Privileges related to each point category are as follows:

(1) commercial: commercial saltwater fishing license, equipment license, and bait dealer license, and

(2) recreational: recreational saltwater fishing license, pier license, charter fishing vessel license, shrimp baiting license, and any other saltwater licenses utilized for recreational purposes.

(B) Any suspension under this article begins the twenty-first day after the department mails written notice of the suspension and ends the same day the following year.

B. Section 50-5-2515 of the S.C. Code is amended to read:

Section 50-5-2515. (A) Upon determination by the department that a person or entity has accumulated sufficient points to warrant the suspension of any saltwater privilege, the department must notify the person or entity in writing that the person's or entity's saltwater privilege has been suspended, and the person or entity must return all the suspended licenses or permits in the person's or entity's name to the department no later than ten days following the effective date of the suspension.

(B) The notice of the suspension must be given by the department by depositing the notice in the United States mail with postage prepaid addressed to the person or entity at the address contained in the records of the department. The giving of notice by mail is complete twenty days after the deposit of the notice. A certificate by the director of the

department, or his designee, that the notice has been sent as required in this section is presumptive proof that the requirements as to notice of suspension have been met even if the notice has not been received by the addressee.

Suspension of hunting and fishing privileges, notice

SECTION 3.A. Section 50-9-1140 of the S.C. Code is amended to read:

Section 50-9-1140. The department shall suspend for one year the hunting and fishing privileges of a person who has eighteen or more points. The suspension begins the twenty-first day after the department mails written notice of the suspension, and ends the same day the following year.

B. Section 50-9-1150 of the S.C. Code is amended to read:

Section 50-9-1150. (A) Upon determination that a person has accumulated sufficient points to warrant suspension of privileges, the department shall notify him in writing that his privileges are suspended, and the person shall return the license and any tags in the person's name to the department no later than ten days following the effective date of the suspension.

(B) The notice of the suspension must be given by the department by depositing the notice in the United States mail with postage prepaid addressed to the person at the address contained in the records of the department. The giving of notice by mail is complete twenty days after the deposit of the notice. A certificate by the director of the department, or his designee, that the notice has been sent as required in this section is presumptive proof that the requirements as to notice of suspension have been met even if the notice has not been received by the addressee.

(C) A person whose privileges have been suspended may appeal the decision of the department under the Administrative Procedures Act.

Time effective

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

Ratified the 17th day of May, 2023

Approved the 19th day of May, 2023

No. 65

(R81, H3538)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 50-11-546, RELATING TO ELECTRONIC HARVEST REPORTING, SO AS TO INCLUDE REFERENCES TO BIG GAMES SPECIES AND TO OUTLINE REQUIREMENTS OF THE PERSON WHO TAKES A BIG GAME CARCASS FOR PROCESSING AND OF THE PROCESSOR; BY AMENDING SECTION 50-11-320, RELATING TO THE ISSUANCE OF TAGS FOR HUNTING AND TAKING DEER, SO AS TO INCLUDE A REFERENCE TO THE ELECTRONIC HARVEST REPORTING SYSTEM; BY AMENDING SECTION 50-11-390, RELATING TO THE DEPARTMENTAL AUTHORITY OF GAME ZONES, SO AS TO INCLUDE A REFERENCE TO THE ELECTRONIC HARVEST REPORTING SYSTEM; AND BY AMENDING SECTION 50-9-1120, RELATING TO THE POINT SYSTEM FOR VIOLATIONS, SO AS TO INCLUDE A REFERENCE TO BIG GAME SPECIES.

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

Electronic harvest reporting system

SECTION 1. Section 50-11-546 of the S.C. Code is amended to read:

Section 50-11-546. (A) In order to document the harvest of big game species and to assist with the enforcement of seasons, methods of harvest, and bag limits, the department must implement an electronic harvest reporting system.

(B) A person who harvests a big game species must report the harvest to the electronic harvest reporting system as prescribed by the department. A harvest report must be submitted by midnight of the day of harvest unless a person is incapable of accessing the reporting system, in which case a report must be submitted prior to the carcass leaving the person's possession.

(C) Upon completion of the harvest reporting process, a harvest report

confirmation number will be provided by the department and it must be recorded by the person submitting the harvest report. A person who takes a big game carcass to a processor must provide the tag number and harvest report confirmation number to the processor at the time the carcass transfers from the person to the processor. The processor must record and maintain the harvest report confirmation number until the processed meat is received by the hunter or their designee.

(D) The department must promulgate regulations to implement the provisions of this section, including the methods of telephonic and electronic reporting, contents of the report, and recording and maintenance of the harvest report confirmation number.

(E) The department is prohibited from requesting or acquiring the geolocation data of a person submitting a harvest report through electronic means and from requesting a person to self-report location information to the harvest reporting system more specific than the county and wildlife management area, if applicable, in which a big game species is harvested.

(F) There is no cost to a person for reporting a harvest, and the department may exempt the harvest reporting requirement for persons who harvest big game species under specific conditions or department programs.

(G) A person who violates this section or provisions established by the department for electronic harvest reporting is guilty of a misdemeanor and, upon conviction, must be fined not more than twenty-five dollars.

Issuance of tags for hunting and taking deer

SECTION 2. Section 50-11-320(B) of the S.C. Code is amended to read:

(B)(1) Deer taken pursuant to individual deer tags, during any season regardless of weapon, must be tagged with a valid individual deer tag. Each tag must be attached to the deer as prescribed by the department before the animal is moved from the point of kill.

(2) Deer taken pursuant to Deer Quota Program tags must be tagged with a valid Deer Quota Program tag and reported to the electronic harvest reporting system pursuant to the provisions of Section 50-11-546. Each tag must be attached to the deer as prescribed by the department before the animal is moved from the point of kill.

