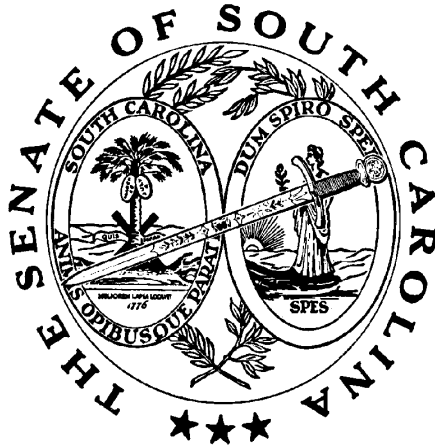


NO. 61

**JOURNAL**  
**OF THE**  
**SENATE**  
**OF THE**  
**STATE OF SOUTH CAROLINA**



**REGULAR SESSION BEGINNING TUESDAY, JANUARY 13, 2009**

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**TUESDAY, MAY 12, 2009**

**Tuesday, May 12, 2009**  
**(Statewide Session)**

~~Indicates Matter Stricken~~  
Indicates New Matter

The Senate assembled at 12:00 Noon, 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:

Paul wrote to those he loved in Rome, saying:

“Do not think of yourself more highly than you ought, but rather think of yourself with sober judgment, in accordance with the measure of faith God has given you.” (Romans 12:3)

Please bow with me as we pray:

How easy it becomes, O Lord, to fall into the traps of pride and of self-love. It happens to all of us, we know; it is a part of our human nature. Moreover, it is a special challenge to those who, one way or another, often find themselves in the limelight. Yet, we ask You to strengthen us, dear God. Keep us from being victims of false praise. And especially lead each of these dedicated Senators and their staff members to focus always on what truly matters: which is being of service to the people of this State, and doing so in ways that honor You. In Your loving name we pray, dear Lord.  
Amen.

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

**MESSAGE FROM THE GOVERNOR**

The following appointments were transmitted by the Honorable Mark C. Sanford:

**Statewide Appointments**

Initial Appointment, Charleston Naval Facilities Redevelopment Authority, with the term to commence April 24, 2009, and to expire April 24, 2013

At-Large:

Louis C. Mintz, P. O. Box 1474, Mount Pleasant, SC 29465 *VICE*  
James C. Bryan

Referred to the Committee on Labor, Commerce and Industry.

**TUESDAY, MAY 12, 2009**

Initial Appointment, John De La Howe School Board of Trustees,  
with the term to commence April 1, 2009, and to expire April 1, 2014

At-Large:

Mary O. Morales, 301 Westbrook Way, Lexington, SC 29072 *VICE*  
Harriet S. Johnson

Referred to the Committee on Education.

**REGULATION WITHDRAWN AND RESUBMITTED**

The following was received:

Document No. 3198

Agency: Department of Health and Environmental Control

SUBJECT: Solid Waste Management - Demonstration of Need

Received by Lieutenant Governor January 13, 2009

Referred to Medical Affairs Committee

Legislative Review Expiration May 13, 2009

Withdrawn and resubmitted: May 7, 2009

Revised expiration date: May 27, 2009

**Doctor of the Day**

Senator FAIR introduced Dr. Ted Watson of Anderson, S.C., Doctor  
of the Day.

**CO-SPONSOR ADDED**

The following co-sponsor was added to the respective Bills:

S. 560 Sen. Davis

S. 628 Sen. Davis

S. 535 Sen. Davis

**Leave of Absence**

At 1:50 P.M., Senator JACKSON requested a leave of absence  
beginning at 5:00 P.M. and lasting until 11:00 A.M. tomorrow.

**Leave of Absence**

At 1:50 P.M., Senator FORD requested a leave of absence from 2:00  
- 6:00 P.M. this evening.

**RECALLED**

[SJ]

**TUESDAY, MAY 12, 2009**

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.

Senator DAVIS asked unanimous consent to make a motion to recall the Bill from the Committee on Judiciary.

The Bill was recalled from the Committee on Judiciary and ordered placed on the Calendar for consideration tomorrow.

**RECALLED AND ADOPTED**

S. 755 -- Senator Massey: A CONCURRENT RESOLUTION TO URGE THE CITIZENS OF SOUTH CAROLINA TO PRACTICE SAFE BOATING HABITS, ESPECIALLY THE WEARING OF LIFE JACKETS, AND TO DECLARE MAY 16-22, 2009, AS SAFE BOATING WEEK IN SOUTH CAROLINA.

Senator MASSEY asked unanimous consent to make a motion to recall the Concurrent Resolution from the Committee on Fish, Game and Forestry.

There was no objection and the Concurrent Resolution was recalled from the Committee on Fish, Game and Forestry.

On motion of Senator MASSEY, with unanimous consent, the Concurrent Resolution was taken up for immediate consideration.

On motion of Senator MASSEY, with unanimous consent, the Concurrent Resolution was adopted, ordered sent to the House.

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following were introduced:

**TUESDAY, MAY 12, 2009**

S. 804 -- Senators Campbell and Grooms: A SENATE RESOLUTION TO RECOGNIZE AND CONGRATULATE MR. JOHNNY EUGENE WARD OF MONCKS CORNER, SOUTH CAROLINA, UPON RECEIVING AN HONORARY DOCTORATE OF PUBLIC SERVICE FROM CHARLESTON SOUTHERN UNIVERSITY FOR HIS MANY YEARS OF DEDICATED SERVICE TO THE UNIVERSITY AND HIS COMMUNITY.

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The Senate Resolution was adopted.

S. 805 -- Senator Grooms: A BILL TO AMEND CHAPTER 3, TITLE 56 OF THE 1976 CODE, RELATING TO MOTOR VEHICLE REGISTRATION AND LICENSING, BY ADDING ARTICLE 79 TO PROVIDE FOR SPECIAL MOTOR VEHICLE AND MOTORCYCLE LICENSED PLATES TO BE ISSUED BY THE DEPARTMENT OF MOTOR VEHICLES THAT HAVE "REDUCE, REUSE, RECYCLE" AND THE RECYCLING LOGO IMPRINTED ON THE PLATE, AND TO PROVIDE FOR THE PROCEEDS FROM THE PLATE.

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

S. 806 -- Medical Affairs Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, RELATING TO SOLID WASTE MANAGEMENT: DEMONSTRATION-OF-NEED, DESIGNATED AS REGULATION DOCUMENT NUMBER 3198, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

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Read the first time and ordered placed on the Calendar without reference.

S. 807 -- Senator Lourie: A SENATE RESOLUTION TO RECOGNIZE AND HONOR THE A.C. FLORA HIGH SCHOOL MATH TEAM AND TO CONGRATULATE THE MATHEMATICIANS, COACHES, AND SCHOOL OFFICIALS FOR AN OUTSTANDING SEASON IN MATH COMPETITIONS.

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The Senate Resolution was adopted.

[SJ]

**TUESDAY, MAY 12, 2009**

S. 808 -- Senators Bright, Grooms, Bryant and Davis: A BILL TO AMEND THE 1976 CODE BY ADDING SECTION 56-5-2960 TO PROVIDE THAT AN ARRESTING OFFICER MUST DIRECT AND A DRIVER OF A MOTOR VEHICLE INVOLVED IN AN ACCIDENT THAT CAUSES THE DEATH OF ANOTHER PERSON TO SUBMIT TO CHEMICAL TESTS OF THE DRIVER'S BREATH, BLOOD, OR URINE TO DETERMINE THE PRESENCE OF ALCOHOL OR DRUGS, OR THE COMBINATION OF BOTH, FOR AN OFFENSE ARISING OUT OF ACTS ALLEGED TO HAVE BEEN COMMITTED WHILE THE PERSON WAS DRIVING THE MOTOR VEHICLE UNDER THE INFLUENCE OF ALCOHOL, DRUGS, OR BOTH.

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

S. 809 -- Senator Cleary: A SENATE RESOLUTION TO COMMEND THE REPUBLIC OF CHINA (TAIWAN) FOR ITS RELATIONS WITH THE UNITED STATES AND FOR OTHER PURPOSES.

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The Senate Resolution was introduced and referred to the General Committee.

S. 810 -- Senator Courson: A SENATE RESOLUTION TO RECOGNIZE AND HONOR RONALD C. OSBORNE OF COLUMBIA, DIRECTOR OF THE SOUTH CAROLINA EMERGENCY MANAGEMENT DIVISION, OFFICE OF THE ADJUTANT GENERAL, UPON THE OCCASION OF HIS RETIREMENT, TO THANK HIM FOR HIS MANY YEARS OF OUTSTANDING PUBLIC SERVICE, AND TO WISH HIM MUCH FULFILLMENT AND SUCCESS IN ALL HIS FUTURE ENDEAVORS.

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The Senate Resolution was adopted.

