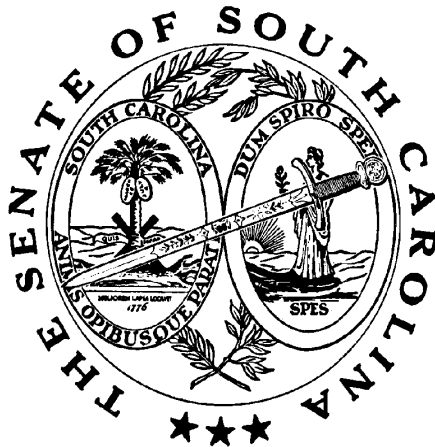


NO. 58

JOURNAL
OF THE
SENATE
OF THE
STATE OF SOUTH CAROLINA



REGULAR SESSION BEGINNING TUESDAY, JANUARY 13, 2009

WEDNESDAY, MAY 6, 2009

Wednesday, May 6, 2009
(Statewide Session)

~~Indicates Matter Stricken~~

Indicates New Matter

The Senate assembled at 11:00 A.M., the hour to which it stood adjourned, and was called to order by the PRESIDENT.

A quorum being present, the proceedings were opened with a devotion by the Chaplain as follows:

In Psalm 37 we read:

“Commit your way to the Lord; trust in him and he will do this: He will make your righteousness shine like the dawn, the justice of your cause like the noonday sun.” (Psalm 37:5-6)

Please, bow with me as we pray together:

Holy God, we seek to be Your servants in everything we say and do—always. Fill the hearts and minds of these Senators that they might truly trust in You. May their decisions and actions always reflect Your desires and Your intent, bringing glory to You and benefit to the people of South Carolina. In Your loving name we pray, O Lord. Amen.

The PRESIDENT called for Petitions, Memorials, Presentments of Grand Juries and such like papers.

Call of the Senate

At 11:29 A.M., Senator McCONNELL moved that a Call of the Senate be made. The following Senators answered the Call:

Alexander	Anderson	Bright
Bryant	Campbell	Campsen
Cleary	Cromer	Davis
Elliott	Fair	Ford
Grooms	Hayes	Hutto
Jackson	Knotts	Land
Leatherman	Leventis	Lourie
Malloy	<i>Martin, L.</i>	<i>Martin, S.</i>
Massey	Matthews	McConnell
McGill	Mulvaney	Nicholson
O'Dell	Peeler	Rankin
Reese	Rose	Scott
Setzler	Shoopman	Thomas
Verdin	Williams	

[SJ]

WEDNESDAY, MAY 6, 2009

A quorum being present, the Senate resumed.

Motion Adopted

Senator KNOTTS asked unanimous consent to make a motion that he and Senator ALEXANDER be granted leave to attend a subcommittee meeting, be counted in any quorum calls and be granted leave to vote from the balcony.

There was no objection.

REGULATION RECEIVED

The following was received and referred to the appropriate committee for consideration:

Document No. 4068

Agency: Board of Funeral Service

SUBJECT: Funeral Service Practice Act

Received by Lieutenant Governor May 5, 2009

Referred to Judiciary Committee

Legislative Review Expiration April 11, 2010

Doctor of the Day

Senator LOURIE introduced Dr. Thomas E. Gibbons of Columbia, S.C., Doctor of the Day.

Leave of Absence

At 5:20 P.M., Senator KNOTTS requested a leave of absence until 8:30 P.M. this evening.

Leave of Absence

On motion of Senator MALLOY, at 5:45 P.M., Senator PINCKNEY was granted a leave of absence for this week.

Leave of Absence

At 6:00 P.M., Senator VERDIN requested a leave of absence beginning at 1:00 P.M. on Thursday and lasting until Tuesday, May 12, 2009, at Noon.

CO-SPONSORS ADDED

The following co-sponsors were added to the respective Bills:

[SJ]

2

WEDNESDAY, MAY 6, 2009

S. 144 Sen. Ford
S. 282 Sen. Ford
S. 372 Sen. Ford
S. 416 Sen. Ford
S. 455 Sen. Ford
S. 554 Sen. Ford
S. 636 Sen. Ford
S. 673 Sen. Ford

MOTION ADOPTED

At 11:27 A.M., on motion of Senator McCONNELL, with unanimous consent, the Senate agreed to go into Executive Session immediately following a Call of the Uncontested Local and Statewide Calendar.

INTRODUCTION OF BILLS AND RESOLUTIONS

The following were introduced:

S. 787 -- Senator Scott: A SENATE RESOLUTION TO RECOGNIZE AND HONOR THE LIFE AND FAITHFULNESS OF FRANCES ALEXANDER DORSEY ON MOTHER'S DAY AND TO COMMEND HER FOR YEARS OF SERVICE TO HER FAMILY, HER CHURCH, AND HER COMMUNITY.

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The Senate Resolution was adopted.

S. 788 -- Senators Nicholson and O'Dell: A SENATE RESOLUTION TO RECOGNIZE AND COMMEND THE CAMBRIDGE ACADEMY GOLF TEAM FOR CAPTURING THE 2009 SOUTH CAROLINA INDEPENDENT SCHOOL ASSOCIATION CLASS A STATE CHAMPIONSHIP TITLE, AND TO HONOR THESE EXCEPTIONAL PLAYERS, COACHES, AND STAFF.

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The Senate Resolution was adopted.

S. 789 -- Senators Rose, S. Martin, Davis, Bright, Shoopman, Williams, Bryant, Peeler, Thomas and Campsen: A BILL TO AMEND ARTICLE 1, CHAPTER 103, TITLE 59 OF THE 1976 CODE, RELATING TO THE COMMISSION ON HIGHER EDUCATION,

[SJ]

WEDNESDAY, MAY 6, 2009

BY ADDING SECTION 59-103-115 TO PROVIDE THAT EACH PUBLIC INSTITUTION OF HIGHER LEARNING MUST MAINTAIN A DETAILED TRANSACTION REGISTER OF ALL FUNDS EXPENDED EACH MONTH AND POST THAT REGISTER ONLINE, AND TO PROVIDE THAT EACH PUBLIC INSTITUTION OF HIGHER LEARNING MUST POST ONLINE ALL OF ITS CREDIT CARD STATEMENTS AND THE CREDIT CARD STATEMENTS FOR CREDIT CARDS ISSUED TO PUBLIC OFFICIALS AND EMPLOYEES FOR PUBLIC USE.

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Senator ROSE spoke on the Bill.

Read the first time and referred to the Committee on Education.

S. 790 -- Senator L. Martin: A BILL TO AMEND CHAPTER 3, TITLE 16 OF THE 1976 CODE, BY ADDING ARTICLE 19 TO ESTABLISH A PROCEDURE FOR THE ISSUANCE OF TEMPORARY AND PERMANENT CIVIL NO-CONTACT ORDERS UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE FOR THE DURATION OF CIVIL NO-CONTACT ORDERS, TO PROVIDE NECESSARY DEFINITIONS, TO PROVIDE A PENALTY FOR THE VIOLATION OF CIVIL NO-CONTACT ORDERS, TO PROVIDE FOR THE ENFORCEMENT OF FOREIGN PROTECTION ORDERS, AND TO PROVIDE FOR THE REQUIREMENTS FOR VALID FOREIGN PROTECTION ORDERS.

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Read the first time and referred to the Committee on Judiciary.

S. 791 -- Senator L. Martin: A BILL TO REQUIRE THE SOUTH CAROLINA BUILDING CODES COUNCIL TO ADOPT CERTAIN SEISMIC AND WIND MAPS FOR THE STATE UNTIL THE YEAR 2012 WHEN THE INTERNATIONAL RESIDENTIAL CODE (IRC) IS ADOPTED IN THIS STATE; AND TO AMEND SECTION 6-9-40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE BUILDING CODE ADOPTION PROCEDURE, SO AS TO PROVIDE THAT THE COMMUNITY MAY OPT OUT OF THESE BUILDING CODE MODIFICATIONS IN CERTAIN CIRCUMSTANCES.

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Read the first time and referred to the Committee on Labor, Commerce and Industry.

[SJ]

WEDNESDAY, MAY 6, 2009

S. 792 -- Senators Scott, Alexander, Anderson, Bright, Bryant, Campbell, Campsen, Cleary, Coleman, Courson, Cromer, Davis, Elliott, Fair, Ford, Grooms, Hayes, Hutto, Jackson, Knotts, Land, Leatherman, Leventis, Lourie, Malloy, L. Martin, S. Martin, Massey, Matthews, McConnell, McGill, Mulvaney, Nicholson, O'Dell, Peeler, Pinckney, Rankin, Reese, Rose, Ryberg, Setzler, Sheheen, Shoopman, Thomas, Verdin and Williams: A CONCURRENT RESOLUTION TO DECLARE THE MONTH OF OCTOBER 2009 AS GANG AWARENESS MONTH IN SOUTH CAROLINA IN ORDER TO RAISE PUBLIC AWARENESS OF THE INCREASING PROBLEM OF CRIMINAL GANG ACTIVITY IN OUR STATE.

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Senator SCOTT spoke on the Resolution.

On motion of Senator SCOTT, with unanimous consent, the Concurrent Resolution was introduced and ordered placed on the Calendar without reference.

S. 793 -- Senators Pinckney and Davis: A BILL RELATING TO THE BEAUFORT-JASPER WATER AND SEWER AUTHORITY, TO REMOVE CERTAIN RESTRICTIONS ON THE AREAS IN WHICH IT PROVIDES SERVICES, TO FURTHER PRESCRIBE ITS FUNCTIONS AND POWERS REGARDING WATER AND WASTE WATER SERVICES, TO PRESCRIBE THE CONDITIONS AND TERMS UPON WHICH MUNICIPAL CORPORATIONS AND OTHER PUBLIC BODIES OR AGENCIES OPERATING WATER DISTRIBUTION AND WASTE WATER SYSTEMS IN BEAUFORT, JASPER, HAMPTON, AND COLLETON COUNTIES MAY ACQUIRE SERVICES FROM THE AUTHORITY, AND TO CHANGE THE NAME OF THE AUTHORITY TO THE BEAUFORT-JASPER WATER AND SEWER AUTHORITY.

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Read the first time and referred to the Committee on Judiciary.

S. 794 -- Senators Bright, Bryant, Mulvaney, Davis, Shoopman, S. Martin and McConnell: A BILL TO AMEND CHAPTER 31, TITLE 23 OF THE 1976 CODE, RELATING TO FIREARMS, BY ADDING ARTICLE 9, THE "SOUTH CAROLINA FIREARMS FREEDOM ACT", TO PROVIDE THAT A FIREARM, FIREARM ACCESSORY, OR AMMUNITION MANUFACTURED AND RETAINED IN

WEDNESDAY, MAY 6, 2009

SOUTH CAROLINA IS EXEMPT FROM FEDERAL REGULATION UNDER THE COMMERCE CLAUSE OF THE CONSTITUTION OF THE UNITED STATES.

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Senator BRIGHT spoke on the Bill.

Objection

Senator BRIGHT asked unanimous consent to make a motion that S. 794 be placed on the Calendar without reference.

Senator McCONNELL objected.

Read the first time and referred to the Committee on Judiciary.

S. 795 -- Senator Fair: A JOINT RESOLUTION TO PROVIDE THAT THE SCHOOL DAYS MISSED ON APRIL 30, 2009, AND MAY 1, 2009, BY THE STUDENTS OF MAULDIN HIGH SCHOOL WHEN THE SCHOOL WAS CLOSED DUE TO POTENTIAL FLU-LIKE ILLNESS ARE EXEMPT FROM THE MAKE-UP REQUIREMENT THAT FULL SCHOOL DAYS MISSED DUE TO SNOW, EXTREME WEATHER, OR OTHER DISRUPTIONS BE MADE UP.

