

## Session 109 - (1991-1992)

### **S 0876 General Bill, By Peeler**

A Bill to amend Section 44-53-110, as amended, Code of Laws of South Carolina, 1976, relating to narcotics and controlled substances and definitions, so as to add new definitions; to amend Section 44-53-160, relating to the manner in which changes in the schedule of controlled substances must be made, so as to delete provisions, add provisions, and provide that that Department of Health and Environmental Control may consider findings of the Federal Food and Drug Administration or the Drug Enforcement Administration as prima facie evidence relating to one or more of the factors, as provided in the Section, in connection with the Department's determination to add to, delete from, or revise the schedules of substances; to amend Section 44-53-180, relating to tests for the inclusion of a controlled substance in Schedule I, so as to include lack of dental use as a determining factor; to amend Section 44-53-190, relating to the Schedule I controlled substances, so as to add certain substances to the Schedule and to delete alfentanil; to amend Section 44-53-210, relating to the Schedule II controlled substances, so as to add alfentanil, carfentanil, and certain hallucinogenic substances; to amend Section 44-53-230, relating to the Schedule III controlled substances, so as to add tiletamine and zolazepam and any of their salts; to amend Section 44-53-250, relating to the Schedule IV controlled substances, so as to add Midazolam, Quazepam, Cathine, Fencamphamin, Fenproporex, and Mefenorex; to amend Section 44-53-270, relating to the Schedule V controlled substances, so as to include narcotic drugs (specifically, Buprenorphine) and stimulants (specifically, Propylhexedrine and Pyrovalerone); to amend Section 44-53-280, relating to narcotics and controlled substances, the promulgation of regulations, requirement of professional license, and failure to renew registration, so as to add provisions, including the provision that practitioners employed by or who work under the auspices of the federal government or any of its agencies who dispense controlled substances directly from government stocks or who issue prescriptions to be dispensed by federally-owned or federally-operated dispensaries or pharmacies are not required to register under Article 3, Chapter 53, Title 44, but these practitioners may not issue prescriptions for controlled substances to be dispensed by pharmacies or dispensaries owned or operated by nonfederal entities; to amend Section 44-53-300, relating to the registration of an applicant to manufacture, distribute, or dispense controlled substances included in certain code sections, so as to delete provisions, add provisions, provide that furnishing by the applicant of false or fraudulent material in any application or other document or any regulation must be considered by the Department in determining the public interest for purposes of registration, and provide that suspension or revocation of the applicant's federal registration or the applicant's registration in another state to manufacture, distribute, dispense, conduct research, or conduct any other activity with controlled substances as authorized by federal law or the law of another state must also be considered in determining the public interest for purposes of registration; to amend Section 44-53-310, relating to the grounds for denial, revocation, or suspension of registration granted pursuant to Section 44-53-300 and the applicable civil fine, so as to add provisions that, notwithstanding the provisions of Section 44-53-580, the Department shall deposit all civil fines levied pursuant to Section 44-53-310(B) with the State Treasurer, who must deposit them in a special fund from which the Department must be reimbursed for administrative costs for each case disposed of pursuant to Section 44-53-320, any hearings held pursuant to Section 44-53-160, unrecoverable costs incurred by the Department in the enforcement of Section 44-53-310(H), or in regulation-promulgating procedures pursuant to Section 44-53-280 and that the Department may seize or place under seal any controlled substance owned or possessed by a registrant whose registration has expired or who has ceased to exist, practice, or do business in the manner contemplated by the registration; to amend Section 44-53-360, relating to prescriptions under the provisions of law on narcotics and controlled substances, so as to delete provisions, add provisions, allow the Department, with the written concurrence of the State Board of Medical Examiners and the State Board of Dentistry, to permit individual practitioners to utilize a particular controlled substance for a particular purpose for an individual or group of individuals on an experimental basis, change the number of allowed refills for a prescription under certain circumstances, provide that directions for use of a prescribed controlled substance must be specific and indefinite instructions for dosage and use must be deemed inadequate directions for use, prohibit a practitioner to dispense directly or issue prescriptions for the treatment of obesity with controlled substances listed in Schedules III or IV for a period exceeding twelve weeks annually, provide that a practitioner may dispense or deliver a controlled substance to or for an individual or animal only for bona fide medical or dental treatment or authorized research in the ordinary course of that practitioner's profession, prohibit an individual practitioner from dispensing controlled substances for his own use, or that of his family, or of any person with whom the individual practitioner has a personal or professional relationship which is likely to vitiate the professional objectivity required for the proper dispensing of controlled substances for legitimate medical or dental purposes, prohibit the dispensing of Schedule V controlled substances containing codeine or its salts without a prescription after December 31, 1991, and provide that no pharmacy may dispense a prescription for controlled substances to any person not personally known to and identifiable by the dispensing pharmacist unless positive identification, as defined in Section 44-53-110, is obtained and recorded on the prescription document prior to the dispensing; to amend Section 44-53-380, relating to narcotics and controlled substances, "prohibited acts B", and

penalties, so as to delete provisions, add provisions, make it unlawful for any manufacturer or distributor, or agent for or employee of any manufacturer or distributor, having reasonable cause to believe that a controlled substance will be used, sold, distributed, or dispensed in violation of Article 3, Chapter 53, Title 44, to deliver the controlled substance, provide that any person other than a corporation who violates Section 44-53-380 is guilty of a misdemeanor and, upon conviction, must be imprisoned for not more than five years or fined not more than ten thousand dollars for a first offense, provide that any person other than a corporation who violates this Section by a second or subsequent offense is guilty of a felony and, upon conviction, must be imprisoned for not less than three years nor more than ten years and fined not less than twenty thousand dollars nor more than fifty thousand dollars, and provide a penalty for a corporation which violates this Section; to amend Section 16-1-10, as amended, relating to the list of crimes classified as felonies, so as to add to that list the specified felony offense in Section 44-53-380; to amend Section 44-53-420, relating to attempt and conspiracy under the laws on narcotics and controlled substances, so as to delete certain provisions and language and provide that any person who attempts or conspires to commit any offense made unlawful by Article 3, Chapter 53, Title 44, must, upon conviction, be fined or imprisoned in the same manner as if the person had committed or completed the offense planned or attempted; and to amend Section 44-53-450, relating to conditional discharge for, a first offense, so as to provide that the Department's Bureau of Drug Control may retain a nonpublic administrative record, not subject to public disclosure, of any investigation which has been conducted by the Department of any person who has been registered under Article 3, Chapter 53, Title 44, or any person who has had or is likely to have access to controlled substances as an incidental part of his normal employment, in order that the Department may adequately determine whether it is in the public interest for that person to have continued or future access to controlled substances.

**04/10/91    Senate    Introduced and read first time SJ-8**

**04/10/91    Senate    Referred to Committee on Judiciary SJ-12**