H. 3467 -- Reps. M. A. Pitts, Brantley, Allison, Horne, Rice and Spires: A BILL TO AMEND SECTION 8-11-83, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PAYROLL DEDUCTION FOR DUES OF THE STATE EMPLOYEES' ASSOCIATION AND THE SOUTH CAROLINA

[SJ]

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TROOPERS' ASSOCIATION, SO AS TO ALSO AUTHORIZE A PAYROLL DEDUCTION FOR DUES OF THE SOUTH CAROLINA FRATERNAL ORDER OF POLICE.

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

H. 3678 -- Reps. D. C. Moss, Whipper, Anthony, Herbkersman, Merrill, Nanney, G. M. Smith, Thompson and Weeks: A BILL TO AMEND SECTION 56-5-4140, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE MAXIMUM ALLOWABLE GROSS WEIGHTS OF VEHICLES THAT MAY BE OPERATED ALONG THE STATE'S HIGHWAYS, SO AS TO MAKE A TECHNICAL CHANGE.

Read the first time and ordered placed on the Calendar without reference.

H. 3794 -- Rep. Umphlett: A BILL TO AMEND SECTION 50-11-2200, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ESTABLISHMENT OF WILDLIFE MANAGEMENT AREAS, SO AS TO SPECIFY ADDITIONAL PROHIBITED ACTIVITIES; TO AMEND SECTION 50-11-2210, RELATING TO ABUSE OF WILDLIFE MANAGEMENT AREA LANDS, SO AS TO INCLUDE HERITAGE TRUST AND DEPARTMENT OWNED LANDS; TO AMEND SECTION 50-11-2220, AS AMENDED, RELATING TO ADDITIONAL PENALTIES FOR ABUSING WILDLIFE MANAGEMENT AREA LANDS, SO AS TO INCLUDE HERITAGE TRUST AND DEPARTMENT OWNED LANDS; AND BY ADDING SECTION 50-11-2225 SO AS TO CREATE A MISDEMEANOR CRIMINAL OFFENSE FOR ENTERING OR REMAINING ON A CLOSED AREA CONTRARY TO THE INSTRUCTIONS OF A LAW ENFORCEMENT OFFICER, MANAGER, OR DEPARTMENT CUSTODIAL PERSONNEL.

Read the first time and referred to the Committee on Fish, Game and Forestry.

#### **REPORTS OF STANDING COMMITTEES**

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

S. 417 -- Senators Knotts, Land, Campbell, Coleman, Cromer, Setzler, Courson, Thomas and O'Dell: A BILL TO AMEND SECTION 1-11-720, AS AMENDED, CODE OF LAWS OF SOUTH

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CAROLINA, 1976, RELATING TO ENTITIES WHOSE EMPLOYEES, RETIREES, AND THEIR DEPENDENTS ARE ELIGIBLE TO PARTICIPATE IN THE STATE HEALTH AND DENTAL INSURANCE PLANS, SO AS TO EXTEND THIS ELIGIBILITY TO THE SOUTH CAROLINA ATHLETIC COACHES ASSOCIATION.

Ordered for consideration tomorrow.

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

S. 697 -- Senator Leatherman: A BILL TO AMEND CHAPTER 35, TITLE 11 OF THE 1976 CODE RELATING TO CONSOLIDATED PROCUREMENT CODE, TO PROVIDE THAT WHERE A PROCUREMENT INVOLVES THE EXPENDITURE OF A FEDERAL GRANT, THE GOVERNMENTAL BODY SHALL ALSO COMPLY WITH FEDERAL LAW AND AUTHORIZED REGULATIONS, TO PROVIDE THAT WHERE FEDERAL ASSISTANCE, GRANT, OR CONTRACT FUNDS ARE USED IN A PROCUREMENT BY A GOVERNMENTAL BODY, THE PROCUREMENT CODE INCLUDING ANY REQUIREMENTS THAT ARE MORE RESTRICTIVE THAN FEDERAL REQUIREMENTS MUST BE FOLLOWED, EXCEPT TO THE EXTENT THAT THE ACTION WOULD RENDER THE GOVERNMENTAL BODY INELIGIBLE TO RECEIVE FEDERAL FUNDS WHOSE RECEIPT IS CONDITIONED ON COMPLIANCE WITH MANDATORILY APPLICABLE FEDERAL LAW, TO PROVIDE FOR BID PROCEDURES FOR CONSTRUCTION CONTRACTS, TO PROVIDE FOR CONFIDENTIALITY IN THE PROCUREMENT REVIEW PANEL PROCESS, AND TO REPEAL SECTIONS 11-35-3025 AND 11-35-3310.

Ordered for consideration tomorrow.

Senator KNOTTS from the Committee on Invitations polled out S. 801 favorable:

S. 801 -- Senator Courson: A SENATE RESOLUTION TO RECOGNIZE THE HEROIC SERVICE AND SACRIFICE OF THE U.S. NAVY CREW OF THE USS COLUMBIA CL-56 DURING THE PACIFIC CAMPAIGN OF WORLD WAR II, TO COMMEMORATE THE COLUMBIA'S HISTORIC ROLE IN WORLD WAR II, AND TO DECLARE OCTOBER 15, 2009, AS "USS COLUMBIA DAY".

[SJ]

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**Poll of the Invitations Committee  
Polled 10; Ayes 10; Nays 0; Not Voting 1**

Alexander	<b>AYES</b>	
Elliott	Campsen	Cromer
McGill	Ford	Knotts
Verdin	O'Dell	Reese

**Total-- 10**

**NAYS**

**Total-- 0**

**NOT VOTING**

Malloy

**Total--1**

Ordered for consideration tomorrow.

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

H. 3018 -- Reps. E.H. Pitts, Huggins, Gunn, Bales, Limehouse, Barfield, Hardwick, Hearn, Edge, Gambrell, Thompson, Bowen, Harrison, Umphlett, Sandifer, Herbkersman, G.M. Smith, Lowe, Vick, H.B. Brown, R.L. Brown, Viers, Clemmons, Ballentine, Mitchell and M.A. Pitts: A BILL TO AMEND SECTION 12-37-220, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROPERTY TAX EXEMPTIONS, SO AS TO EXEMPT FROM PROPERTY TAX THE VALUE OF IMPROVEMENTS TO REAL PROPERTY CONSISTING OF A NEWLY CONSTRUCTED DETACHED SINGLE FAMILY HOME THROUGH THE EARLIER OF THE PROPERTY TAX IN WHICH THE HOME IS OCCUPIED, OR THE SECOND PROPERTY TAX YEAR ENDING DECEMBER THIRTY-FIRST AFTER THE HOME IS COMPLETED AND A CERTIFICATE FOR OCCUPANCY ISSUED THEREON IF REQUIRED.

Ordered for consideration tomorrow.

[SJ]

**TUESDAY, MAY 12, 2009**

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

H. 3131 -- Reps. Toole, M.A. Pitts and Umphlett: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1-1-711 SO AS TO DESIGNATE THE "SUMMER DUCK" AS THE OFFICIAL STATE DUCK.

Ordered for consideration tomorrow.

Senator RYBERG from the Committee on Labor, Commerce and Industry submitted a majority favorable and Senator LEVENTIS a minority unfavorable report on:

H. 3222 -- Reps. Bedingfield, Gullick, Erickson, Crawford, Duncan, Allison, Ballentine, Cato, Forrester, Hamilton, Harrell, Harrison, Horne, Kelly, Littlejohn, Millwood, Nanney, E.H. Pitts, M.A. Pitts, Rice, D.C. Smith, G.R. Smith, J.R. Smith, Stringer, A.D. Young, T.R. Young, Daning, Owens, Umphlett, Wylie, Parker and Clemmons: A CONCURRENT RESOLUTION MEMORIALIZING THE SOUTH CAROLINA CONGRESSIONAL DELEGATION TO OPPOSE LEGISLATION THAT DISENFRANCHISES SOUTH CAROLINA WORKERS BY REMOVING THEIR RIGHT TO A PRIVATE BALLOT UNION ELECTION.

Ordered for consideration tomorrow.

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

H. 3482 -- Reps. Harrell, Cooper, Mack and Bannister: A BILL TO AMEND SECTION 12-37-220, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROPERTY TAX EXEMPTIONS, SO AS TO EXEMPT FROM PROPERTY TAX ALL PERSONAL PROPERTY, INCLUDING AIRCRAFT, OF A COMPANY ENGAGED IN AIR TRANSPORT OF SPECIALIZED CARGO.

Ordered for consideration tomorrow.

#### **HOUSE CONCURRENCE**

S. 797 -- Senator Verdin: A CONCURRENT RESOLUTION TO CONGRATULATE NANCY THOMPSON OF LAURENS, SOUTH CAROLINA, UPON THE OCCASION OF HER RETIREMENT AND TO WISH HER MUCH HAPPINESS IN THE FUTURE.

[SJ]

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Returned with concurrence.  
Received as information.

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

**ORDERED ENROLLED FOR RATIFICATION**

The following Joint Resolution was read the third time and, having received three readings in both Houses, it was ordered that the title be changed to that of an Act and enrolled for Ratification:

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.

**H. 3730--Recorded Vote**

Senators BRIGHT, BRYANT and RYBERG desired to be recorded as voting against the third reading of the Bill.