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Objection

Senator FAIR asked unanimous consent to make a motion that the Bill be placed on the Calendar without reference.

Senator PEELER objected.

Read the first time and referred to the Committee on Education.

S. 796 -- Senator Coleman: A BILL TO DIRECT THE FAIRFIELD COUNTY TREASURER TO TRANSFER A SPECIFIED AMOUNT OF FUNDS TO CHESTER COUNTY SCHOOL DISTRICT IN ORDER TO DEFRAY THE COSTS TO EDUCATE CERTAIN STUDENTS WHO RESIDE IN FAIRFIELD COUNTY BUT ATTEND CHESTER COUNTY SCHOOLS, AND TO REQUIRE THAT THE AMOUNT OF FUNDS DELIVERED TO CHESTER COUNTY SCHOOL DISTRICT BE REEXAMINED EVERY THREE YEARS AND AN AGREEMENT BE ENTERED INTO BETWEEN THE SCHOOL DISTRICT OF FAIRFIELD COUNTY AND

[SJ]

WEDNESDAY, MAY 6, 2009

CHESTER COUNTY SCHOOL DISTRICT FOR THE PAYMENT OF THOSE FUNDS.

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Read the first time and referred to the Committee on Education.

REPORTS OF STANDING COMMITTEES

Senator MALLOY from the Committee on Judiciary submitted a favorable with amendment report on:

S. 144 -- Senators Campsen and Ford: A BILL TO RATIFY AN AMENDMENT TO SECTION 33, ARTICLE III OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE PROVISION PROVIDING THAT NO UNMARRIED WOMAN UNDER THE AGE OF FOURTEEN YEARS OLD MAY LEGALLY CONSENT TO SEXUAL INTERCOURSE, SO AS TO DELETE THAT PROVISION.

Ordered for consideration tomorrow.

Senator CLEARY from the Committee on Judiciary submitted a favorable with amendment report on:

S. 249 -- Senator Rose: A BILL TO AMEND CHAPTER 29, TITLE 6 OF THE 1976 CODE, BY ADDING SECTION 6-29-1153 TO PROVIDE THAT A GOVERNING BODY AND A LOCAL PLANNING COMMISSION SERVICING AN AREA IN A HIGH GROWTH COUNTY MUST PROVIDE THE LOCAL SCHOOL DISTRICT LAND DEVELOPMENT APPLICATIONS THAT INCLUDE RESIDENTIAL HOUSING WHICH MEET CERTAIN CRITERIA; AND TO REQUIRE THE SUPERINTENDENT AND BOARD OF TRUSTEES OF THE SCHOOL DISTRICT TO DETERMINE WHETHER A PARTICULAR PROJECT WILL RESULT IN A SUBSTANTIAL IMPACT ON THE DISTRICT'S ABILITY TO PROVIDE SERVICES TO THE ADDITIONAL STUDENT POPULATION AND TO PREPARE A REPORT TO THE GOVERNING BODY AND THE LOCAL PLANNING COMMISSION DETAILING THE IMPACT AND NEED FOR ADDITIONAL RESOURCES.

Ordered for consideration tomorrow.

Senator HUTTO from the Committee on Judiciary submitted a favorable with amendment report on:

[SJ]

WEDNESDAY, MAY 6, 2009

S. 282 -- Senators McConnell and Ford: A BILL TO AMEND SECTION 22-5-110, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATED TO MAGISTRATES' POWERS AND DUTIES REGARDING THE ISSUANCE OF ARREST WARRANTS AND COURTESY SUMMONS, SO AS TO PROVIDE THAT NO ARREST WARRANT SHALL BE ISSUED FOR THE ARREST OF A PERSON UNLESS SOUGHT BY A MEMBER OF A LAW ENFORCEMENT AGENCY ACTING IN THEIR OFFICIAL CAPACITY; AND TO PROVIDE THAT IF AN ARREST WARRANT IS SOUGHT BY SOMEONE OTHER THAN A LAW ENFORCEMENT OFFICER, THE COURT MUST ISSUE A COURTESY SUMMONS, EXCEPT WHEN A BUSINESS IS SEEKING AN ARREST WARRANT FOR ANY OFFENSE AGAINST THE BUSINESS OR A PERSON IS SEEKING AN ARREST WARRANT FOR A FRAUDULENT CHECK, IF THE FRAUDULENT CHECK IS PRESENTED TO THE MAGISTRATE AT THE TIME THE WARRANT IS SOUGHT.

Ordered for consideration tomorrow.

Senator MALLOY from the Committee on Judiciary submitted a favorable report on:

S. 372 -- Senators Hayes and Ford: A BILL TO AMEND SECTION 62-2-207, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DETERMINATION OF AN ELECTIVE SHARE OF A SPOUSE, SO AS TO CLARIFY THAT AN INTEREST AS A BENEFICIARY IN A TESTAMENTARY TRUST OR IN PROPERTY PASSING TO AN INTER VIVOS TRUST THROUGH THE DECEDENT'S WILL IS A BENEFICIAL INTEREST CHARGEABLE TO THE ELECTIVE SHARE; AND TO AMEND SECTION 62-7-401, AS AMENDED, RELATING TO CREATION OF A TRUST, SO AS TO PROVIDE FOR THE INCLUSION OF A SURVIVING SPOUSE'S BENEFICIAL INTERESTS IN TRUST PROPERTY IN CALCULATING THE ELECTIVE SHARE.

Ordered for consideration tomorrow.

Senator MALLOY from the Committee on Judiciary submitted a favorable with amendment report on:

S. 382 -- Senator Hayes: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION

WEDNESDAY, MAY 6, 2009

62-2-805 SO AS TO PROVIDE FOR A PRESUMPTION THAT A DECEDENT AND THE DECEDENT'S SPOUSE HELD TANGIBLE PERSONAL PROPERTY IN A JOINT TENANCY WITH RIGHT OF SURVIVORSHIP, FOR EXCEPTIONS TO THE PRESUMPTION, AND FOR THE STANDARD OF PROOF TO OVERCOME THE PRESUMPTION.

Ordered for consideration tomorrow.

Senator LEATHERMAN from the Committee on Finance submitted a favorable with amendment report on:

S. 405 -- Senator Cleary: A BILL TO AMEND SECTION 12-37-220 OF THE 1976 CODE, RELATING TO PROPERTY TAX EXEMPTIONS, TO CLARIFY THAT A WATERCRAFT AND ITS MOTOR MAY NOT RECEIVE A FORTY-TWO AND 75/100 PERCENT EXEMPTION IF THE BOAT OR WATERCRAFT IS CLASSIFIED AS A PRIMARY OR SECONDARY RESIDENCE FOR PROPERTY TAX PURPOSES; TO AMEND SECTION 12-37-224, RELATING TO BOATS AS A PRIMARY OR SECONDARY RESIDENCE, TO PROVIDE THAT A BOAT OR WATERCRAFT THAT CONTAINS A COOKING AREA WITH AN ONBOARD POWER SOURCE, A TOILET WITH EXTERIOR EVACUATION, AND A SLEEPING QUARTER, SHALL BE CONSIDERED A PRIMARY OR SECONDARY RESIDENCE FOR PURPOSES OF AD VALOREM PROPERTY TAXATION IN THIS STATE; AND TO AMEND SECTION 12-37-714, RELATING TO BOATS WITH A SITUS IN THIS STATE, TO PROVIDE THAT UPON AN ORDINANCE PASSED BY THE LOCAL GOVERNING BODY, A COUNTY MAY SUBJECT A BOAT, INCLUDING ITS MOTOR IF THE MOTOR IS SEPARATELY TAXED, TO PROPERTY TAX IF IT IS WITHIN THIS STATE FOR NINETY DAYS IN THE AGGREGATE, REGARDLESS OF THE NUMBER OF CONSECUTIVE DAYS.

Ordered for consideration tomorrow.

Senator CROMER from the Committee on Fish, Game and Forestry submitted a favorable report on:

S. 446 -- Senator Land: A BILL TO PROVIDE THAT FROM JUNE 1, 2009, TO SEPTEMBER 30, 2009, A NONRESIDENT MAY OBTAIN A LIFETIME COMBINATION LICENSE FROM THE

WEDNESDAY, MAY 6, 2009

DEPARTMENT OF NATURAL RESOURCES UNDER CERTAIN CIRCUMSTANCES.

Ordered for consideration tomorrow.

Senator CROMER from the Committee on Fish, Game and Forestry submitted a favorable with amendment report on:

S. 495 -- Senators Massey, Hutto and S. Martin: A BILL TO AMEND SECTION 50-11-2100 OF THE 1976 CODE, RELATING TO FIELD TRIALS, TO PROVIDE THAT A PARTICIPANT IN FIELD TRIALS PERMITTED BY THE DEPARTMENT OF NATURAL RESOURCES IS NOT REQUIRED TO OBTAIN A HUNTING LICENSE IF THE PARTICIPANT IS NOT CARRYING A FIREARM AND NO GAME IS TAKEN, AND TO PROVIDE THAT NO FIELD TRIALS MAY BE HELD OUTSIDE OF THE REGULAR SEASON EXCEPT AS PERMITTED BY THE DEPARTMENT.

Ordered for consideration tomorrow.

Senator CAMPBELL from the Committee on Judiciary submitted a favorable with amendment report on:

S. 553 -- Senator Hutto: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 13 TO CHAPTER 13, TITLE 63 SO AS TO PROVIDE FOR THE LICENSURE AND REGULATION OF SUMMER CAMPS BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL; TO DEFINE SUMMER CAMPS AS RESIDENT CAMPS AND DAY CAMPS; TO PROHIBIT PERSONS WHO ARE LISTED AS A PERPETRATOR IN THE CENTRAL REGISTRY OF CHILD ABUSE AND NEGLECT, WHO ARE REQUIRED TO REGISTER UNDER THE SEX OFFENDER REGISTRY, OR WHO HAVE BEEN CONVICTED OF CERTAIN CRIMES TO BE LICENSED TO OPERATE A SUMMER CAMP OR TO BE EMPLOYED BY A SUMMER CAMP AND TO PROVIDE THAT IS A CRIMINAL OFFENSE FOR A PERSON WHO HAS BEEN CONVICTED OF SUCH A CRIME TO APPLY FOR SUCH A LICENSE OR EMPLOYMENT; TO REQUIRE STATE AND FEDERAL FINGERPRINT REVIEWS AS A PREREQUISITE TO LICENSURE AND EMPLOYMENT; TO PROVIDE FOR THE ISSUANCE OF PROVISIONAL LICENSES WHEN THE APPLICANT MEETS CERTAIN PRELIMINARY

[SJ]

WEDNESDAY, MAY 6, 2009

REQUIREMENTS; TO REQUIRE THE DEPARTMENT TO CONDUCT AN INVESTIGATION OF A SUMMER CAMP APPLICANT FOR LICENSURE; TO REQUIRE A SUMMER CAMP TO HAVE A PERSON ON SITE WHO IS CERTIFIED IN FIRST AID AND IN CHILD-INFANT CARDIOPULMONARY RESUSCITATION; TO REQUIRE A SUMMER CAMP TO NOTIFY THE DEPARTMENT WHEN A CHILD DIES AT THE SUMMER CAMP; TO REQUIRE THE DEPARTMENT TO ESTABLISH PROCEDURES FOR RECEIVING COMPLAINTS; TO AUTHORIZE THE DEPARTMENT TO CONDUCT INVESTIGATIONS AND INSPECTIONS OF SUMMER DAY CAMPS; TO PROVIDE PROCEDURES FOR ISSUING CORRECTION NOTICES FOR DEFICIENCIES, FOR OBTAINING INJUNCTIONS, AND FOR APPEALS OF DEPARTMENT DECISIONS; TO PROHIBIT A PERSON SEEKING EMPLOYMENT IN THE DEPARTMENT'S SUMMER CAMP LICENSING PROGRAM FROM HAVING BEEN CONVICTED OF CERTAIN CRIMES AND TO PROVIDE THAT IT IS A CRIMINAL OFFENSE FOR A PERSON WHO HAS BEEN CONVICTED OF SUCH AN OFFENSE TO SEEK EMPLOYMENT; AND TO AMEND SECTION 63-13-20, RELATING TO DEFINITIONS IN THE LICENSURE AND REGULATION OF CHILDCARE FACILITIES, SO AS TO REVISE THE EXEMPTIONS FROM CHILDCARE LICENSURE FOR SCHOOL CAMPS AND SUMMER RESIDENT CAMPS.

