~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

May 13, 2009

**H. 3013**

Introduced by Reps. Limehouse, Parker and Toole

S. Printed 5/13/09--S.

Read the first time April 1, 2009.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3013) to amend Section 16‑11‑650, Code of Laws of South Carolina, 1976, relating to the offense of removing or destroying fences, gates, or other barriers, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Section 16‑11‑650 of the 1976 Code is amended to read:

“Section 16‑11‑650. (A) ~~Any~~ A person, other than the owner or a person acting under the authority of the owner, who ~~shall remove, destroy or leave~~ wilfully and knowingly removes, destroys, or leaves down any portion of ~~any~~ a fence in this State intended to enclose animals of any kind or crops or uncultivated lands or who ~~shall leave~~ wilfully and knowingly leaves open ~~any~~ or removes a gate or ~~leave~~ leaves down ~~any~~ bars or other structure intended for ~~a like~~ the same purpose ~~shall be~~ is guilty of a misdemeanor and ~~shall~~ must be punished by a fine of ~~not less than five nor more than thirty~~ one thousand dollars or ~~be imprisoned in the county jail not less than five and not more than~~ imprisonment for thirty days, or both.

(B) The magistrates court is vested with jurisdiction to hear and dispose of these cases.

(C) Nothing in this section shall affect an easement holder’s right and ability to maintain such easement and rights‑of‑way consistent with the provisions of the document granting such easement.”

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

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

Renumber sections to conform.

Amend title to conform.

JOHN M. KNOTTS, JR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The Department of Corrections indicates that this bill will have a minimal impact on the General Fund of the State, which the agency can absorb at the current level of funding.

**LOCAL GOVERNMENT IMPACT**

The FIST network of local governments was surveyed to determine the impact of this bill. Respondents indicated that this bill would have no fiscal impact on their operations.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO AMEND SECTION 16‑11‑650, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE OFFENSE OF REMOVING OR DESTROYING FENCES, GATES, OR OTHER BARRIERS ENCLOSING ANIMALS, CROPS, OR UNCULTIVATED LANDS, SO AS TO REVISE THE ELEMENTS OF THE OFFENSE AND INCREASE PENALTIES FOR VIOLATIONS AND TO VEST JURISDICTION TO HEAR AND DISPOSE OF THIS OFFENSE IN MAGISTRATES COURT.

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

SECTION 1. Section 16‑11‑650 of the 1976 Code is amended to read:

“Section 16‑11‑650. (A) ~~Any~~A person, other than the owner or a person acting under the authority of the owner, who ~~shall remove, destroy or leave~~ wilfully and knowingly removes, destroys, or leaves down any portion of ~~any~~a fence in this State intended to enclose animals of any kind or crops or uncultivated lands or who ~~shall leave~~wilfully and knowingly leaves open ~~any~~or removes a gate or ~~leave~~leaves down ~~any~~ bars or other structure intended for ~~a like~~the same purpose ~~shall be~~is guilty of a misdemeanor and ~~shall~~must be punished ~~by a fine of not less than five nor more than thirty dollars or be imprisoned in the county jail not less than five and not more than thirty days~~as follows:

(1) for a first offense, by a fine of one thousand dollars or imprisonment for thirty days, or both;

(2) for a second offense, by a fine of five thousand dollars, or imprisonment for six months, or both;

(3) for a third or subsequent offense, by a fine of ten thousand dollars or imprisonment for one year, or both.

Only those offenses occurring within ten years of the last offense constitute prior offenses within the meaning of this section.

The magistrates court is vested with jurisdiction to hear and dispose of these cases.

(B) Nothing in this section shall affect an easement holder’s right and ability to maintain such easement and rights‑of‑way consistent with the provisions of the document granting such easement.”

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

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

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