**THIRD READING BILLS**

The following Bills were read the third time and ordered sent to the House of Representatives:

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.

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

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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.

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.

Senator HAYES asked unanimous consent to take the Bill up for immediate consideration.

There was no objection.

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

Senator HAYES asked unanimous consent to take the Bill up for immediate consideration.

[SJ]

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There was no objection.

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 DEPARTMENT OF NATURAL RESOURCES UNDER CERTAIN CIRCUMSTANCES.

**S. 446--Recorded Vote**

Senators BRYANT and RYBERG desired to be recorded as voting in favor of the third reading of the Bill.

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.

**S. 495--Recorded Vote**

Senators BRYANT and RYBERG desired to be recorded as voting in favor of the third reading of the Bill.

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.

**S. 554--Recorded Vote**

Senators BRYANT and RYBERG desired to be recorded as voting in favor of the third reading of the Bill.

[SJ]

**TUESDAY, MAY 12, 2009**

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.

**S. 668--Recorded Vote**

Senator BRYANT desired to be recorded as voting against third reading of the Bill.

**S. 668--Recorded Vote**

Senator RYBERG desired to be recorded as voting in favor of third reading of the Bill.

**AMENDED, READ THE THIRD TIME  
SENT TO THE HOUSE**

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.

The Senate proceeded to a consideration of the Bill, the question being the third reading of the Bill.

**Motion Under Rule 26B**

Senator CLEARY asked unanimous consent to make a motion to take up further amendments pursuant to the provisions of Rule 26B.

There was no objection.

Having received the requisite number of votes under the provisions of Rule 26B, the following amendment was taken up for immediate consideration.

Senator CLEARY proposed the following amendment (671R002.REC), which was adopted:

Amend the bill, as and if amended, by adding an appropriately numbered new SECTION to read:

/ SECTION \_\_\_\_ Chapter 13, Title 50 of the 1976 Code is amended by adding:

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“Section 50-13-2017. (A) There is established the Flounder Population Study Program to be administered by the Department of Natural Resources. The program shall study the effects of flounder catch limits and the prohibition of artificial illumination powered by generators on flounder of the species *Paralichthys dentatus*, commonly known as the summer flounder, located in the waters of Murrells Inlet Estuary, Pawleys Island Estuary, and the creeks of Litchfield flowing into Pawleys Island Estuary. For purposes of this resolution, ‘gigging’ means using a rod with one or multiple prongs to spear a fish.

(B) During the term of the program in the area defined in subsection (A):

(1) the lawful flounder gigging and fishing catch limit is ten per day for any individual, not to exceed twenty flounder in any one day on any boat;

(2) it is unlawful to use any type of artificial illumination powered by generator while gigging or fishing for flounder from a boat or while wading in the water.

(C) A person violating a provision of subsection (B) is guilty of a misdemeanor and, upon conviction, must be fined not less than ten dollars or more than one hundred dollars per fish, or imprisoned not less than ten days or more than thirty days, or both.

(D) The program shall run for five years, beginning January 1, 2010, and ending December 31, 2015.

(E) The Department of Natural Resources must compile its findings and submit the report to the General Assembly by March 16, 2016.”/

Renumber sections to conform.

Amend title to conform.

Senator CLEARY explained the amendment.

The amendment was adopted.

There being no further amendments, the Bill was read the third time, passed and ordered sent to the House of Representatives with amendments.

**S. 671--Recorded Vote**

Senators BRYANT and RYBERG desired to be recorded as voting in favor of the third reading of the Bill.

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**AMENDED, READ THE THIRD TIME  
RETURNED TO THE HOUSE WITH AMENDMENTS**

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.

The Senate proceeded to a consideration of the Bill, the question being the third reading of the Bill.

**Motion Under Rule 26B**

Senator KNOTTS asked unanimous consent to make a motion to take up further amendments pursuant to the provisions of Rule 26B.

There was no objection.

Having received the requisite number of votes under the provisions of Rule 26B, the following amendments were taken up for immediate consideration.

Senator KNOTTS proposed the following amendment (3572R002.JMK), which was adopted:

Amend the bill, as and if amended, page 1, by adding an appropriately numbered new SECTION to read:

/ SECTION \_\_\_\_. Article 1, Chapter 13, Title 50 of the 1976 Code is amended by adding:

“Section 50-13-400. (A) In Lake Murray it is unlawful to take or possess more than twenty crappie (*Pomoxis* spp.) per day.

(B) In Lake Murray it is unlawful to take or possess crappie (*Pomoxis* spp.) less than eight inches in total length.” /

Renumber sections to conform.

Amend title to conform.

Senator KNOTTS explained the amendment.

The amendment was adopted.

Senator CLEARY proposed the following amendment (3572R003.REC), which was adopted:

Amend the bill, as and if amended, by adding an appropriately numbered new SECTION to read:

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

[SJ]

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“Section 50-13-2017. (A) There is established the Flounder Population Study Program to be administered by the Department of Natural Resources. The program shall study the effects of flounder catch limits and the prohibition of artificial illumination powered by generators on flounder of the species *Paralichthys dentatus*, commonly known as the summer flounder, located in the waters of Murrells Inlet Estuary, Pawleys Island Estuary, and the creeks of Litchfield flowing into Pawleys Island Estuary. For purposes of this resolution, ‘gigging’ means using a rod with one or multiple prongs to spear a fish.

(B) During the term of the program in the area defined in subsection (A):

(1) the lawful flounder gigging and fishing catch limit is ten per day for any individual, not to exceed twenty flounder in any one day on any boat;

(2) it is unlawful to use any type of artificial illumination powered by generator while gigging or fishing for flounder from a boat or while wading in the water.

(C) A person violating a provision of subsection (B) is guilty of a misdemeanor and, upon conviction, must be fined not less than ten dollars or more than one hundred dollars per fish, or imprisoned not less than ten days or more than thirty days, or both.

(D) The program shall run for five years, beginning January 1, 2010, and ending December 31, 2015.

(E) The Department of Natural Resources must compile its findings and submit the report to the General Assembly by March 16, 2016.”/

Renumber sections to conform.

Amend title to conform.

Senator CLEARY explained the amendment.

The amendment was adopted.

There being no further amendments, the Bill was read the third time, passed and ordered returned to the House of Representatives with amendments.

#### **H. 3572--Recorded Vote**

Senators BRYANT and RYBERG desired to be recorded as voting in favor of the third reading of the Bill.

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**SECOND READING BILLS**

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

H. 3042 -- Reps. Merrill, Parker, Huggins, H.B. Brown, Anderson, J.E. Smith, Miller, M.A. Pitts, Toole, Hayes, Bales, Jennings, Herbkersman, Vick, Rutherford, Hart, Sellers, McLeod, Moss, Hiott, Alexander, Gambrell, Bingham, Brady, Sandifer, Bedingfield, Ott, Hutto, G.R. Smith, Millwood, Whipper and Bannister: A BILL TO AMEND SECTIONS 40-81-20, 40-81-50, 40-81-70, 40-81-230, 40-81-280, 40-81-430, AND 40-81-480, CODE OF LAWS OF SOUTH CAROLINA, 1976, ALL RELATING TO REGULATIONS OF VARIOUS ATHLETIC AND SPORTING ACTIVITIES BY THE STATE ATHLETIC COMMISSION; BY ADDING SECTION 40-81-445 SO AS TO MAKE THE COMBATIVE SPORT OF MIXED MARTIAL ARTS LEGAL IN SOUTH CAROLINA, AND TO PROVIDE FOR THE MANNER IN WHICH THE STATE ATHLETIC COMMISSION SHALL SUPERVISE AND REGULATE MIXED MARTIAL ARTS COMPETITIONS; AND TO REPEAL SECTION 40-81-530 RELATING TO ULTIMATE FIGHTING EVENTS AS BEING UNLAWFUL.