Ordered for consideration tomorrow.

Senator CAMPBELL from the Committee on Judiciary submitted a favorable with amendment report on:

S. 554 -- Senators Hutto and Ford: A BILL TO AMEND SECTION 63-11-1950, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PURPOSE AND DUTIES OF THE STATE CHILD FATALITY COMMITTEE, SO AS TO PROVIDE THAT THE COMMITTEE MAY REQUEST THE DEPARTMENT OF SOCIAL SERVICES TO OPEN A CASE ON THE FAMILY WHERE THE FATALITY OCCURRED IF THE COMMITTEE SUSPECTS CRIMINAL DOMESTIC VIOLENCE, DRUG ABUSE, ABUSE, OR NEGLECT IN THE HOME AND CHILDREN CONTINUE TO LIVE IN THE HOME.

Ordered for consideration tomorrow.

[SJ]

WEDNESDAY, MAY 6, 2009

Senator MALLOY from the Committee on Judiciary submitted a favorable with amendment report on:

S. 575 -- Senators Sheheen and Malloy: A BILL TO AMEND SECTION 62-5-433, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SETTLEMENT OF CLAIMS OF MINORS OR INCAPACITATED PERSONS, SO AS TO INCREASE THE JURISDICTIONAL AMOUNT FOR CONCURRENT JURISDICTION OF THE PROBATE COURT AND CIRCUIT COURT FROM TWENTY-FIVE THOUSAND DOLLARS TO ONE HUNDRED THOUSAND DOLLARS.

Ordered for consideration tomorrow.

Senator LEATHERMAN from the Committee on Finance submitted a favorable report on:

S. 668 -- Senators Courson, Knotts, Cromer, Setzler, Jackson, Scott, Lourie and Rose: A BILL TO AMEND SECTIONS 53-5-10 AND 53-5-15, RELATING TO LEGAL HOLIDAYS FOR STATE EMPLOYEES, TO ESTABLISH CHRISTMAS EVE AS A LEGAL HOLIDAY.

Ordered for consideration tomorrow.

Senator CROMER from the Committee on Fish, Game and Forestry submitted a favorable report on:

S. 671 -- Senator Knotts: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50-13-400 SO AS TO ESTABLISH CREEL AND SIZE LIMITS FOR CRAPPIE TAKEN IN LAKE MURRAY.

Ordered for consideration tomorrow.

Senator HUTTO from the Committee on Judiciary submitted a favorable with amendment report on:

H. 3022 -- Reps. Kirsh, Wylie, G.M. Smith, Weeks and Mitchell: A BILL TO AMEND SECTION 17-1-40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESTRUCTION OF CRIMINAL RECORDS WHEN A CHARGE IS DISMISSED OR THE PERSON IS FOUND INNOCENT OF THE CHARGE, SO AS TO SPECIFICALLY INCLUDE THAT A CIRCUIT SOLICITOR'S OFFICE OR CLERK OF COURT MAY NOT CHARGE A FEE FOR THE DESTRUCTION OR EXPUNGEMENT OF RECORDS OR FOR THE APPLICATION

WEDNESDAY, MAY 6, 2009

PROCESS REGARDING THE DESTRUCTION OR
EXPUNGEMENT OF RECORDS UNDER CERTAIN
CIRCUMSTANCES.

Ordered for consideration tomorrow.

Senator LEATHERMAN from the Committee on Finance submitted
a favorable with amendment report on:

H. 3272 -- Reprs. Cooper, Merrill, Erickson, Herbkersman, Chalk,
Duncan, Long, Sottile, Daning, Lowe, Bowen, Harrison, Horne,
A.D. Young, Limehouse, R.L. Brown, Clemmons, Edge and Wylie: A
BILL TO AMEND SECTION 12-37-3140, AS AMENDED, CODE
OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO
DETERMINING THE FAIR MARKET VALUE OF REAL
PROPERTY FOR PURPOSES OF THE SOUTH CAROLINA REAL
PROPERTY VALUATION REFORM ACT, SO AS TO POSTPONE
THE IMPLEMENTATION OF THE TRANSFER VALUE OF A
PARCEL OF REAL PROPERTY UNIMPROVED SINCE THE LAST
COUNTYWIDE REASSESSMENT PROGRAM UNTIL THE TIME
OF IMPLEMENTATION OF THE NEXT COUNTYWIDE
REASSESSMENT PROGRAM AND TO REQUIRE THE FIFTEEN
PERCENT LIMIT ON INCREASES IN VALUE TO BE
CALCULATED SEPARATELY ON LAND AND
IMPROVEMENTS; TO AMEND SECTION 12-37-3150, AS
AMENDED, RELATING TO THE TIME AN ASSESSABLE
TRANSFER OF INTEREST OCCURS, SO AS TO REVISE THE
PENALTY FOR FAILURE TO PROVIDE NOTICE OR FAILURE
TO PROVIDE ACCURATE NOTICE TO THE ASSESSING
AUTHORITY OF BUSINESS ENTITY TRANSFERS; TO AMEND
SECTION 12-43-220, AS AMENDED, RELATING TO THE
CLASSIFICATION AND VALUATION OF PROPERTY FOR
PURPOSES OF THE PROPERTY TAX, SO AS TO PROVIDE
RESIDENTIAL REAL PROPERTY HELD IN TRUST DOES NOT
QUALIFY AS A LEGAL RESIDENCE UNLESS A NAMED
INDIVIDUAL BENEFICIARY UNDER THE TRUST OCCUPIES
THE RESIDENCE AS THAT NAMED BENEFICIARY'S LEGAL
RESIDENCE AND THAT INDIVIDUAL BENEFICIARY'S NAME
APPEARS ON THE DEED TO THE RESIDENCE AND REQUIRE
SOCIAL SECURITY NUMBERS OF APPLICANTS FOR THE
LEGAL RESIDENCE ASSESSMENT RATIO; AND TO AMEND
SECTION 40-60-35, RELATING TO CONTINUING EDUCATION

[SJ]

WEDNESDAY, MAY 6, 2009

REQUIREMENTS FOR ASSESSORS, SO AS TO REVISE THE REQUIREMENT.

Ordered for consideration tomorrow.

Senator LEATHERMAN from the Committee on Finance submitted a favorable report on:

H. 3274 -- Reps. Gilliard, Alexander, Brantley, Clyburn, Cobb-Hunter, Forrester, Govan, Gunn, Hosey, Howard, Hutto, Jefferson, Kirsh, Mack, Miller, Sottile, Stavrinakis, Whipper and R.L. Brown: A CONCURRENT RESOLUTION TO MEMORIALIZE THE UNITED STATES CONGRESS TO APPROPRIATE THE FUNDS NECESSARY TO ALLOW THE STATE OF SOUTH CAROLINA AND THE CITY OF CHARLESTON TO COMPLETE THE SPRING STREET/FISHBURNE STREET/UNITED STATES HIGHWAY 17 DRAINAGE BASIN IMPROVEMENTS PROJECT LOCATED IN THE CITY OF CHARLESTON, SOUTH CAROLINA.

Ordered for consideration tomorrow.

Senator L. MARTIN from the Committee on Judiciary submitted a favorable report on:

H. 3305 -- Reps. Bedingfield, Merrill, Bingham, Duncan, Loftis, G.R. Smith, Cato, Owens, Crawford, A.D. Young, Nanney, Bannister, Daning, Harrison, Horne, Kirsh, Lowe, Lucas, E.H. Pitts, Stringer, Thompson, Toole, Wylie, T.R. Young, Long, Rice, Parker, Allison, Littlejohn, Cole, Hiott, Edge, Whitmire, Hearn, Hardwick, D.C. Smith, Pinson, J.R. Smith, Simrill, Brantley, Willis, Hamilton, Erickson, Sottile, Scott, Harrell, Delleney, Gullick, Frye, Clemmons, G.M. Smith, Battle, Sandifer, Millwood, Haley, Ballentine, M.A. Pitts, Cooper, White, Gambrell, Bowen, Umphlett, Forrester, Barfield, Chalk, Herbkersman, Viers, Spires, Huggins, Limehouse, Stewart, Kelly, Brady and Moss: A JOINT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 1, ARTICLE II OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO ELECTIONS BY SECRET BALLOT AND PROTECTION OF THE RIGHT OF SUFFRAGE, SO AS TO PROVIDE THAT THE GUARANTEE OF THE RIGHT TO VOTE BY SECRET BALLOT APPLIES IN REQUIRED DESIGNATIONS OR AUTHORIZATIONS FOR EMPLOYEE REPRESENTATION.

Ordered for consideration tomorrow.

WEDNESDAY, MAY 6, 2009

Senator GROOMS from the Committee on Transportation submitted a favorable report on:

H. 3347 -- Reps. Clemmons, McLeod and Harrell: A BILL TO AMEND SECTION 56-1-143, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEPARTMENT OF MOTOR VEHICLES GIVING APPLICANTS FOR CERTAIN SERVICES THE OPTION TO MAKE A VOLUNTARY CONTRIBUTION TO DONATE LIFE OF SOUTH CAROLINA, SO AS TO INCREASE THE AMOUNT THAT MAY BE DONATED.

Ordered for consideration tomorrow.

Senator CAMPBELL from the Committee on Judiciary submitted a favorable with amendment report on:

H. 3413 -- Rep. Harrison: A BILL TO AMEND SECTION 61-4-1910, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS REGARDING BEER KEG REGISTRATION REQUIREMENTS, SO AS TO REVISE THE DEFINITION OF "KEG".

Ordered for consideration tomorrow.

Senator CROMER from the Committee on Fish, Game and Forestry submitted a favorable report on:

H. 3572 -- Rep. Umphlett: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY REPEALING SECTION 50-5-1707 RELATING TO SHARK CATCH LIMITS.

Ordered for consideration tomorrow.

Senator CROMER from the Committee on Fish, Game and Forestry submitted a favorable report on:

H. 3651 -- Reps. Duncan, Umphlett, Anthony, Knight, Forrester and Hayes: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 48-23-205 SO AS TO LIMIT THE AUTHORITY OF COUNTIES AND MUNICIPALITIES TO RESTRICT OR REGULATE CERTAIN FORESTRY ACTIVITIES, AND TO PROVIDE THE TERMS AND CONDITIONS OF CERTAIN PERMITTED REGULATIONS.

Ordered for consideration tomorrow.