Departmental authority over game zones

SECTION 3. Section 50-11-390(D) of the S.C. Code is amended to read:

(D) Deer taken pursuant to a Deer Quota Program permit must be tagged with a valid Deer Quota Program tag and reported to the electronic harvest reporting system pursuant to the provisions of Section 50-11-546. Each tag must be attached to the deer as prescribed by the department before the animal is moved from the point of kill.

Point system for violations

SECTION 4. Section 50-9-1120(2)(t) of the S.C. Code is amended to read:

(t) failing to report the harvest of big game species as required by Section 50-11-546: 6.

Time effective

SECTION 5. This act takes effect on July 1, 2024.

Ratified the 17th day of May, 2023

Approved the 19th day of May, 2023

No. 66

(R83, H3691)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 17-5-135 SO AS TO ALLOW CORONERS, DEPUTY CORONERS, OR CORONERS' DESIGNEES TO POSSESS AND ADMINISTER OPIOID ANTIDOTES UNDER CERTAIN CIRCUMSTANCES; BY ADDING SECTION 44-130-90 SO AS TO PROVIDE PROCEDURES FOR THE ADMINISTRATION OF OPIOID

ANTIDOTES BY CORONERS, DEPUTY CORONERS, AND CORONERS' DESIGNEES AND FOR THE REPORTING OF THEIR USE; BY AMENDING SECTION 17-5-510, RELATING TO DUTIES OF CORONERS AND MEDICAL EXAMINERS, SO AS TO RESTATE THE SECTION; AND BY ADDING SECTION 17-5-150 SO AS TO PROVIDE THAT CORONERS AND DEPUTY CORONERS ARE CONSIDERED PUBLIC SAFETY OFFICERS IF KILLED IN THE LINE OF DUTY.

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

Coroners, opioid antidote administration

SECTION 1. Article 3, Chapter 5, Title 17 of the S.C. Code is amended by adding:

Section 17-5-135. A coroner, deputy coroner, or coroner's designee may possess and administer an opioid antidote pursuant to the requirements of the South Carolina Overdose Prevention Act. The coroner, deputy coroner, or coroner's designee must comply with all of the requirements of Section 44-130-90 and is entitled to immunity from civil or criminal liability or professional disciplinary action when administering an opioid antidote to a person he believes in good faith is experiencing an opioid overdose.

Coroners, opioid antidote administration procedures

SECTION 2. Chapter 130, Title 44 of the S.C. Code is amended by adding:

Section 44-130-90. (A) A coroner, deputy coroner, or coroner's designee may administer an opioid antidote if the coroner, deputy coroner, or coroner's designee believes in good faith that the person is experiencing an opioid overdose and exercises reasonable care.

(B) The coroner, deputy coroner, or coroner's designee must comply with all applicable requirements for possession, administration, and disposal of the opioid antidote and administration device. The department may promulgate regulations to implement this section, including appropriate training for coroners, deputy coroners, or coroners' designees who carry or have access to an opioid antidote.

(C) A coroner, deputy coroner, or coroner's designee who administers an opioid antidote in accordance with the provisions of this section to a

person who the coroner, deputy coroner, or coroner's designee believes in good faith is experiencing an opioid overdose is not by an act or omission subject to civil or criminal liability or to professional disciplinary action.

(D)(1) A coroner, deputy coroner, or coroner's designee who administers an opioid antidote as provided in this section shall report to the department's Bureau of Emergency Medical Services information regarding the opioid antidote administered for inclusion in the prescription monitoring program. The information submitted must include:

(a) date the opioid antidote was administered; and

(b) name, address, and date of birth of the person to whom the opioid antidote was administered, if available.

(2) A coroner, deputy coroner, or coroner's designee shall submit the information required pursuant to item (1) electronically or by facsimile to the Bureau of Emergency Medical Services within thirty days of administration. The Bureau of Emergency Medical Services shall transmit the information to the department's Bureau of Drug Control.

(3)(a) If a coroner, deputy coroner, or coroner's designee submits the name, address, and date of birth of a person to whom an opioid antidote was administered, Drug Control shall verify whether any prescription history of the person appears in the prescription monitoring program and, if prescription history exists, shall document for review by a practitioner or an authorized delegate the date on which the opioid antidote was administered to the person. If no history exists, then Drug Control shall confirm that the antidote was administered in response to a verified opioid overdose. If the antidote was administered in error, then Drug Control shall document the error.

(b) Drug Control also shall maintain data on the administering of opioid antidotes by coroners, deputy coroners, or coroners' designees including, but not limited to, the frequency with which coroners, deputy coroners, or coroners' designees administer opioid antidotes by geographic location, coroner, deputy coroner, or coroner's designee, and dispenser.

Coroners and medical examiners duties

SECTION 3. Section 17-5-510 of the S.C. Code is amended to read:

Section 17-5-510. In counties which have both a coroner and a medical examiner:

(1) the coroner has the ultimate responsibility for carrying out the duties required by this article;

(2) the medical examiner's duties must be specified in an annual written contract between the county governing body and the medical examiner.

Coroners and deputy coroners considered public safety officers

SECTION 4. Article 3, Chapter 5, Title 17 of the S.C. Code is amended by adding:

Section 17-5-150. Coroners and deputy coroners are considered public safety officers under 34 U.S.C. Section 10281, et seq., if killed in the line of duty.

Time effective

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

Ratified the 17th day of May, 2023

Approved the 19th day of May, 2023

ASHLEY HARWELL-BEACH
Code Commissioner
P. O. Box 11489
Columbia, S.C. 29211