H. 3550 -- Reps. Cato, Herbkersman, Agnew, Merrill, Stavrinakis, Funderburk, Brady, Anderson, R.L. Brown, Kelly, Limehouse, J.E. Smith, Whipper, Hutto, Allison, Parker, Sottile, Erickson and Bales: A BILL TO AMEND CHAPTER 10, TITLE 6, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE BUILDING ENERGY EFFICIENCY STANDARD ACT, SO AS TO REVISE THE TITLE OF THE ACT TO THE "ENERGY STANDARD ACT", TO REVISE DEFINITIONS, TO ADOPT THE INTERNATIONAL ENERGY CONSERVATION CODE AS THE ENERGY STANDARD AND TO PROVIDE THAT ALL NEW AND RENOVATED BUILDINGS MUST COMPLY WITH THIS STANDARD, TO PROVIDE THAT LOCAL BUILDING OFFICIALS SHALL ENFORCE THE ENERGY STANDARD AND TO PROVIDE ALTERNATIVE ENFORCERS IN AREAS WITHOUT A BUILDING OFFICIAL, TO PROVIDE THAT BUILDING OFFICIALS SHALL ISSUE AND REVOKE BUILDING PERMITS AND INSPECT CONSTRUCTION OF BUILDINGS PURSUANT TO THE PERMITS ISSUED, TO REQUIRE LOCAL JURISDICTIONS

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TO PROVIDE AN APPEALS BOARD AND PROCESS FOR GRANTING OF CERTAIN VARIANCES, TO PROVIDE AN EXCEPTION AND TO ALLOW CERTAIN APPEALS TO BE HEARD BY THE SOUTH CAROLINA BUILDING CODES COUNCIL, AND TO PROVIDE THAT A PERSON OR PARTY MAY OBTAIN INJUNCTIVE RELIEF; AND TO AMEND SECTION 6-9-50, AS AMENDED, RELATING TO THE MANDATORY ADOPTION OF CERTAIN NATIONAL BUILDING CODES, BUILDING ENVELOPE REQUIREMENTS OF THE ENERGY CODE, FREE ACCESS TO CODE DOCUMENTS, AND THREE STORY HOMES, SO AS TO DELETE PROVISIONS RELATING TO WHAT CONSTITUTES COMPLIANCE WITH THE BUILDING ENVELOPE REQUIREMENTS OF THE ENERGY CODE, FREE ACCESS TO DOCUMENTS CONTAINING CODES ADOPTED BY THE BUILDING CODES COUNCIL, AND BUILDING PERMITS FOR THREE STORY HOMES.

Senator RYBERG explained the Bill.

H. 3653 -- Rep. McLeod: A JOINT RESOLUTION TO DELAY IMPLEMENTATION OF THE PROVISIONS OF ACT 270 OF 2008, RELATING TO THE REQUIREMENT THAT MUNICIPAL COURT JURY LISTS INCLUDE OTHERWISE QUALIFIED RESIDENTS OF THE MUNICIPALITY WHO HOLD A VALID SOUTH CAROLINA DRIVER'S LICENSE OR IDENTIFICATION CARD, SO AS TO POSTPONE THIS EXPANSION OF THE MUNICIPAL COURT JURY LIST UNTIL DECEMBER 31, 2009.

Senator L. MARTIN explained the Joint Resolution.

**COMMITTEE AMENDMENT AMENDED AND ADOPTED  
READ THE SECOND TIME**

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

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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.

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

Senators MULVANEY and ROSE proposed the following amendment (JUD0249.008), which was adopted:

Amend the Committee Report, as and if amended, page [249-2], lines 1-7, by striking these lines in their entirety and inserting the following:

/ (2) 'Superintendent of the school district' means a superintendent whose school district has been required by a law that was enacted prior to March 1, 2009, to prepare and submit and obtain proof of delivery to the governing body and to the land planning commission of the county and each municipality within land encompassed by the district a report describing the current and projected status and needs of the district, and which report must include, but not be limited to, the following: /

Renumber sections to conform.

Amend title to conform.

Senator MULVANEY explained the perfecting amendment.

The perfecting amendment was adopted.

The Committee on Judiciary proposed the following amendment (JUD0249.005), which was adopted:

/ SECTION 1. Chapter 29, Title 6 of the 1976 Code is amended by adding:

"Section 6-29-1153. (A) A local planning commission shall provide all applications and accompanying materials for land development projects that include residential housing to the superintendent of the school district in which the project is to be located, if the project:

- (1) is greater than twenty-five acres in size; or
- (2) includes one hundred or more dwelling units.

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The planning commission shall determine whether any land development project meets these criteria and shall provide the information at no charge to the superintendent within fifteen business days of receiving the application. The local planning commission and superintendent may agree that the information is to be provided electronically or by some other suitable means.

(B) For purposes of this section,

(1) 'Dwelling units' means all residential units, including, but not limited to, single-family attached, single-family detached, duplex, condominium, townhouse, multi-family, apartment, and mobile home, but excluding hotels and motels.

(2) 'Superintendent of the school district' means a superintendent whose school district has been required by law to prepare and submit and obtain proof of delivery to the governing body and to the land planning commission of the county and each municipality within land encompassed by the district a report describing the current and projected status and needs of the district, and which report must include, but not be limited to, the following:

(a) a list of all schools in the district with the number of classrooms, current enrollment, and the enrollment capacity of each school and of the entire district;

(b) the district's student enrollment over the previous ten years and projected enrollment over the next ten years;

(c) the district's capital improvement program, including all schools existing, under construction, or planned and plans for funding those schools;

(d) current and projected construction costs for new schools and the cost of mobile classrooms, the causes of any cost increases over previous estimates, and the sources for the information;

(e) the most recent five year history of the audited operating and capital expenditures of the district;

(f) the most recent five year history of the county assessed tax base used for financing purposes in the district;

(g) identification of federal, state, and local laws or regulations which the district recommends be repealed or relaxed to save costs and increase efficiency for the district and an explanation of how the savings and increased efficiency could occur;

(h) a list of additional facilities, teachers, and other resources projected to be necessary to service the additional student population of the district over the next ten years; and

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(i) all other information and recommendations by the district regarding how county or municipal governments could help the district better meet its needs and the needs of its students.

(C) The superintendent shall review all land development projects described in subsection (A) received by the district and report the results of that review to the board of trustees of the district. The superintendent and the board of trustees both will determine whether the additional anticipated increase in student population resulting from the land development project will have a substantial impact on the district's ability to provide services to the additional student population. If either determination is positive, the superintendent and the board shall prepare a report that describes the impact and details the need for additional facilities, teachers, and other resources necessary to service the additional student population. In determining whether a particular project results in a substantial impact, the superintendent and the board shall consider not only the impact of the particular project, but also the aggregate impact of the project with other projects pending at the time the superintendent conducts his review. The report must be provided within thirty days of the district's receipt of the application to the governing body and to the local planning commission of the applicable county or municipality. However, upon request by the school district to the local planning commission, a fifteen day extension of time to submit the report shall be granted. Failure of the school district to provide the requested report to the local planning commission within any time period prescribed by these provisions shall not delay or otherwise affect any time limits that the local planning commission is required by other existing law to follow. The report must be maintained as part of the land development application and made available to the public promptly and, if possible, before any public hearing on the application."

SECTION 2. This act takes effect upon approval by the Governor./  
Renumber sections to conform.  
Amend title to conform.

The committee amendment was adopted.

There being no further amendments, the Bill was read the second time, passed and ordered to a third reading.

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**COMMITTEE AMENDMENT ADOPTED  
READ THE SECOND TIME**

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.

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

The Committee on Finance proposed the following amendment (405FIN002), which was adopted:

- Amend the bill, as and if amended, by deleting SECTION 2.
- Re-number sections to conform.
- Amend title to conform.

Senator HAYES explained the committee amendment.

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The committee amendment was adopted.

There being no further amendments, the Bill was read the second time, passed and ordered to a third reading.

**COMMITTEE AMENDMENT ADOPTED  
READ THE SECOND TIME**

S. 775 -- Senators Grooms and Knotts: A BILL TO AMEND SECTION 56-1-130, AS AMENDED, RELATING TO CLASSIFIED DRIVER'S LICENSES, SO AS TO PROVIDE THAT AN OPERATOR OF A MOTORCYCLE THREE-WHEEL VEHICLE IS ONLY REQUIRED TO HAVE A BASIC DRIVER'S LICENSE OR A MOTORCYCLE LICENSE, RATHER THAN A MOTORCYCLE LICENSE WITH A SPECIAL ENDORSEMENT.

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

The Committee on Transportation proposed the following amendment (775R001.LKG), which was adopted:

Amend the bill as and if amended, in SECTION 1, starting on Page 2, line 9 by striking subsections (C) and (D) from Section 56-1-130 and inserting:

/ (C) A basic driver's license authorizes the licensee to operate motor vehicles, automotive three-wheel vehicles, motorcycle three-wheel vehicles, excluding a motorcycle with a detachable side car, or combinations of vehicles which do not exceed twenty-six thousand pounds gross vehicle weight rating; provided, that the driver has successfully demonstrated the ability to exercise ordinary and reasonable control in the operation of a motor vehicle in this category. A basic driver's license also authorizes the licensee to operate farm trucks provided for in Sections 56-3-670, 56-3-680, and 56-3-690, which are used exclusively by the owner for agricultural, horticultural, and dairying operations or livestock and poultry raising.

Notwithstanding any other provision of law, the holder of a conditional license, or special restricted license operating a farm truck for the purposes provided in this subsection, may operate the farm truck without an accompanying adult after six o'clock a.m. and no later than nine o'clock p.m., but may not operate a farm truck on a freeway. A person operating a farm truck while holding a conditional driver's

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license or a special restricted license may not use the farm truck for ordinary domestic purposes or general transportation.

A classified driver's license shall authorize the licensee to operate a motorcycle, motorcycle three-wheel vehicle, including a motorcycle with a detachable side car, or those vehicles in excess of twenty-six thousand pounds gross vehicle weight rating which are indicated by endorsement on the license. The endorsement may include classifications such as: motorcycle, ~~motorcycle three-wheel vehicle~~, two-axle truck, three-or more axle truck, combination of vehicles, motor busses, or oversize or overweight vehicles. The department shall determine from the driving demonstration the endorsements to be indicated on the license.