Senator KNOTTS from the Committee on Judiciary submitted a favorable with amendment report on:

WEDNESDAY, MAY 6, 2009

H. 3677 -- Rep. Cobb-Hunter: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ENACTING THE "VIOLENCE AGAINST WOMEN FEDERAL COMPLIANCE ACT" TO CONFORM STATE LAW TO FEDERAL REQUIREMENTS BY AMENDING SECTION 16-3-740 RELATING TO TESTING CERTAIN CRIMINALS FOR HEPATITIS B AND THE HUMAN IMMUNODEFICIENCY VIRUS AT THE REQUEST OF A VICTIM, SO AS TO REVISE THE DEFINITION OF "OFFENDER" TO INCLUDE ADULTS AND JUVENILES, TO CLARIFY PROCEDURES FOR DISCLOSING TEST RESULTS, TO PROVIDE THAT THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL SHALL ADVISE THE VICTIM OF AVAILABLE TREATMENT OPTIONS, AND UPON REQUEST OF THE VICTIM PROVIDE TESTING AND POST-TESTING COUNSELING; BY ADDING SECTION 16-3-750 SO AS TO PROHIBIT LAW ENFORCEMENT AND PROSECUTING OFFICERS FROM ASKING OR REQUIRING A VICTIM OF AN ALLEGED CRIMINAL SEXUAL CONDUCT OFFENSE TO SUBMIT TO A POLYGRAPH EXAMINATION AND TO PROVIDE THAT REFUSAL OF A VICTIM TO SUBMIT TO SUCH AN EXAMINATION DOES NOT PREVENT THE INVESTIGATION, CHARGING, OR PROSECUTION OF THE OFFENSE; TO AMEND SECTION 16-3-1350 RELATING TO MEDICOLEGAL EXAMINATIONS FOR VICTIMS OF CRIMINAL SEXUAL CONDUCT OR CHILD SEX ABUSE, SO AS TO DELETE THE PROVISION REQUIRING SUCH A VICTIM TO FILE AN INCIDENT REPORT WITH A LAW ENFORCEMENT AGENCY IN ORDER TO RECEIVE A MEDICOLEGAL EXAMINATION WITHOUT CHARGE; TO AMEND SECTION 16-3-177, AS AMENDED, RELATING TO THE FORM AND CONTENT OF A RESTRAINING ORDER, SO AS TO PROVIDE CIRCUMSTANCES UNDER WHICH A PERSON SUBJECT TO A RESTRAINING ORDER MAY NOT SHIP, TRANSPORT, OR POSSESS A FIREARM; BY ADDING SECTION 16-25-30 SO AS TO PROVIDE THAT A PERSON CONVICTED OF CRIMINAL DOMESTIC VIOLENCE OR CRIMINAL DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE MUST BE NOTIFIED IN WRITING THAT IT IS UNLAWFUL FOR SUCH A DEFENDANT TO SHIP, TRANSPORT, OR POSSESS A FIREARM; AND TO AMEND SECTION 20-4-60, AS AMENDED, RELATING TO THE

[SJ]

WEDNESDAY, MAY 6, 2009

FORM AND CONTENT OF AN ORDER OF PROTECTION FROM DOMESTIC VIOLENCE, SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR A PERSON SUBJECT TO AN ORDER OF PROTECTION TO SHIP, TRANSPORT, OR POSSESS A FIREARM.

Ordered for consideration tomorrow.

Senator LEATHERMAN from the Committee on Finance submitted a favorable report on:

H. 3730 -- Rep. Cooper: A JOINT RESOLUTION TO PROVIDE THAT ALL FUNDS RECEIVED UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (RECOVERY ACT) FOR THE CLEAN WATER STATE REVOLVING FUND AND DRINKING WATER STATE REVOLVING FUND MAY BE RECEIVED AND EXPENDED PURSUANT TO PROVISIONS OF THE RECOVERY ACT FOR SO LONG AS MONIES ARE AVAILABLE UNDER THE RECOVERY ACT.

Ordered for consideration tomorrow.

Senator GROOMS from the Committee on Transportation submitted a favorable report on:

H. 3766 -- Reps. Scott, Umphlett, Daning, Jefferson, Merrill and Stewart: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF MYERS ROAD IN BERKELEY COUNTY FROM ITS INTERSECTION WITH UNITED STATES HIGHWAY 176 TO ITS INTERSECTION WITH UNITED STATES HIGHWAY 17 "FIREFIGHTER BRANDON THOMPSON HIGHWAY" AND ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS PORTION OF HIGHWAY THAT CONTAIN THE WORDS "FIREFIGHTER BRANDON THOMPSON HIGHWAY".

Ordered for consideration tomorrow.

Senator CROMER from the Committee on Fish, Game and Forestry submitted a favorable report on:

H. 3942 -- Agriculture, Natural Resources and Environmental Affairs Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE RIVERBANKS PARKS COMMISSION, RELATING TO RIVERBANKS PARKS COMMISSION, DESIGNATED AS REGULATION DOCUMENT NUMBER 4022,

WEDNESDAY, MAY 6, 2009

PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23,
TITLE 1 OF THE 1976 CODE.

Ordered for consideration tomorrow.

**THE SENATE PROCEEDED TO A CALL OF THE
UNCONTESTED LOCAL AND STATEWIDE CALENDAR.**

SECOND READING BILLS

The following Bills, having been read the second time, were ordered placed on the Third Reading Calendar:

S. 168 -- Senators Cleary, Campsen, Rose, Bryant, Elliott and Hutto: A BILL TO AMEND SECTION 38-79-30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MEDICAL MALPRACTICE INSURANCE SO AS TO PROVIDE THAT A LICENSED HEALTH CARE PROVIDER WHO RENDERS MEDICAL SERVICES VOLUNTARILY AND WITHOUT COMPENSATION, AND SEEKS NO REIMBURSEMENT FROM CHARITABLE AND GOVERNMENTAL SOURCES, AND PROVIDES NOTICE TO THE PATIENT OR PATIENT'S PROVIDER IN A NON-EMERGENCY, IS NOT LIABLE FOR ANY CIVIL DAMAGES FOR ANY ACT OR OMISSION UNLESS THE ACT OR OMISSION WAS THE RESULT OF THE HEALTH CARE PROVIDER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

S. 773 -- Senator Leventis: A BILL TO AMEND ACT 387 OF 2008, AS AMENDED, RELATING TO THE CONSOLIDATED SUMTER SCHOOL DISTRICT, SO AS TO REVISE THE INITIAL TERMS OF THE SEVEN MEMBERS OF THE GOVERNING BOARD OF THE DISTRICT ELECTED IN 2010.

H. 3957 -- Rep. Herbkersman: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 48-1-55 SO AS TO PROVIDE THAT ON ANY NAVIGABLE RIVER IN THIS STATE WHERE AN OYSTER FACTORY IS LOCATED, THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL MAY UTILIZE QUALIFIED PERSONNEL OF THE COUNTY OR MUNICIPALITY IN WHOSE JURISDICTION THE FACTORY OPERATES TO ASSIST WITH THE MONITORING OF

[SJ]

WEDNESDAY, MAY 6, 2009

WATER QUALITY AND OTHER ENVIRONMENTAL STANDARDS THE DEPARTMENT IS REQUIRED TO ENFORCE.

EXECUTIVE SESSION

On motion of Senator McCONNELL, with unanimous consent, at 11:34 A.M., the Senate agreed to go into Executive Session.

On motion of Senator McCONNELL, the seal of secrecy was removed and the Senate reconvened.

RECESS

At 12:43 P.M., on motion of Senator McCONNELL, the Senate recessed from business until 2:30 P.M.

AFTERNOON SESSION

The Senate reassembled at 2:43 P.M. and was called to order by the PRESIDENT.

Point of Quorum

At 2:45 P.M., Senator SETZLER made the point that a quorum was not present. It was ascertained that a quorum was not present.

Call of the Senate

Senator SETZLER moved that a Call of the Senate be made. The following Senators answered the Call:

Alexander	Bright	Bryant
Campbell	Campsen	Cleary
Coleman	Courson	Cromer
Davis	Elliott	Fair
Ford	Hayes	Hutto
Jackson	Knotts	Land
Leatherman	Leventis	Lourie
Malloy	<i>Martin, L.</i>	<i>Martin, S.</i>
Massey	Matthews	McConnell
McGill	Mulvaney	Nicholson
Peeler	Rankin	Reese
Rose	Scott	Setzler
Shoopman	Thomas	Verdin
Williams		

WEDNESDAY, MAY 6, 2009

A quorum being present, the Senate resumed.

Recorded Presence

Senator GROOMS recorded his presence subsequent to the Call of the Senate.

**THE SENATE PROCEEDED TO A CONSIDERATION OF
H. 4000, THE SINE DIE ADJOURNMENT RESOLUTION**

CARRIED OVER

H. 4000 -- Rep. Harrell: A CONCURRENT RESOLUTION TO PROVIDE THAT PURSUANT TO ARTICLE III, SECTION 9 OF THE CONSTITUTION OF THIS STATE AND SECTION 2-1-180 OF THE 1976 CODE, WHEN THE RESPECTIVE HOUSES OF THE GENERAL ASSEMBLY ADJOURN ON THURSDAY, MAY 21, 2009, NOT LATER THAN 5:00 P.M., EACH HOUSE SHALL STAND ADJOURNED TO MEET AT A TIME MUTUALLY AGREED UPON BY THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES NOT EARLIER THAN NOON ON TUESDAY, JUNE 16, 2009, FOR A PERIOD NOT TO EXCEED THREE STATEWIDE LEGISLATIVE DAYS FOR THE CONSIDERATION OF CERTAIN MATTERS, TO PROVIDE THAT WHEN EACH HOUSE ADJOURNS AFTER THIS THREE-DAY PERIOD NOT LATER THAN 5:00 P.M. ON THE THIRD LEGISLATIVE DAY, EACH HOUSE SHALL STAND ADJOURNED TO MEET AT A TIME MUTUALLY AGREED UPON BY THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES UPON CERTAIN OCCURRENCES AND FOR THE CONSIDERATION OF SPECIFIED MATTERS, AND TO PROVIDE THAT UNLESS ADJOURNED EARLIER, THE GENERAL ASSEMBLY SHALL STAND ADJOURNED SINE DIE NO LATER THAN 5:00 P.M. ON MONDAY, JANUARY 11, 2010.

The Senate proceeded to a consideration of the Concurrent Resolution, the question being the adoption of the Resolution.

On motion of Senator L. MARTIN, the Resolution was carried over.

WEDNESDAY, MAY 6, 2009

THE CALL OF THE UNCONTESTED CALENDAR HAVING BEEN COMPLETED, THE SENATE PROCEEDED TO THE MOTION PERIOD.

MOTION ADOPTED

On motion of Senator L. MARTIN, the Senate agreed to dispense with the Motion Period.

HAVING DISPENSED WITH THE MOTION PERIOD, THE SENATE PROCEEDED TO A CONSIDERATION OF BILLS AND RESOLUTIONS RETURNED FROM THE HOUSE.

CARRIED OVER

S. 126 -- Senators Sheheen and Elliott: A BILL TO AMEND SECTION 56-3-1910, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ISSUANCE OF SPECIAL LICENSE TAGS TO CERTAIN HANDICAPPED PERSONS, SO AS TO DEFINE THE TERM "HANDICAPPED", DELETE THE TERM "LICENSE TAG" AND REPLACE IT WITH THE TERM "LICENSE PLATE", AND TO REVISE THE CRITERIA FOR THE ISSUANCE OF THE LICENSE PLATE; TO AMEND SECTION 56-3-1950, RELATING TO THE DEFINITION OF THE TERM "HANDICAPPED", AND THE REQUIREMENT THAT A LICENSED PHYSICIAN SHALL CERTIFY THAT A PERSON'S TOTAL AND PERMANENT DISABILITY SUBSTANTIALLY IMPAIRS HIS ABILITY TO WALK, SO AS TO REVISE THE DEFINITION OF THE TERM "HANDICAPPED" AND TO DELETE THE PROVISION RELATING TO THE CERTIFICATION OF A PERSON WHO IS TOTALLY AND PERMANENTLY DISABLED; TO AMEND SECTION 56-3-1960, RELATING TO FREE PARKING FOR HANDICAPPED PERSONS, AND THE ISSUANCE AND DISPLAY OF HANDICAPPED LICENSE PLATES AND PLACARDS, SO AS TO DELETE THE PROVISION THAT PROVIDES FOR THE ISSUANCE OF HANDICAPPED LICENSE PLATES, AND TO REVISE THE PROVISIONS REGARDING THE CONTENT, ISSUANCE PROCEDURE, AND DISPLAY OF HANDICAPPED PLACARDS; TO AMEND SECTION 56-3-1965, RELATING TO MUNICIPALITIES DESIGNATING PARKING SPACES FOR HANDICAPPED PERSONS, SO AS TO REVISE THE PROCEDURES THAT ALLOW A HANDICAPPED PERSON TO

[SJ]

WEDNESDAY, MAY 6, 2009

PARK IN METERED OR TIMED PARKING PLACES WITHOUT BEING SUBJECT TO PARKING FEES OR FINES; AND TO AMEND SECTION 56-3-2010, RELATING TO THE ISSUANCE OF PERSONALIZED LICENSE PLATES, SO AS TO PROVIDE THAT A PERSON WHO ALSO QUALIFIES IS QUALIFIED TO RECEIVE THIS LICENSE PLATE AND A HANDICAPPED LICENSE PLATE MAY BE ISSUED A PERSONALIZED LICENSE PLATE THAT INCLUDES A DECAL THAT CONTAINS THE INTERNATIONAL SYMBOL OF ACCESS.

On motion of Senator L. MARTIN, the Bill was carried over.

S. 491 -- Senator Hayes: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 18 TO CHAPTER 23, TITLE 57 SO AS TO DESIGNATE CERTAIN HIGHWAYS IN WESTERN YORK COUNTY AS THE WESTERN YORK COUNTY SCENIC BYWAY, AND TO MAKE IT SUBJECT TO THE REGULATIONS OF THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION AND THE SOUTH CAROLINA SCENIC HIGHWAYS COMMITTEE.

On motion of Senator HAYES, the Bill was carried over.

Message from the House

Columbia, S.C., May 6, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has returned the following Bill to the Senate with amendments:

S. 704 -- Senators McGill and Cleary: A BILL TO AMEND SECTION 7-7-270, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN GEORGETOWN COUNTY, SO AS TO REDESIGNATE A MAP NUMBER ON WHICH LINES OF THESE PRECINCTS ARE DELINEATED AND MAINTAINED BY THE OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD AND TO CORRECT ARCHAIC REFERENCES.

Respectfully submitted,

Speaker of the House

Received as Information

[SJ]

WEDNESDAY, MAY 6, 2009

The Bill was ordered placed on the Calendar for consideration tomorrow.

**COMMITTEE AMENDMENT AMENDED
DEBATE INTERRUPTED**

H. 3301 -- Reps. Harrell, Cato, Sandifer, Sellers, Neilson, Erickson, Bannister, Bedingfield, Merrill, Mitchell, Anthony, Bingham, Huggins, Vick, Cooper, Chalk, J.R. Smith, Willis, Gilliard, Allison, Anderson, Bales, Battle, Bowers, Brady, G.A. Brown, H.B. Brown, Cole, Daning, Duncan, Edge, Forrester, Gambrell, Gullick, Hamilton, Hayes, Herbkersman, Hiott, Jefferson, Horne, Kirsh, Limehouse, Littlejohn, Long, Lowe, Lucas, Miller, Millwood, Nanney, Ott, Owens, Parker, Pinson, E.H. Pitts, M.A. Pitts, Scott, Simrill, Skelton, D.C. Smith, G.R. Smith, Sottile, Spires, Stewart, Stringer, Thompson, Toole, Umphlett, White, Whitmire and Wylie: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 34-39-175 SO AS TO REQUIRE THE CONSUMER FINANCE DIVISION OF THE BOARD OF FINANCIAL INSTITUTIONS TO IMPLEMENT A REAL-TIME INTERNET ACCESSIBLE DATABASE FOR DEFERRED PRESENTMENT PROVIDERS TO VERIFY IF DEFERRED PRESENTMENT TRANSACTIONS ARE OUTSTANDING FOR A PARTICULAR PERSON; BY ADDING SECTION 34-39-270 SO AS TO PROHIBIT A DEFERRED PRESENTMENT PROVIDER FROM ENTERING INTO A DEFERRED PRESENTMENT TRANSACTION WITH A PERSON WHO HAS AN OUTSTANDING DEFERRED PRESENTMENT TRANSACTION OR WHO HAS ENTERED INTO AN EXTENDED PAYMENT PLAN AGREEMENT AND TO REQUIRE A DEFERRED PRESENTMENT PROVIDER TO VERIFY WHETHER AN INDIVIDUAL IS ELIGIBLE TO ENTER INTO A DEFERRED PRESENTMENT TRANSACTION; BY ADDING SECTION 34-39-280 SO AS TO REQUIRE THOSE APPLYING FOR LICENSES TO ENGAGE IN THE BUSINESS OF DEFERRED PRESENTMENT TO PROVIDE CERTAIN INFORMATION REGARDING EXTENDED PAYMENT PLANS; TO AMEND SECTION 34-39-130, RELATING TO LICENSURE REQUIREMENTS FOR DEFERRED PRESENTMENT PROVIDERS, SO AS TO PROHIBIT A PERSON FROM ENGAGING IN THE BUSINESS OF DEFERRED PRESENTMENT SERVICES WITH A RESIDENT OF SOUTH CAROLINA EXCEPT

[SJ]

WEDNESDAY, MAY 6, 2009

IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 39, TITLE 34; TO AMEND SECTION 34-39-180, RELATING TO DEFERRED PRESENTMENT RESTRICTIONS AND REQUIREMENTS, SO AS TO PROVIDE THAT THE TOTAL AMOUNT ADVANCED TO A CUSTOMER FOR DEFERRED PRESENTMENT OR DEPOSIT, EXCLUSIVE OF PERMISSIBLE FEES, MAY NOT EXCEED SIX HUNDRED DOLLARS.

The Senate proceeded to a consideration of the Bill, the question being the adoption of the amendment proposed by the Committee on Banking and Insurance.

Amendment No. P-1

Senators MALLOY, LOURIE and SHEHEEN proposed the following Amendment No. P-1 (3301R002.RF), which was carried over:

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

/ SECTION 1. Chapter 39, Title 34 of the 1976 Code is amended by adding:

“Section 34-39-175. (A) The Consumer Finance Division of the Board of Financial Institutions shall implement a common database with real-time access through an internet connection for deferred presentment providers, as provided in this subsection. The board may enter into a contract with a single source private vendor to develop and operate the database. The database must be accessible to the board and the deferred presentment providers to verify if deferred presentment transactions are outstanding for a particular person. A deferred presentment provider shall submit that data before entering into a deferred presentment transaction and once a deferred presentment transaction has been paid in full, in a format the board requires by rule including the drawer’s name, social security number or employment authorization alien number, address, driver’s license number, amount of the transaction, date of transaction, the date that the transaction is closed, and additional information required by the board. The board may impose a fee not to exceed one dollar for each transaction for data required to be submitted by a licensee. A licensee may rely on the information contained in the database as accurate and is not subject to any administrative penalty or civil liability as a result of relying on inaccurate information contained in the database. The board may adopt rules to administer and enforce the provisions of this section and to

WEDNESDAY, MAY 6, 2009

ensure that the database is used by licensees in accordance with this section.

(B) The information provided in the database is limited for the use in determining if a customer is eligible or ineligible to enter into a new deferred presentment transaction and to describe the reason for the determination of eligibility or ineligibility.”

SECTION 2. Chapter 39, Title 34 of the 1976 Code is amended by adding:

“Section 34-39-205. On premises advertising by a licensee may not contain false, misleading, or deceptive statements or representations. The board shall promulgate regulations necessary to administer and enforce this section.”

SECTION 3. Chapter 39, Title 34 of the 1976 Code is amended by adding:

“Section 34-39-270. (A) A licensee may not enter into a deferred presentment transaction with a person:

(1) who has an outstanding deferred presentment transaction with any licensee;

(2) who has entered into an extended payment plan agreement as provided in Section 34-39-280 which has not been paid in full or terminated; or

(3) sooner than the seventh day after the date upon which the person last closed out a deferred presentment transaction with any licensee.

(B) Before entering into a deferred presentment transaction with a person, a licensee shall verify whether the person is eligible to enter into the transaction by inquiring of the person, checking the licensee’s records, and accessing the deferred presentment transaction database established pursuant to subsection (C).

(C) The board shall contract with a single third party database provider that is SAS 70 certified to establish and operate a deferred presentment transaction database for the purpose of verifying whether a person is eligible to enter into a deferred presentment transaction. The board should give full consideration to Section 11-35-5210 when selecting the third-party database provider to establish and operate the deferred presentment transaction database required by this chapter. The board shall supervise the establishment and operation of the database and shall ensure that the database provider establishes and operates the database pursuant to the provisions of this section. The board shall have full access to the database and all records related to the

WEDNESDAY, MAY 6, 2009

database for purposes of supervising the establishment and operation of the database. If the database provider violates a provision of this section, the board shall terminate the contract. The database must have real-time access through an internet connection and be accessible at all times to the board and licensees. The database provider shall establish and maintain a process for responding to transaction verification requests when technical difficulties prevent the licensee from accessing the database through the internet including, but not limited to, verification by telephone. The database must be set up so as to notify the board if a licensee or a person enters into a transaction in violation of the provisions of this section.

(D) To conduct an inquiry as to whether a person is eligible to enter into a deferred presentment transaction, a licensee shall submit to the database provider such information as the board may require. The response to an inquiry to the database provider by a licensee must state only that a person is eligible or ineligible to enter into a transaction and describe the reason for that determination. The person seeking to enter into the transaction may make a direct inquiry to the database provider to request a more detailed explanation of the basis for the database provider's determination that the person is ineligible to enter into the transaction.

(E) A licensee shall notify the database provider immediately when the licensee enters into a deferred presentment transaction with a person. The licensee shall submit to the database provider such information as the board requires. When the transaction is closed, the licensee shall designate the transaction as closed and immediately notify the database provider. When the database provider receives notification that the transaction is closed, the database provider immediately shall designate the transaction as closed in the database.

(F) A licensee shall notify a person seeking to enter into a deferred presentment transaction that the licensee shall access the database to verify whether the person is eligible to enter into a transaction. The licensee also shall notify the person that information related to a new transaction must be entered into the database.

(G) The database provider may charge a database verification fee to a licensee for an inquiry as to whether a person is eligible to enter into a deferred presentment transaction, if that transaction is consummated by the licensee. The fee must be established by the board and may not exceed the actual cost of verifying a person's eligibility but not to exceed one dollar. A licensee may charge a person seeking to enter

WEDNESDAY, MAY 6, 2009

into a deferred presentment transaction one-half of the actual cost of the verification fee.

(H) Except as otherwise provided in this section, all personally identifiable information regarding a person contained within or obtained by way of the database is strictly confidential and is exempt from disclosure under the Freedom of Information Act. The database provider and licensees shall use the information collected pursuant to this section only as prescribed in this section and for no other purpose.

(I) A licensee may rely on the information contained in the database as accurate and is not subject to any administrative penalty or civil liability as a result of relying on inaccurate information contained in the database.

Section 34-39-280. (A)(1) Subject to the terms and conditions contained in this section, a customer may pay an outstanding deferred presentment transaction by means of an extended payment plan.

(2) A licensee shall enter into a written plan agreement with the customer if the customer, on or before the deferred presentment transaction's due date, requests a plan and signs an amendment to the written agreement that memorializes the plan's terms and shall enter into the database established in Section 34-29-175 the information that the customer has an extended payment plan.