~~(D) The department shall include a noncommercial endorsement to the motorcycle classification license to indicate the type of motorcycle to be operated. The "M" classification is for motorcycle operation only. The "D" endorsement to the "M" classification is for motorcycle three-wheel vehicle and motorcycle with detachable side car. The "C" endorsement to the "M" classification is for motorcycle, motorcycle three-wheel vehicle, and motorcycle with detachable side car." /~~

Renumber sections to conform.

Amend title to conform.

Senator GROOMS explained the committee amendment.

The committee amendment was adopted.

There being no further amendments, the Bill was read the second time, passed and ordered to a third reading.

**COMMITTEE AMENDMENT ADOPTED  
READ THE SECOND TIME**

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

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

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

The Committee on Judiciary proposed the following amendment (JUD3022.001), which was adopted:

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

/ SECTION 1. This act may be cited as the “Uniform Expungement of Criminal Records Act”.

SECTION 2. Chapter 22, Title 17 of the 1976 Code is amended by adding:

“Article 9

Uniform Expungement of Criminal Records

Section 17-22-910. Applications for expungement of all criminal records must be administered by the solicitor’s office in each circuit in the State as authorized pursuant to:

- (1) Section 34-11-90(e), first offense misdemeanor fraudulent check;
- (2) Section 44-53-450(b), conditional discharge for simple possession of marijuana or hashish;
- (3) Section 22-5-910, first offense conviction in magistrates court;
- (4) Section 22-5-920, youthful offender act;
- (5) Section 56-5-750(f), first offense failure to stop when signaled by a law enforcement vehicle;
- (6) Section 17-22-150(a), pretrial intervention;
- (7) Section 17-1-40, criminal records destruction, except as provided in Section 17-22-950;
- (8) Section 20-7-8525, juvenile expungements;
- (9) Section 17-22-530(a), alcohol education program; and
- (10) any other statutory authorization.

Section 17-22-920. The clerk of court shall direct all inquiries concerning the expungement process to the corresponding solicitor’s office to make application for expungement.

Section 17-22-930. A person applying to expunge a criminal record shall obtain the appropriate blank expungement order form from

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the solicitor's office in the judicial circuit where the charge originated. The use of this form is mandatory and to the exclusion of all other expungement forms.

Section 17-22-940. (A) In exchange for an expungement service that is provided by the solicitor's office, the applicant is responsible for payment to the solicitor's office of an administrative fee in the amount of two-hundred-fifty dollars per individual order, which must be retained by that office and used to defray the costs associated with the expungement process, except as provided in subsection (B). The two-hundred-fifty dollar fee is nonrefundable, regardless of whether the offense is later determined to be statutorily ineligible for expungement or the solicitor or his designee does not consent to the expungement.

(B) Any person who applies to the solicitor's office for an expungement of General Sessions charges pursuant to Section 17-1-40 is exempt from paying the administrative fee, unless the charge that is the subject of the expungement request was dismissed, discharged, or nol prossed as part of a plea arrangement under which the defendant pled guilty and was sentenced on other charges.

(C) The solicitor's office shall implement policies and procedures consistent with this section to ensure that the expungement process is properly conducted. This includes, but is not limited to:

(1) assisting the applicant in completing the expungement order form;

(2) collecting from the applicant and distributing to the appropriate agencies separate certified checks or money orders for charges prescribed by this article;

(3) coordinating with the South Carolina Law Enforcement Division (SLED) and, in the case of juvenile expungements, the Department of Juvenile Justice, to confirm that the criminal charge is statutorily appropriate for expungement;

(4) obtaining and verifying the presence of all necessary signatures;

(5) filing the completed expungement order with the clerk of court; and

(6) providing copies of the completed expungement order to all governmental agencies which must receive the order including, but not limited to, the:

- (a) arresting law enforcement agency;
- (b) detention facility or jail;
- (c) solicitor's office;

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(d) magistrates or municipal court where the arrest warrant originated;

(e) magistrates or municipal court that was involved in any way in the criminal process of the charge sought to be expunged;

(f) Department of Juvenile Justice; and

(g) SLED.

(D) The solicitor or his designee also must provide a copy of the completed expungement order to the applicant or his retained counsel.

(E) In cases when charges are sought to be expunged pursuant to Section 17-22-150(a), 17-22-530(a), 22-5-910, or 44-53-450(b), the circuit pretrial intervention director, alcohol education program director, or summary court judge shall attest by signature on the application to the eligibility of the charge for expungement before either the solicitor or his designee and then the circuit court judge, or the family court judge in the case of a juvenile, signs the application for expungement.

(F) SLED shall verify and document that the criminal charges in all cases, except in cases when charges are sought to be expunged pursuant to Section 17-1-40, are appropriate for expungement before the solicitor or his designee, and then a circuit court judge, or a family court judge in the case of a juvenile, signs the application for expungement. If the expungement is sought pursuant to Section 34-11-90(e), Section 22-5-910, Section 22-5-920, or Section 56-5-750(f), the conviction for any traffic related offense which is punishable only by a fine or loss of points will not be considered as a bar to expungement.

(1) SLED shall receive a twenty-five dollar certified check or money order from the solicitor or his designee on behalf of the applicant made payable to SLED for each verification request, except that no verification fee may be charged when an expungement is sought pursuant to Section 17-1-40, 17-22-150(a), or 44-53-450(b). SLED then shall forward the necessary documentation back to the solicitor's office involved in the process.

(2) In the case of juvenile expungements, verification and documentation that the charge is statutorily appropriate for expungement must first be accomplished by the Department of Juvenile Justice and then SLED.

(3) Neither SLED, the Department of Juvenile Justice, nor any other official shall allow the applicant to take possession of the application for expungement during the expungement process.

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(G) The applicant also is responsible to the clerk of court for the filing fee per individual order as required by Section 8-21-310(21), which must be forwarded to the clerk of court by the solicitor or his designee and deposited in the county general fund. If the charge is determined to be statutorily ineligible for expungement, this prepaid clerk of court filing fee must be refunded to the applicant by the solicitor or his designee.

(H) Each expungement order may contain only one charge sought to be expunged, except in those circumstances when expungement is sought for multiple charges occurring out of a single incident and subject to expungement pursuant to Section 17-1-40 or 17-22-150(a). Only in those circumstances may more than one charge be included on a single application for expungement and, when applicable, only one two-hundred-fifty dollar fee, one twenty-five dollar SLED verification fee, and one thirty-five dollar clerk of court filing fee may be charged.

(I) A filing fee may not be charged by the clerk's office to an applicant seeking the expungement of a criminal record pursuant to Section 17-1-40, when the charge was discharged, dismissed, nol prossed, or the applicant was acquitted.

(J) Nothing in this article precludes an applicant from retaining counsel to apply to the solicitor's office on his behalf or precludes retained counsel from initiating an action in circuit court seeking a judicial determination of eligibility when the solicitor, in his discretion, does not consent to the expungement. In either event, retained counsel is responsible to the solicitor or his designee, when applicable, for the two-hundred-fifty dollar fee, the twenty-five dollar SLED verification fee, and the thirty-five dollar clerk of court filing fee which must be paid by retained counsel's client.

(K) The solicitor or his designee has the discretion to waive the two-hundred-fifty dollar fee only in those cases when it is determined that a person has been falsely accused of a crime as a result of identity theft.

(L) Each solicitor's office shall maintain a record of all fees collected related to the expungement of criminal records, which must be made available to the chairmen of the House and Senate Judiciary Committees. Those records shall remain confidential otherwise.

Section 17-22-950. (A) When criminal charges are brought in a summary court and the accused person is found not guilty or if the charges are dismissed or nol prossed, pursuant to Section 17-1-40, the presiding judge of the summary court, at no cost to the accused person,

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immediately shall issue an order to expunge the criminal records of the accused person unless the dismissal of the charges occurs at a preliminary hearing or unless the accused person has charges pending in summary court and a court of general sessions and such charges arise out of the same course of events. This expungement must occur no sooner than the appeal expiration date and no later than thirty days after the appeal expiration date. Upon issuance of the order, the judge of the summary court or a member of the summary court staff must coordinate with SLED to confirm that the criminal charge is statutorily appropriate for expungement; obtain and verify the presence of all necessary signatures; file the completed expungement order with the clerk of court; provide copies of the completed expungement order to all governmental agencies which must receive the order including, but not limited to, the arresting law enforcement agency, the detention facility or jail, the solicitor's office, the magistrates or municipal court where the arrest warrant originated, the magistrates or municipal court that was involved in any way in the criminal process of the charge sought to be expunged, and SLED. The judge of the summary court or a member of the summary court staff also must provide a copy of the completed expungement order to the applicant or his retained counsel. The prosecuting agency or appropriate law enforcement agency may file an objection to a summary court expungement. If an objection is filed by the prosecuting agency or law enforcement agency, that expungement then must be heard by the judge of a general sessions court. The prosecuting agency's or the appropriate law enforcement agency's reason for objecting must be that the:

- (1) accused person has other charges pending;
- (2) prosecuting agency or the appropriate law enforcement agency believes that the evidence in the case needs to be preserved; or
- (3) accused person's charges were dismissed as a part of a plea agreement.