(3) The plan's terms must allow the customer, at no additional cost, to repay the deferred presentment transaction in substantially equal installments over not less than sixty days. Each plan installment must coincide with a date on which the customer receives regular income. The customer may prepay a plan in full at any time without penalty. If the customer fails to pay a plan installment when due, the plan is terminated and the licensee immediately may accelerate and collect the unpaid transaction balance. The licensee, with each payment under the plan by a customer, may provide for the return of the customer's prior held check and require a new check for the remaining balance under the plan.

(4) A licensee must notify the customer of his plan rights by displaying the following statement, in at least twelve-point bold type, on the first page of the written agreement:

'You should use a deferred presentment transaction only for a short-term credit need. If you have a long-term credit need, you should consider a less costly way to borrow money or seek the advice of a nonprofit credit counselor. You may repay this contract through an extended payment plan. If you choose this right, then, on or before the

WEDNESDAY, MAY 6, 2009

date this contract is due, you must ask for an extended payment plan. You will be asked to sign a new agreement for this extended payment plan. The extended payment plan must let you repay this contract in substantially equal installments over the next sixty days. There will be no additional cost. Each extended payment plan installment must match with a date on which you receive regular income. You may prepay an extended payment plan in full at any time without penalty. If you fail to pay an extended payment plan installment when due, the extended payment plan will end and we may collect immediately the unpaid contract balance.’

(B)(1) A borrower has the right to rescind the deferred presentment transaction not later than the close of business on the next business day immediately following the transaction date. To rescind a transaction, a borrower must:

(a) inform the lender that the borrower wants to rescind the transaction; and

(b) return the principal amount loaned to the customer.

(2) A licensee must notify the customer of his right of rescission by displaying the following statement, in at least twelve-point bold type, on a separate form signed and dated by the licensee and the customer and attached to the written agreement:

‘You should use a deferred presentment transaction only for a short-term credit need. If you have a long-term credit need, you should consider a less costly way to borrow money or seek the advice of a nonprofit credit counselor. You may cancel this contract without penalty and without owing any interest or fees to the lender. To cancel this contract without penalty and without owing any interest or fees to the lender you must (1) return the money loaned to you (2) before _____ o’clock on _____ (date).’

Section 34-39-290. Based upon data provided by the database vendor, the Board of Financial Institutions annually shall report to the General Assembly the following information for loans made in South Carolina in the previous reporting year, specifically the number of:

(1) loans made in South Carolina by loan amount and the dollar amount of fees collected by loan amount;

(2) individual borrowers by loan amount and the number of borrowers by the number of times each borrower took out a loan;

(3) borrowers who chose to pay off their loans through an extended payment plan by loan amount;

WEDNESDAY, MAY 6, 2009

(4) loans that were not paid off in the previous year by loan amount; and

(5) loans on which the lender submitted the check for collection by loan amount and the number of loans on which the lender took action for collection.”

SECTION 4. Section 34-39-130 of the 1976 Code is amended by adding at the end:

“(C) A person may not engage in the business of deferred presentment services with a customer residing in this State, whether or not that person has a location in South Carolina, except in accordance with the provisions of this chapter and without having first obtained a license pursuant to this chapter.

(D)(1) A licensee pursuant to this chapter may not offer, arrange, act as an agent for, or assist a deferred deposit originator in any way in the making of a deferred deposit transaction unless the deferred deposit originator complies with all applicable federal and state laws and regulations including this chapter.

(2) This prohibition does not apply to the arranger, agent, or assistant to a state or federally chartered bank, thrift, savings association, or credit union if, upon review of the entire circumstances, the state or federally chartered bank, thrift, savings association, or credit union:

(a) initially advanced the loan proceeds to the customer;

(b) maintained a preponderant economic interest in the loan after its initiation; and

(c) developed the deferred deposit transaction product or products on its own without involvement of the licensee.

(3) If a licensee offers, arranges, acts as an agent for, or assists a state or federally chartered bank, thrift, savings association, or credit union in the making of a deferred deposit transaction and the licensee demonstrates that the standards in item (2)(a), (b), and (c) are met, the licensee must comply with all other provisions of this chapter to the extent that they are not preempted by other federal or state law.”

SECTION 5. Section 34-39-150(C) and (D) of the 1976 Code is amended to read:

“(C) The application must be accompanied by payment of an application fee of ~~two hundred fifty~~ five hundred dollars for the first location and five hundred dollars for each additional location and an investigation fee of five hundred dollars for each licensee. These fees are not refundable or abatable. If the license is granted, however,

WEDNESDAY, MAY 6, 2009

payment of the application fee satisfies the fee requirement for the first license year or its remainder.

(D) A license expires annually and may be renewed upon payment of a license fee of ~~two hundred fifty~~ five hundred dollars. The annual license renewal fee for an applicant with more than one location is ~~two hundred fifty~~ five hundred dollars for the first location and ~~two hundred fifty~~ five hundred dollars for each additional location.

(E) The first ten thousand dollars collected from license fees pursuant to this section must be credited to the Department of Consumer Affairs to implement a consumer financial literacy program.

(F) Of the remaining license fees, after the first ten thousand dollars is credited pursuant to subsection (E), one half must be credited to the Board of Financial Institutions for enforcement of this chapter and one half must be credited to the Attorney General to prosecute actions brought for violations of this chapter.”

SECTION 6. Section 34-39-170 of the 1976 Code, as added by Act 433 of 1998, is amended by adding an appropriately numbered new item to read:

“() A licensee and a customer may not enter into an electronic funds transfer agreement to make automatic debited loan payments for any portion of a deferred presentment agreement.”

SECTION 7. Section 34-39-180 of the 1976 Code, as added by Act 433 of 1998, is amended to read:

“Section 34-39-180. (A) ~~A licensee may defer the presentment or deposit of a check for up to thirty-one days pursuant to the provisions of this section. The total amount advanced by a licensee to any customer for deferred presentment or deposit may not exceed the lesser of twenty-five percent of the customer’s gross income during the term of the loan or five hundred dollars, exclusive of the fees allowed in Section 34-39-180(D). A licensee may not advance to a customer an amount for deferred presentment or deposit which causes this limit to be exceeded by that customer.~~

~~(B) The face amount of a check taken for deferred presentment or deposit may not exceed three hundred dollars, exclusive of the fees allowed in Section 34-39-180(E).~~

~~(C)~~(B) Each check must be documented by a written agreement signed by both the customer and the licensee. The written agreement must contain the name or trade name of the licensee, the transaction date, the amount of the check, and a statement of the total amount of fees charged, expressed both as a dollar amount and as an effective

WEDNESDAY, MAY 6, 2009

annual percentage rate (APR). The written agreement must authorize expressly the licensee to defer presentment or deposit of the check until a specific date, not later than thirty-one days from the date the check is accepted by the licensee. The written agreement also must contain plain language developed by the board which sufficiently informs the customer regarding the nature of deferred presentment services, the deferred presentment service process, the customer's rights pursuant to this chapter, information to file complaints with the South Carolina Department of Consumer Affairs and other information the board may require.

~~(D)~~(C) The board shall require each licensee to issue a standardized consumer notification and disclosure form in compliance with state and federal truth-in-lending laws before entering into a deferred presentment agreement with a customer.

~~(E)~~(D) A licensee ~~shall~~ may not charge, directly or indirectly, a fee or other consideration in excess of fifteen percent of the ~~face~~ amount of ~~the check~~ advanced for accepting a check for deferred presentment or deposit. The fee or other consideration authorized by this subsection may be imposed only once for each written agreement. Records must be kept by each licensee with sufficient detail to ensure that the fee or other consideration authorized by this subsection ~~may be~~ is imposed only once for each written agreement.

~~(F)~~(E) A check accepted for deferred presentment or deposit pursuant to this chapter ~~may~~ must not be repaid from the proceeds of another check accepted for deferred presentment or deposit by the same licensee or an affiliate of the licensee. A licensee ~~shall~~ may not renew or otherwise extend presentment of a check or withhold the check from deposit, for old or new consideration, for a period beyond the time set forth in the written agreement with the customer. A licensee shall not enter into a deferred presentment agreement with a customer who has entered into an extended payment plan agreement with any licensee as provided in Section 34-39-280.

~~(G)~~(F) If a check is returned to the licensee from a payer financial institution due to insufficient funds, closed account, or stop payment order, the licensee may pursue all legally available civil means to collect the check including, but not limited to, the imposition of a returned check charge as provided in Section 34-11-70(a), except that the service charge imposed by the licensee ~~shall~~ may not exceed the lesser of ten dollars or the fee imposed by the financial institution on the licensee for the returned check. An individual who issues a personal

WEDNESDAY, MAY 6, 2009

check to a licensee under a deferred presentment agreement is not subject to criminal penalty.

(G) The board shall develop a form that must be used by all licensees to calculate the maximum amount of funds it may lend a customer based on the customer's income during the term of the loan as required by subsection (A). The form and copies of the documentation verifying the customer's income shall be maintained by the licensee and a copy of both attached to the written agreement signed by the customer."

SECTION 8. Section 34-39-200 of the 1976 Code, as added by Act 433 of 1998, is amended to read:

"Section 34-39-200. A person required to be licensed pursuant to this chapter may not:

- (1) charge fees in excess of those authorized by this chapter;
- (2) engage in the business of:
 - (i) making loans of money or extension of credit;
 - (ii) discounting notes, bills of exchange, items, or other evidences of debt; or
 - (iii) accepting deposits or bailments of money or items, except as expressly provided by Section 34-39-180;
- (3) use or cause to be published or disseminated advertising communication which contains false, misleading, or deceptive statements or representations;
- (4) conduct business at premises or locations other than locations licensed by the board;
- (5) engage in unfair, deceptive, or fraudulent practices, including unconscionable conduct in violation of Section 37-5-108;
- (6) alter or delete the date on a check accepted by the licensee;
- (7) accept an undated check or a check dated on a date other than the date on which the licensee accepts the check;
- (8) require a customer to provide security for the transaction or require the customer to provide a guaranty from another person;
- (9) engage in the retail sale of goods or services, other than deferred presentment services and Level I check-cashing services as defined in Section 34-41-10, at the location licensed pursuant to this chapter, ~~provided, however~~ except, that a sale of money orders, or postage stamps, and the payment of utility bills with ~~no additional~~ a fee to the customer that does not exceed one percent of the bill being paid, vending machines for food or beverage, facsimile services, ~~Western Union~~ wire transfer or money transmitter services, or rental of postal

WEDNESDAY, MAY 6, 2009

boxes at rates not higher than allowed by the United States Postal Service ~~is~~ are not the ~~sale~~ sales of goods or services prohibited by this subsection;

(10) be licensed pursuant to Section 12-21-2720(a)(3) to operate a video poker machine; ~~or~~

(11) permit others to engage in an activity prohibited by this section at a location licensed pursuant to this chapter; ~~or~~

(12) broker or arrange a deferred presentment transaction on behalf of a third-party lender, unless the transaction complies with the provisions of this chapter and is not preempted by federal law.”

SECTION 9. 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.

SECTION 10. This act takes effect January 1, 2010. /
Amend title to conform.

Senator MALLOY explained the amendment.

PRESIDENT *Pro Tempore* PRESIDES

At 4:13 P.M., Senator McCONNELL assumed the Chair.

Senator MALLOY explained the amendment.

Expression of Personal Interest

Senator FORD rose for an Expression of Personal Interest.

Senator MALLOY explained the amendment.

On motion of Senator MALLOY, with unanimous consent, Amendment No. P-1 was carried over.