(B) If the prosecuting agency or the appropriate law enforcement agency objects to an expungement order being issued pursuant to subsection (A)(2), the prosecuting agency or appropriate law enforcement agency must notify the accused person of the objection. This notice must be given in writing at the address listed on the accused person's bond form, or through his attorney, no later than thirty days after the person is found not guilty or his charges are dismissed or nolle prossed."

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SECTION 3. Section 17-1-40(A) of the 1976 Code, as last amended by Act 82 of 2007, is further amended to read:

“(A) A person who after being charged with a criminal offense and the charge is discharged, proceedings against the person are dismissed, or the person is found ~~to be innocent~~ not guilty of the charge, the arrest and booking record, files, mug shots, and fingerprints of the person must be destroyed and no evidence of the record pertaining to the charge may be retained by any municipal, county, or state law enforcement agency. Provided, however, that local and State detention and correctional facilities may retain booking records, identifying documentation and materials, and other institutional reports and files under seal, on all persons who have been processed, detained, or incarcerated, for a period not to exceed three years from the date of the expungement order to manage their statistical and professional information needs and, where necessary, to defend such facilities during litigation proceedings. Information retained by a local or State detention or correctional facility as permitted under this section after an expungement order has been issued is not a public document and is exempt from disclosure. Such information may only be disclosed by judicial order or as needed during litigation proceedings. A person who otherwise intentionally retains the arrest and booking record, files, mugshots, fingerprints, or any evidence of the record pertaining to a charge discharged or dismissed pursuant to this section is guilty of contempt of court.”

SECTION 4. Section 17-1-45 is added to the 1976 Code of Laws to read:

“Section 17-1-45. South Carolina Court Administration shall include on all bond paperwork and courtesy summons the following notice: ‘If the charges that have been brought against you are discharged, dismissed, or nol prossed or if you are found not guilty, you may have your record expunged’.”

SECTION 5. Section 22-5-910(A) and (B) of the 1976 Code is amended to read:

“(A) ~~Following a first offense conviction in a magistrates court or a municipal court, for a crime carrying a penalty of not more than thirty days imprisonment or a fine of five hundred dollars, or both,~~ the defendant after three years from the date of the conviction may apply, or cause someone acting on his behalf to apply, to the circuit court for an order expunging the records of the arrest and conviction. However, this section does not apply to:

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- (1) an offense involving the operation of a motor vehicle;
- (2) a violation of Title 50 or the regulations promulgated pursuant to Title 50 for which points are assessed, suspension provided for, or enhanced penalties for subsequent offenses are authorized; or
- (3) an offense contained in Chapter 25 of Title 16, except first offense criminal domestic violence as contained in Section 16-25-20, which may be expunged five years from the date of the conviction.

(B) If the defendant has had no other conviction during the three-year period, or during the five-year period as provided in subsection (A)(3), following the first offense conviction ~~in a magistrates court or a municipal court, for a crime carrying a penalty of not more than thirty days imprisonment or a fine of not more than five hundred dollars, or both,~~ the circuit court may issue an order expunging the records. No person may have his records expunged under this section more than once. A person may have his record expunged even though the conviction occurred prior to June 1, 1992.”

SECTION 6. Section 22-5-920(B) of the 1976 Code is amended to read:

“(B) Following a first offense conviction as a youthful offender, the defendant after ~~fifteen-five~~ years from the date of ~~the conviction completion of his sentence, including probation and parole,~~ may apply, or cause someone acting on his behalf to apply, to the circuit court for an order expunging the records of the arrest and conviction. However, this section does not apply to an offense involving the operation of a motor vehicle, to a violation of Title 50 or the regulations promulgated under it for which points are assessed, suspension provided for, or enhanced penalties for subsequent offenses authorized, to an offense classified as a violent crime in Section 16-1-60, or to an offense contained in Chapter 25 of Title 16, except as otherwise provided in Section 16-25-30. If the defendant has had no other conviction during the ~~fifteen-five~~-year period following ~~the completion of his sentence, including probation and parole,~~ for a first offense conviction as a youthful offender, the circuit court may issue an order expunging the records. No person may have his records expunged under this section more than once. A person may have his record expunged even though the conviction occurred before the effective date of this section.”

SECTION 7. Section 44-53-450(b) of the 1976 Code is amended to read:

“(B) Upon the dismissal of ~~such-the~~ person and discharge of the proceedings against him ~~under-pursuant to subsection (a) of this section,~~

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~~such person if he was not over twenty-five years of age at the time of the offense, and if the offense did not involve a controlled substance classified in Schedule I which is a narcotic drug and Schedule II which is a narcotic drug, may apply to the court for an order to expunge from all official records (other than the nonpublic records to be retained as provided in subsection (a) of this section) all recordation relating to his arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. If the court determines, after hearing, that such the person was dismissed and the proceedings against him discharged and that he was not over twenty-five years of age at the time of the offense, it shall enter such the order. The effect of such the order shall be is to restore such the person, in the contemplation of the law, to the status he occupied before such the arrest or indictment or information. No person as to whom such the order has been entered shall may be held thereafter under any pursuant to another provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failures failure to recite or acknowledge such the arrest, or indictment or information, or trial in response to any an inquiry made of him for any purpose.”~~

SECTION 8. The deadline requiring all circuit solicitors to have a traffic education program in effect, as provided in SECTION 5 of Act 176 of 2008, is extended from July 1, 2009, to July 1, 2010. No person has the right to apply to the program until the program is established.

SECTION 9. This act takes effect upon approval by the Governor./

Renumber sections to conform.

Amend title to conform.

Senator L. MARTIN explained the committee amendment.

Senator KNOTTS spoke on the committee amendment.

The committee amendment was adopted.

There being no further amendments, the Bill was read the second time, passed and ordered to a third reading.

**AMENDED, READ THE SECOND TIME**

H. 3347 -- Reprs. 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

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SERVICES THE OPTION TO MAKE A VOLUNTARY CONTRIBUTION TO DONATE LIFE OF SOUTH CAROLINA, SO AS TO INCREASE THE AMOUNT THAT MAY BE DONATED.

The Senate proceeded to a consideration of the Bill, the question being the second reading of the Bill.

Senator GROOMS proposed the following amendment (3347R003.LKG), which was adopted:

Amend the bill, as and if amended, page 1, by adding an appropriately numbered new SECTION to read:

/ SECTION \_\_\_\_. Section 56-1-130 of the 1976 Code, as last amended by Act 347 of 2008, is further amended to read:

“Section 56-1-130. (A) The Department of Motor Vehicles shall examine every applicant for a driver’s license, except as otherwise provided in this article. The examination shall include a test of the applicant’s eyesight, his ability to read and understand highway signs regulating, warning, and directing traffic, and his knowledge of the traffic laws of this State and shall include an actual demonstration of ability to exercise ordinary and reasonable control in the operation of the type motor vehicle, including motorcycles, for which a license is sought. The department may require a further physical and mental examination as it considers necessary to determine the applicant’s fitness to operate a motor vehicle upon the highways, the further examination to be at the applicant’s expense. The department shall make provisions for giving an examination in the county where the applicant resides, ~~except for motorcycle three-wheel vehicles. The motorcycle three-wheel vehicle examination must be provided at the sites where the knowledge and skill examination for the commercial driver’s license is offered.~~ The department shall charge an appropriate fee for each complete examination or reexamination required in this article.

(B) No persons, except those exempted under Section 56-1-30 and Section 56-1-60 or those holding beginner’s permits under Section 56-1-50, shall operate any classification of motor vehicle without first being examined and duly licensed by the driver examiner as a qualified driver of that classification of motor vehicle.

(C) A basic driver’s license authorizes the licensee to operate motor vehicles, automotive three-wheel vehicles, motorcycle three-wheel vehicles, excluding a motorcycle with a detachable side car, or combinations of vehicles which do not exceed twenty-six thousand

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pounds gross vehicle weight rating; provided, that the driver has successfully demonstrated the ability to exercise ordinary and reasonable control in the operation of a motor vehicle in this category. A basic driver's license also authorizes the licensee to operate farm trucks provided for in Sections 56-3-670, 56-3-680, and 56-3-690, which are used exclusively by the owner for agricultural, horticultural, and dairying operations or livestock and poultry raising. Notwithstanding any other provision of law, the holder of a conditional license, or special restricted license operating a farm truck for the purposes provided in this subsection, may operate the farm truck without an accompanying adult after six o'clock a.m. and no later than nine o'clock p.m., but may not operate a farm truck on a freeway. A person operating a farm truck while holding a conditional driver's license or a special restricted license may not use the farm truck for ordinary domestic purposes or general transportation.

A classified driver's license shall authorize the licensee to operate a motorcycle, motorcycle three-wheel vehicle, including a motorcycle with a detachable side car, or those vehicles in excess of twenty-six thousand pounds gross vehicle weight rating which are indicated by endorsement on the license. The endorsement may include classifications such as: motorcycle, ~~motorcycle three-wheel vehicle~~, two-axle truck, three or more axle truck, combination of vehicles, motor busses, or oversize or overweight vehicles. The department shall determine from the driving demonstration the endorsements to be indicated on the license.

~~(D) The department shall include a noncommercial endorsement to the motorcycle classification license to indicate the type of motorcycle to be operated. The 'M' classification is for motorcycle operation only. The 'D' endorsement to the 'M' classification is for motorcycle three-wheel vehicle and motorcycle with detachable side car. The 'C' endorsement to the 'M' classification is for motorcycle, motorcycle three-wheel vehicle, and motorcycle with detachable side car."/>~~

Renumber sections to conform.

Amend title to conform.

Senator GROOMS explained the amendment.

The amendment was adopted.

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There being no further amendments, the Bill was read the second time, passed and ordered to a third reading.

**COMMITTEE AMENDMENT ADOPTED, AMENDED  
READ THE SECOND TIME**

H. 3762 -- Reps. Duncan, Umphlett, Dillard, Ott, Forrester, Moss, Parker, Stringer, Vick, Hodges and Knight: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 77 TO CHAPTER 3, TITLE 56 SO AS TO PROVIDE THAT THE DEPARTMENT OF MOTOR VEHICLES MAY ISSUE "OUR FARMS-OUR FUTURE" SPECIAL LICENSE PLATES.

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

The Committee on Transportation proposed the following amendment (SWB\5909CM09), which was adopted:

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

/ SECTION 1. Chapter 3, Title 56 of the 1976 Code is amended by adding:

“Article 77

Our Farms-Our Future Special License Plates

Section 56-3-7890. (A) The Department of Motor Vehicles may issue special motor vehicle license plates to owners of private passenger carrying motor vehicles as defined in Section 56-3-630, or motorcycles registered in their names which shall have imprinted on the plate ‘Our Farms-Our Future’ and which may have a design representative of agriculture. The South Carolina Farm Bureau Federation shall submit to the department for its approval a design it desires to be used for this special license plate. The South Carolina Farm Bureau Federation may request a change in the design not more than once every five years. The fee for this special license plate is seventy dollars every two years in addition to the regular motor vehicle registration fee set forth in Article 5, Chapter 3, Title 56. This special license plate must be of the same size and general design of regular motor vehicle license plates. This special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued.

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(B) The fees collected pursuant to this section above the cost of the regular motor vehicle registration fee must be distributed to the 501(c)(3) nonprofit South Carolina Farm Bureau Federation 'Ag in the Classroom' Fund.

(C) The guidelines for the production of a special license plate under this section must meet the requirements of Section 56-3-8100."

SECTION 2. This act takes effect upon approval by the Governor. /  
Renumber sections to conform.  
Amend title to conform.

Senator GROOMS explained the committee amendment.

The committee amendment was adopted.

Senator GROOMS proposed the following amendment (3762R002.LKG), which was adopted:

Amend the bill as and if amended, page 2, by adding appropriately numbered new SECTIONS to read:

/ SECTION \_\_. A. Article 45, Chapter 3, Title 56 of the 1976 Code, is amended to read:

“Article 45

SPECIAL COMMEMORATIVE SOUTH CAROLINA WILDLIFE  
LICENSE PLATES

Section 56-3-4510. ~~The Department of Motor Vehicles shall issue a series of special commemorative motor vehicle license plates for use by the owner on his private passenger motor vehicle for the purposes of the “Non game Wildlife and Natural Areas Fund” provided in Section 50-1-280. The special fee for the commemorative license plate is thirty dollars and this amount must be placed in the fund. This fee is in addition to the regular motor vehicle registration fee set forth in Article 5, Chapter 3 of Title 56. The commemorative plate must be of the same size and general design of regular motor vehicle license plates and must be imprinted with the words “South Carolina Protects Endangered Species”. The plates must be issued or revalidated for a biennial period, which expires twenty four months from the month they are issued.~~ (A)The department shall issue a collection of special motor vehicle license plates to owners of private passenger carrying motor vehicles and motorcycles. The fee for each special license plate is thirty dollars every two years in addition to the regular motor vehicle license fee set forth in Article 5, Chapter 3 of this title. Each special

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license plate must be of the same size and general design of regular motor vehicle license plates, and must be imprinted with the words 'South Carolina Wildlife'. Each special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month the special license plate is issued.

(B) Of the fees collected pursuant to this section, the Comptroller General shall place sufficient funds into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of the department in producing and administering this special license plate collection. The remaining funds collected from each special motor vehicle license plate fee must be deposited in the Game Protection Fund provided for in Title 50.

(C) The department simultaneously may make available more than one special license plate. However, before the department produces and distributes a special license plate with the South Carolina Wildlife collection pursuant to this section, it must comply with the provisions contained in Section 56-3-8100."

B. The name of the "Game Protection Fund" as contained in Title 50 is hereby changed to the "Fish and Wildlife Protection Fund". Wherever the term "Game Protection Fund" appears in the 1976 Code, it shall mean the "Fish and Wildlife Protection Fund" and the Code Commissioner is directed to change this reference at a time and in a manner that is timely and cost effective.

SECTION \_\_\_\_ . Section 56-3-9910 of the 1976 Code is amended to read:

"Section 56-3-9910. (A) The Department of Motor Vehicles may issue 'Gold Star Family' special license plates to owners of private passenger motor vehicles as defined in Section 56-3-630 registered in their names who are immediate family members of members of the armed forces killed in action. ~~The~~ There is no fee for this special license plate ~~must be the regular motor vehicle license fee contained in Article 5, Chapter 3 of this title and the special fee required by Section 56-3-2020.~~ The license plates issued pursuant to this section must conform to a design agreed to by the department and the Chief Executive Officer of the South Carolina Chapter of American Gold Star Mothers, Inc. or other similar organization operating in this State. ~~Notwithstanding any other provision of law, of the fees collected for the special license plate, the Comptroller General shall place sufficient funds into a special restricted account to be used by the Department of~~

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~~Motor Vehicles to defray the expenses of the Department of Motor Vehicles in producing and administering the special plate.~~

(B) Notwithstanding another provision of law, the provisions contained in Section 56-3-8000(B) and (C) do not apply to the production and distribution of 'Gold Star Family' special license plates.

(C) For the purposes of this section, 'immediate family member' means a person who is a spouse, a child, claimed as a dependent for income tax purposes, or a sibling." /

Renumber sections to conform.

Amend title to conform.

Senator GROOMS explained the amendment.

The amendment was adopted.

There being no further amendments, the Bill was read the second time, passed and ordered to a third reading.

#### CARRIED OVER

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

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

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.

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On motion of Senator LEATHERMAN, the Concurrent Resolution was carried over.

**OBJECTION**

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".

Senator HUTTO objected to further consideration of the Bill.

**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;

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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 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 HUTTO, the Bill was carried over.

**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.

**THE SENATE PROCEEDED TO A CONSIDERATION OF VETOES.**

**VETO CARRIED OVER**

(R26, S540) -- Senator Alexander: A JOINT RESOLUTION TO PROVIDE THAT THE SCHOOL DAY MISSED BY THE STUDENTS OF THE SCHOOL DISTRICT OF OCONEE COUNTY

[SJ]

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ON MARCH 2, 2009, DUE TO SNOW, IS EXEMPT FROM THE MAKE-UP REQUIREMENT THAT FULL SCHOOL DAYS MISSED DUE TO SNOW, EXTREME WEATHER, OR OTHER DISRUPTIONS BE MADE UP.

The veto of the Governor was taken up for immediate consideration.

On motion of Senator ALEXANDER, the veto of the Governor was carried over.

**MOTION ADOPTED**

On motion of Senator McCONNELL, with unanimous consent, the Senate agreed that, when the Senate adjourns today, it stand adjourned to meet tomorrow at 11:00 A.M.

**THE SENATE PROCEEDED TO THE INTERRUPTED DEBATE.**

**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

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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 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.

Senator L. MARTIN spoke on the Bill.

**Motion Adopted**

On motion of Senator O'DELL, with unanimous consent, Senators O'DELL, PEELER, FAIR, ELLIOTT and REESE were granted leave to attend a subcommittee meeting and were granted leave to vote from the balcony.

Senator L. MARTIN spoke on the Bill.

On motion of Senator McCONNELL, with unanimous consent, debate was interrupted by recess.

**RECESS**

At 1:43 P.M., on motion of Senator McCONNELL, the Senate recessed from business until 5:00 P.M.

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**NIGHT SESSION**

The Senate reassembled at 5:12 P.M. and was called to order by the PRESIDENT *Pro Tempore*.

**Point of Quorum**

At 5:12 P.M., Senator L. MARTIN made the point that a quorum was not present. It was ascertained that a quorum was not present.

**Call of the Senate**

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

Alexander	Anderson	Bright
Bryant	Campbell	Campsen
Cleary	Courson	Cromer
Davis	Fair	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	Rose
Scott	Setzler	Sheheen
Shoopman	Thomas	Verdin
Williams		

A quorum being present, the Senate resumed.