Amendment No. P-2

WEDNESDAY, MAY 6, 2009

Senators FORD, HAYES, MALLOY, LOURIE and SHEHEEN proposed the following Amendment No. P-2 (3301R044.RF), which was tabled:

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

/ SECTION 1. Chapter 39 of Title 34 is amended by adding:

“Section 34-39-175. (A) The Consumer Finance Division of the Board of Financial Institutions shall implement a common database with real-time access through an internet connection for deferred presentment providers, as provided in this subsection. The board may enter into a contract with a single source private vendor to develop and operate the database. The database must be accessible to the board and the deferred presentment providers to verify if deferred presentment transactions are outstanding for a particular person. A deferred presentment provider shall submit that data before entering into a deferred presentment transaction and once a deferred presentment transaction has been paid in full, in a format the board requires by rule including the drawer’s name, social security number or employment authorization alien number, address, driver’s license number, amount of the transaction, date of transaction, the date that the transaction is closed, and additional information required by the board. The board may impose a fee not to exceed one dollar for each transaction for data required to be submitted by a licensee. A licensee may rely on the information contained in the database as accurate and is not subject to any administrative penalty or civil liability as a result of relying on inaccurate information contained in the database. The board may adopt rules to administer and enforce the provisions of this section and to ensure that the database is used by licensees in accordance with this section.

(B) The information provided in the database is limited for the use in determining if a customer is eligible or ineligible to enter into a new deferred presentment transaction and to describe the reason for the determination of eligibility or ineligibility.”

SECTION 2. Chapter 39, Title 34 of the 1976 Code is amended by adding:

“Section 34-39-205. On premises advertising by a licensee may not contain false, misleading, or deceptive statements or representations. The board shall promulgate regulations necessary to administer and enforce this section.”

WEDNESDAY, MAY 6, 2009

SECTION 3. Chapter 39, Title 34 of the 1976 Code is amended by adding:

“Section 34-39-270. (A) A licensee may not enter into a deferred presentment transaction with a person:

(1) who has an outstanding deferred presentment transaction with any licensee;

(2) who has entered into an extended payment plan agreement as provided in Section 34-39-280 which has not been paid in full or terminated; or

(3) sooner than the seventh day after the date upon which the person last closed out a deferred presentment transaction with any licensee.

(B) Before entering into a deferred presentment transaction with a person, a licensee shall verify whether the person is eligible to enter into the transaction by inquiring of the person, checking the licensee’s records, and accessing the deferred presentment transaction database established pursuant to subsection (C).

(C) The board shall contract with a single third party database provider to establish and operate a deferred presentment transaction database for the purpose of verifying whether a person is eligible to enter into a deferred presentment transaction. The board shall supervise the establishment and operation of the database and shall ensure that the database provider establishes and operates the database pursuant to the provisions of this section. The board shall have full access to the database and all records related to the database for purposes of supervising the establishment and operation of the database. If the database provider violates a provision of this section, the board shall terminate the contract. The database must have real-time access through an internet connection and be accessible at all times to the board and licensees. The database provider shall establish and maintain a process for responding to transaction verification requests when technical difficulties prevent the licensee from accessing the database through the internet including, but not limited to, verification by telephone. The database must be set up so as to notify the board if a licensee or a person enters into a transaction in violation of the provisions of this section.

(D) To conduct an inquiry as to whether a person is eligible to enter into a deferred presentment transaction, a licensee shall submit to the database provider such information as the board may require. The response to an inquiry to the database provider by a licensee must state

WEDNESDAY, MAY 6, 2009

only that a person is eligible or ineligible to enter into a transaction and describe the reason for that determination. The person seeking to enter into the transaction may make a direct inquiry to the database provider to request a more detailed explanation of the basis for the database provider's determination that the person is ineligible to enter into the transaction.

(E) A licensee shall notify the database provider immediately when the licensee enters into a deferred presentment transaction with a person. The licensee shall submit to the database provider such information as the board requires. When the transaction is closed, the licensee shall designate the transaction as closed and immediately notify the database provider. When the database provider receives notification that the transaction is closed, the database provider immediately shall designate the transaction as closed in the database.

(F) A licensee shall notify a person seeking to enter into a deferred presentment transaction that the licensee shall access the database to verify whether the person is eligible to enter into a transaction. The licensee also shall notify the person that information related to a new transaction must be entered into the database.

(G) The database provider may charge a database verification fee to a licensee for an inquiry as to whether a person is eligible to enter into a deferred presentment transaction, if that transaction is consummated by the licensee. The fee must be established by the board and may not exceed the actual cost of verifying a person's eligibility but not to exceed one dollar. A licensee may charge a person seeking to enter into a deferred presentment transaction one-half of the actual cost of the verification fee.

(H) Except as otherwise provided in this section, all personally identifiable information regarding a person contained within or obtained by way of the database is strictly confidential and is exempt from disclosure under the Freedom of Information Act. The database provider and licensees shall use the information collected pursuant to this section only as prescribed in this section and for no other purpose.

(I) A licensee may rely on the information contained in the database as accurate and is not subject to any administrative penalty or civil liability as a result of relying on inaccurate information contained in the database.

Section 34-39-280.(A) Subject to the terms and conditions contained in this section, a customer may pay an outstanding deferred presentment transaction by means of an extended payment plan.

WEDNESDAY, MAY 6, 2009

(B) A licensee shall enter into a written plan agreement with the customer if the customer, on or before the deferred presentment transaction's due date, requests a plan and signs an amendment to the written agreement that memorializes the plan's terms and shall enter into the database established in Section 34-29-175 the information that the customer has an extended payment plan.

(C) The plan's terms must allow the customer, at no additional cost, to repay the deferred presentment transaction in substantially equal installments over not less than sixty days. Each plan installment must coincide with a date on which the customer receives regular income. The customer may prepay a plan in full at any time without penalty. If the customer fails to pay a plan installment when due, the plan is terminated and the licensee immediately may accelerate and collect the unpaid transaction balance. The licensee, with each payment under the plan by a customer, may provide for the return of the customer's prior held check and require a new check for the remaining balance under the plan.

(D) A licensee must notify the customer of his plan rights by displaying the following statement, in at least 12-point bold type, on the first page of the written agreement:

'You should use a deferred presentment transaction only for a short-term credit need. If you have a long-term credit need, you should consider a less costly way to borrow money or seek the advice of a nonprofit credit counselor. You may repay this contract through an extended payment plan. If you choose this right, then, on or before the date this contract is due, you must ask for an extended payment plan. You will be asked to sign a new agreement for this extended payment plan. The extended payment plan must let you repay this contract in substantially equal installments over the next sixty days. There will be no additional cost. Each extended payment plan installment must match with a date on which you receive regular income. You may prepay an extended payment plan in full at any time without penalty. If you fail to pay an extended payment plan installment when due, the extended payment plan will end and we may collect immediately the unpaid contract balance.'

Section 34-39-290. Based upon data provided by the database vendor, the Board of Financial Institutions annually shall report to the General Assembly the following information for loans made in South Carolina in the previous reporting year, specifically the number of:

WEDNESDAY, MAY 6, 2009

- (1) loans made in South Carolina by loan amount and the dollar amount of fees collected by loan amount;
- (2) individual borrowers by loan amount and the number of borrowers by the number of times each borrower took out a loan;
- (3) borrowers who chose to pay off their loans through an extended payment plan by loan amount;
- (4) loans that were not paid off in the previous year by loan amount; and
- (5) loans on which the lender submitted the check for collection by loan amount and the number of loans on which the lender took action for collection.”

SECTION 4. Section 34-39-130 of the 1976 Code, as added by Act 433 of 1998, is amended by adding at the end:

“(C) A person may not engage in the business of deferred presentment services with a customer residing in this State, whether or not that person has a location in South Carolina, except in accordance with the provisions of this chapter and without having first obtained a license pursuant to this chapter.

(D)(1) A licensee pursuant to this chapter may not offer, arrange, act as an agent for, or assist a deferred deposit originator in any way in the making of a deferred deposit transaction unless the deferred deposit originator complies with all applicable federal and state laws and regulations including this chapter.

(2) This prohibition does not apply to the arranger, agent, or assistant to a state or federally chartered bank, thrift, savings association, or credit union if, upon review of the entire circumstances, the state or federally chartered bank, thrift, savings association, or credit union:

- (a) initially advanced the loan proceeds to the customer;
- (b) maintained a preponderant economic interest in the loan after its initiation; and
- (c) developed the deferred deposit transaction product or products on its own without involvement of the licensee.

(3) If a licensee offers, arranges, acts as an agent for, or assists a state or federally chartered bank, thrift, savings association, or credit union in the making of a deferred deposit transaction and the licensee demonstrates that the standards in item (2)(a), (b), and (c) are met, the licensee must comply with all other provisions of this chapter to the extent that they are not preempted by other federal or state law.”

WEDNESDAY, MAY 6, 2009

SECTION 5. Section 34-39-150(C) and (D) of the 1976 Code, as added by Act 433 of 1998, is amended to read:

“(C) The application must be accompanied by payment of an application fee of ~~two hundred fifty~~ five hundred dollars and an investigation fee of five hundred dollars. These fees are not refundable or abatable. If the license is granted, however, payment of the application fee satisfies the fee requirement for the first license year or its remainder.

(D) A license expires annually and may be renewed upon payment of a license fee of ~~two hundred fifty~~ five hundred dollars. The annual license renewal fee for an applicant with more than one location is ~~two hundred fifty~~ five hundred dollars for the first location and ~~fifty one hundred~~ one hundred dollars for each additional location. The Board of Financial Institutions shall disburse one-half of the license fees collected to the South Carolina Attorney General’s Office to establish and maintain a division to enforce the provisions of this chapter.”

SECTION 6. Section 34-39-170 of the 1976 Code, as added by Act 433 of 1998, is amended by adding an appropriately numbered new item to read:

“() A licensee and a customer may not enter into an electronic funds transfer agreement to make automatic debited loan payments for any portion of a deferred presentment agreement.”

SECTION 7. Section 34-39-180 of the 1976 Code, as added by Act 433 of 1998, is amended to read:

“Section 34-39-180. (A) ~~A licensee may defer the presentment or deposit of a check for up to thirty one days pursuant to the provisions of this section.~~ The total amount advanced by a licensee to any customer for deferred presentment or deposit may not exceed the lesser of twenty-five percent of the customer’s gross income during the term of the loan or five hundred dollars, exclusive of the fees allowed in Section 34-39-180(E). A licensee may not advance to a customer an amount for deferred presentment or deposit which causes this limit to be exceeded by that customer.

(B) Each check must be documented by a written agreement signed by both the customer and the licensee. The written agreement must contain the name or trade name of the licensee, the transaction date, the amount of the check, and a statement of the total amount of fees charged, expressed both as a dollar amount and as an effective annual percentage rate (APR). The written agreement must authorize expressly the licensee to defer presentment or deposit of the check until a specific

WEDNESDAY, MAY 6, 2009

date, not later than thirty-one days from the date the check is accepted by the licensee. The written agreement also must contain plain language developed by the board which sufficiently informs the customer regarding the nature of deferred presentment services, the deferred presentment service process, the customer's rights pursuant to this chapter, information to file complaints with the South Carolina Department of Consumer Affairs and other information the board may require.

(C) The board shall require each licensee to issue a standardized consumer notification and disclosure form in compliance with state and federal truth-in-lending laws before entering into a deferred presentment agreement with a customer.

(D) A licensee ~~shall~~ may not charge, directly or indirectly, a fee or other consideration in excess of fifteen percent of the ~~face~~ amount of ~~the check~~ advanced for accepting a check for deferred presentment or deposit. The fee or other consideration authorized by this subsection may be imposed only once for each written agreement. Records must be kept by each licensee with sufficient detail to ensure that the fee or other consideration authorized by this subsection ~~may be~~ is imposed only once for each written agreement.

(E) A check accepted for deferred presentment or deposit pursuant to this chapter ~~may~~ must not be repaid from the proceeds of another check accepted for deferred presentment or deposit by the same licensee or an affiliate of the licensee. A licensee ~~shall~~ may not renew or otherwise extend presentment of a check or withhold the check from deposit, for old or new consideration, for a period beyond the time set forth in the written agreement with the customer. A licensee shall not enter into a deferred presentment agreement with a customer who has entered into an extended payment plan agreement with any licensee as provided in Section 34-39-280.

(F) If a check is returned to the licensee from a payer financial institution due to insufficient funds, closed account, or stop payment order, the licensee may pursue all legally available civil means to collect the check including, but not limited to, the imposition of a returned check charge as provided in Section 34-11-70(a), except that the service charge imposed by the licensee ~~shall~~ may not exceed the lesser of ten dollars or the fee imposed by the financial institution on the licensee for the returned check. An individual who issues a personal check to a licensee under a deferred presentment agreement is not subject to criminal penalty.

WEDNESDAY, MAY 6, 2009

(G) If a check is returned to the licensee from a payer financial institution due to insufficient funds, closed account, or stop payment order, the licensee may pursue all legally available civil means to collect the check including, but not limited to, the imposition of a returned check charge as provided in Section 34-11-70(a), except that the service charge imposed by the licensee shall not exceed the lesser of ten dollars or the fee imposed by the financial institution on the licensee for the returned check. An individual who issues a personal check to a licensee under a deferred presentment agreement is not subject to criminal penalty.

(H) The board shall develop a form that must be used by all licensees to calculate the maximum amount of funds it may lend a customer based on the customer's income during the term of the loan as required by subsection (A). The form and copies of the documentation verifying the customer's income shall be maintained by the licensee and a copy of both attached to the written agreement signed by the customer."

SECTION 8. Section 34-39-200 of the 1976 Code, as added by Act 433 of 1998, is amended to read:

"Section 34-39-200. A person required to be licensed pursuant to this chapter may not:

- (1) charge fees in excess of those authorized by this chapter;
- (2) engage in the business of:
 - (i) making loans of money or extension of credit;
 - (ii) discounting notes, bills of exchange, items, or other evidences of debt; or
 - (iii) accepting deposits or bailments of money or items, except as expressly provided by Section 34-39-180;
- (3) use or cause to be published or disseminated advertising communication which contains false, misleading, or deceptive statements or representations;
- (4) conduct business at premises or locations other than locations licensed by the board;
- (5) engage in unfair, deceptive, or fraudulent practices, including unconscionable conduct in violation of Section 37-5-108;
- (6) alter or delete the date on a check accepted by the licensee;
- (7) accept an undated check or a check dated on a date other than the date on which the licensee accepts the check;
- (8) require a customer to provide security for the transaction or require the customer to provide a guaranty from another person;

WEDNESDAY, MAY 6, 2009

(9) engage in the retail sale of goods or services, other than deferred presentment services and Level I check-cashing services as defined in Section 34-41-10, at the location licensed pursuant to this chapter, ~~provided, however except,~~ that a sale of money orders, or postage stamps, and the payment of utility bills with no additional a fee to the customer that does not exceed one percent of the bill being paid, vending machines for food or beverage, facsimile services, ~~Western Union wire transfer or money transmitter services, or rental of postal boxes at rates not higher than allowed by the United States Postal Service~~ is are not the sale sales of goods or services prohibited by this subsection;

(10) be licensed pursuant to Section 12-21-2720(a)(3) to operate a video poker machine; ~~or~~

(11) permit others to engage in an activity prohibited by this section at a location licensed pursuant to this chapter; ~~;~~ or

(12) broker or arrange a deferred presentment transaction on behalf of a third-party lender, unless the transaction complies with the provisions of this chapter and is not preempted by federal law.”

SECTION 9. Section 34-39-210 of the 1976 Code is amended to read:

“Section 34-39-210. (A) The board may ~~suspend or revoke~~ impose penalties on a licensee license issued pursuant to this chapter if, after notice and opportunity for hearing, the board issues written findings that the licensee has:

(1) violated this chapter or applicable state or federal law;

(2) made a false statement on the application for a license under the chapter;

(3) refused to permit investigation by the board as authorized by this chapter;

(4) failed to comply with an order of the board;

(5) demonstrated incompetency or untrustworthiness to engage in the business of deferred presentment services; or

(6) been convicted of a felony or misdemeanor involving fraud, misrepresentation, or deceit.

(B) For violations found pursuant to subsection (A), the board may impose the following penalties:

(1) a fine of \$1,500.00 for the first violation;

(2) a fine of \$3,000.00 for the second violation;

(3) suspension of the license for one year for the third violation;

(4) permanent revocation of license for the fourth violation.

WEDNESDAY, MAY 6, 2009

~~(B)~~(C) The board may not suspend or revoke a license issued pursuant to this chapter unless the licensee has been given notice and opportunity for hearing in accordance with the Administrative Procedures Act.

SECTION 10. 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.

SECTION 11. This act takes effect January 1, 2010. /

Renumber sections to conform.

Amend title to conform.

Senator HAYES explained the amendment.

Senator THOMAS spoke on the amendment.

Senator LOURIE explained the amendment.

ACTING PRESIDENT PRESIDES

At 5:09 P.M., Senator L. MARTIN assumed the Chair.

Senator LOURIE resumed explaining the amendment.

PRESIDENT PRESIDES

At 5:28 P.M., the PRESIDENT assumed the Chair.

Senator LOURIE explained the amendment.

Senator THOMAS moved to lay the amendment on the table.

The "ayes" and "nays" were demanded and taken, resulting as follows:

Ayes 27; Nays 14

AYES

Alexander

Bright

Bryant

[SJ]

43

WEDNESDAY, MAY 6, 2009

Campbell	Campsen	Cleary
Cromer	Davis	Fair
Grooms	Hutto	Jackson
Land	<i>Martin, L.</i>	<i>Martin, S.</i>
McConnell	Mulvaney	Nicholson
O'Dell	Peeler	Reese
Rose	Setzler	Shoopman
Thomas	Verdin	Williams

Total--27

NAYS

Anderson	Coleman	Courson
Elliott	Ford	Hayes
Leventis	Lourie	Malloy
Massey	Matthews	McGill
Rankin	Scott	

Total--14

The amendment was laid on the table.

Amendment No. P-3

Senator BRYANT proposed the following Amendment No. P-3 (3301R052.KLB), which was tabled:

Amend the Committee Report, as and if amended, by striking SECTION 1 in its entirety.

Amend the Committee Report further, as and if amended, by striking SECTION 2 in its entirety and inserting:

/ SECTION 2. Chapter 39, Title 34 of the 1976 Code is amended by adding:

“Section 34-39-270. (A) A licensee may not enter into a deferred presentment transaction with a person:

- (1) who has an outstanding deferred presentment transaction;
- (2) who has repaid a previous deferred presentment transaction with any licensee on the same business day or the previous business day; or
- (3) who has entered into an extended payment plan agreement with any licensee as provided in Section 34-39-280 which has not been paid in full or terminated.” /

WEDNESDAY, MAY 6, 2009

Amend the Committee Report further, as and if amended, page [3301-5], by striking lines 29-34 and inserting:

/ (F) If a customer enters into an extended repayment plan, the customer and a licensee are prohibited from entering into a subsequent deferred presentment transaction until repayment in full of the original deferred presentment transaction. /

Amend the bill, as and if amended, by striking SECTION 6 in its entirety.

Renumber sections to conform.

Amend title to conform.

Senator BRYANT explained the amendment.

Senator LAND argued contra to the adoption of the amendment.

Motion Adopted

On motion of Senator L. MARTIN, Senators McCONNELL, LEATHERMAN and GROOMS were granted leave to vote from the balcony.

Senator LAND moved to lay the amendment on the table.

The "ayes" and "nays" were demanded and taken, resulting as follows:

Ayes 27; Nays 13

AYES

Alexander	Anderson	Campbell
Coleman	Courson	Cromer
Hayes	Hutto	Jackson
Land	Leatherman	Leventis
Lourie	<i>Martin, L.</i>	<i>Martin, S.</i>
Matthews	McConnell	McGill
Nicholson	O'Dell	Peeler
Rankin	Reese	Scott
Setzler	Thomas	Williams

Total--27

NAYS

Bright	Bryant	Campsen
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[SJ]

45

WEDNESDAY, MAY 6, 2009

Cleary	Davis	Fair
Grooms	Malloy	Massey
Mulvaney	Rose	Shoopman
Verdin		

Total--13

The amendment was laid on the table.

Amendment No. P-5

Senator MASSEY proposed the following Amendment No. P-5 (3301R050.ASM), which was adopted:

Amend the Committee Amendment, as and if amended, page [3301-3], by striking lines 35-43 and inserting:

/ (E) A licensee immediately shall notify the database provider when the licensee enters into a deferred presentment transaction with a person. The licensee shall submit to the database provider such information as the board requires. When the transaction is paid in full, the licensee shall designate the transaction as closed and immediately notify the database provider. When the database provider receives notification that the transaction is paid in full, the database provider immediately shall designate the transaction as paid in full in the database. For purposes of this subsection, an item is 'paid in full' when the payor bank makes final payment on the customer's check pursuant to Section 36-4-215. /

Renumber sections to conform.

Amend title to conform.

Senator MASSEY explained the amendment.

The amendment was adopted.

On motion of Senator L. MARTIN, debate was interrupted by adjournment.

RECALLED AND ADOPTED

H. 3991 -- Reps. Stavrinakis, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G.A. Brown, H.B. Brown, R.L. Brown, Cato, Chalk, Clemmons,

[SJ]

WEDNESDAY, MAY 6, 2009

Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gullick, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, Moss, Nanney, J.H. Neal, J.M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E.H. Pitts, M.A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D.C. Smith, G.M. Smith, G.R. Smith, J.E. Smith, J.R. Smith, Sottile, Spires, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A.D. Young and T.R. Young: A CONCURRENT RESOLUTION TO DECLARE THE WEEK OF MAY 4-8, 2009, AS TEACHER APPRECIATION WEEK IN SOUTH CAROLINA AND TO EXPRESS THE SINCERE GRATITUDE OF THE CITIZENS OF SOUTH CAROLINA TO THE TEACHERS OF THIS GREAT STATE.

Senator COURSON asked unanimous consent to make a motion to recall the Bill from the Committee on Education.

There was no objection and the Bill was recalled from the Committee on Education.

On motion of Senator COURSON, with unanimous consent, the Senate proceeded to a consideration of the Concurrent Resolution, the question being the adoption of the Resolution.

The Concurrent Resolution was adopted, ordered sent to the House.

ADJOURNMENT

At 6:01 P.M., on motion of Senator L. MARTIN, the Senate adjourned to meet tomorrow at 11:00 A.M.

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WEDNESDAY, MAY 6, 2009

SENATE JOURNAL INDEX

S. 126.....	21	S. 792.....	5
S. 144.....	7	S. 793.....	5
S. 168.....	18	S. 794.....	5
S. 249.....	7	S. 795.....	6
S. 282.....	8	S. 796.....	6
S. 372.....	8		
S. 382.....	8	H. 3022.....	12
S. 405.....	9	H. 3272.....	13
S. 446.....	9	H. 3274.....	14
S. 491.....	22	H. 3301.....	23
S. 495.....	10	H. 3305.....	14
S. 553.....	10	H. 3347.....	15
S. 554.....	11	H. 3413.....	15
S. 575.....	12	H. 3572.....	15
S. 668.....	12	H. 3651.....	15
S. 671.....	12	H. 3677.....	16
S. 704.....	22	H. 3730.....	17
S. 773.....	18	H. 3766.....	17
S. 787.....	3	H. 3942.....	17
S. 788.....	3	H. 3957.....	18
S. 789.....	3	H. 3991.....	46
S. 790.....	4	H. 4000.....	20
S. 791.....	4		