**RECESS**

At 5:17 P.M., on motion of Senator L. MARTIN, the Senate recessed from business subject to the Call of the Chair.

At 5:25 P.M., the Senate resumed.

**Message from the House**

Columbia, S.C., May 12, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it concurs in the amendments proposed by the Senate to:

[SJ]

**TUESDAY, MAY 12, 2009**

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.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 12, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it concurs in the amendments proposed by the Senate to:

H. 3616 -- Rep. Simrill: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 25 TO CHAPTER 53, TITLE 59 SO AS TO PROVIDE FOR THE YORK TECHNICAL COLLEGE ENTERPRISE CAMPUS, AND TO PROVIDE FOR ITS POWERS AND DUTIES.

and has ordered the Bill enrolled for Ratification.

[SJ]

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Very respectfully,  
Speaker of the House  
Received as information.

**Message from the House**

Columbia, S.C., May 12, 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. 12 -- Senators Leatherman, Alexander, Ford, Rankin, O'Dell, Cleary, Leventis, Elliott, Lourie, Malloy and Setzler: A BILL TO ESTABLISH THE SOUTH CAROLINA TAXATION REALIGNMENT COMMISSION, TO PROVIDE FOR THE COMMISSION'S MEMBERSHIP, POWERS, DUTIES, AND RESPONSIBILITIES, TO PROVIDE THAT THE COMMISSION MUST CONDUCT A COMPREHENSIVE STUDY OF THE STATE'S TAX SYSTEM AND SUBMIT A REPORT OF ITS RECOMMENDED CHANGES TO FURTHER THE GOAL OF MAINTAINING AND ENHANCING THE STATE AS AN OPTIMUM COMPETITOR IN THE EFFORT TO ATTRACT BUSINESSES AND INDIVIDUALS TO LOCATE, LIVE, WORK, AND INVEST IN THE STATE, AND TO PROVIDE FOR PROCEDURES GOVERNING THE CONSIDERATION OF LEGISLATION RESULTING FROM THE COMMISSION'S RECOMMENDATIONS.

Respectfully submitted,  
Speaker of the House  
Received as Information

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

**Message from the House**

Columbia, S.C., May 12, 2009

Mr. President and Senators:

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

[SJ]

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H. 3560 -- Ways and Means Committee: A BILL TO MAKE APPROPRIATIONS AND TO PROVIDE REVENUES TO MEET THE ORDINARY EXPENSES OF STATE GOVERNMENT FOR THE FISCAL YEAR BEGINNING JULY 1, 2009, TO REGULATE THE EXPENDITURE OF SUCH FUNDS, AND TO FURTHER PROVIDE FOR THIS OPERATION OF STATE GOVERNMENT DURING THIS FISCAL YEAR AND FOR OTHER PURPOSES.

Respectfully submitted,  
Speaker of the House  
Received as Information

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

**COMMITTEE AMENDMENT ADOPTED  
READ THE SECOND TIME**

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.

Senator L. MARTIN asked unanimous consent to take the Bill up for immediate consideration.

There was no objection.

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

The Committee on Labor, Commerce, and Industry proposed the following amendment (791R003.MM), which was adopted:

Amend the bill as and if amended, by deleting SECTION 2 in its entirety and inserting:

/ SECTION 2. Chapter 6, Title 9 of the 1976 Code is amended by adding:

[SJ]

**TUESDAY, MAY 12, 2009**

“Section 6-9-135. Notwithstanding any other provision of law, a county or municipality may adopt by reference or otherwise the provisions in the latest edition of the International Residential Code (IRC), including the wind and seismic provisions, necessary to prevent the community’s rating for purposes of premium credits from being retrograded to a lower class through one of the following:

(1) the Community Rating System community classification developed by the National Flood Insurance Program; or

(2) the Building Code Effectiveness Grading Schedule classification developed by the Insurance Services Office.

This exclusion also includes class improvements or new enrollments for the Community Rating System. /

Renumber sections to conform.

Amend title to conform.

Senator L. MARTIN explained the committee amendment.

The committee amendment was adopted.

There being no further amendments, the Bill was read the second time, passed and ordered to a third reading.

**COMMITTEE AMENDMENT AMENDED AND ADOPTED  
READ THE SECOND TIME**

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

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FEDERAL FINGERPRINT REVIEWS AS A PREREQUISITE TO LICENSURE AND EMPLOYMENT; TO PROVIDE FOR THE ISSUANCE OF PROVISIONAL LICENSES WHEN THE APPLICANT MEETS CERTAIN PRELIMINARY 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.

Senator HUTTO asked unanimous consent to take the Bill up for immediate consideration.

There was no objection.

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

Senator BRYANT proposed the following amendment (JUD0553.004), which was adopted:

Amend the Committee Report, as and if amended, page [553-1] by striking lines 5 through 8 and inserting therein the following:

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/ the recommendation of the SCRPA;

(7) One member representing the South Carolina Afterschool Care Alliance (SCACA), chosen by the chairperson upon the recommendation of the SCACA; and

(8) Three members appointed by the Governor, of which at least two members must be from religious-affiliated groups that operate summer camp programs in South Carolina. /

Renumber sections to conform.

Amend title to conform.

Senator HUTTO explained the perfecting amendment.

The perfecting amendment was adopted.

The Committee on Judiciary proposed the following amendment (JUD0553.003), which was adopted:

Amend the bill as and if amended, by striking all after the enacting language and inserting therein the following:

/ SECTION 1.(A) A South Carolina Summer Camp Study Committee is created to study the summer camps in the State and to recommend legislation, if appropriate, related to the licensing and regulation of summer camps.

(B) The study committee must be composed of the following members:

(1) The Director of the Department of Social Services, or her designee, who shall serve as the chairperson for the study committee;

(2) The Commissioner of the Department of Health and Environmental Control, or his designee, who shall serve as the co-chairperson of the study committee;

(3) The Director of the South Carolina Law Enforcement Division, or his designee;

(4) One member of the Joint Citizens and Legislative Committee on Children, chosen by the Chairperson of the JCLCC;

(5) One member representing the YMCA, chosen by the chairperson upon the recommendation of the YMCA; (6)

One member representing the South Carolina Recreation and Parks Association (SCRPA), chosen by the chairperson upon the recommendation of the SCRPA; and

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(7) One member representing the South Carolina Afterschool Care Alliance (SCACA), chosen by the chairperson upon the recommendation of the SCACA.

(C) The study committee must review all information it considers relevant related to summer camps, any current statutes or regulations governing summer camps, and any deficiencies related to the operation or regulation of summer camps. The study committee must develop and recommend statewide minimum requirements it deems necessary for the care and protection of children attending summer camps and recommend a mechanism for the enforcement of the requirements. The study committee must complete and render a written public report detailing its findings and recommendations, to include any recommended legislation, to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives by no later than January 31, 2010, at which time the study committee must be dissolved.

(D) The staffing for the committee must be provided by the South Carolina Department of Social Services.

(E) Members of the study committee shall serve without compensation.

(F) Except as otherwise provided, the study committee may organize and collect information in the manner it deems to be best suited to accomplish its objectives.

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

Renumber sections to conform.

Amend title to conform.

The committee amendment was adopted.

There being no further amendments, the Bill was read the second time, passed and ordered to a third reading.

**HOUSE AMENDMENTS AMENDED**

**RETURNED TO THE HOUSE WITH AMENDMENTS**

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

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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 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.

The House returned the Bill with amendments.

Senator SHEHEEN asked unanimous consent to take the Bill up for immediate consideration.

There was no objection.

The Senate proceeded to a consideration of the Bill, the question being concurrence with the House amendments.

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Senators SHEHEEN and GROOMS proposed the following amendment (126R006.VAS), which was adopted:

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

/ SECTION 1. Section 56-3-1910 of the 1976 Code is amended to read:

“Section 56-3-1910. (A) As used in this article, ‘handicapped’ means a person who has one or more of the following conditions:

(1) an inability to ordinarily walk one hundred feet nonstop without aggravating an existing medical condition, including the increase of pain;

(2) an inability to ordinarily walk without the use of, or assistance from a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device;

(3) a restriction by lung disease to the extent that the person’s forced expiratory volume for one second when measured by spirometry is less than one liter, or the arterial oxygen tension is less than sixty mm/hg on room air at rest;

(4) requires use of portable oxygen;

(5) a cardiac condition to the extent that the person’s functional limitations are classified in severity as Class III or Class IV according to standards established by the American Heart Association. If the person’s status improves to a higher level, for example as a result of bypass surgery or transplantation, he no longer meets this criteria;

(6) a substantial limitation in the ability to walk due to an arthritic, neurological, or orthopedic condition, for example, coordination problems and muscle spasticity due to conditions that include Parkinson’s disease, cerebral palsy, or multiple sclerosis; or

(7) blindness.

(B) Upon payment of the regular motor vehicle license fee, the department may issue a license ~~tag~~ plate with a special number or identification indicating that the ~~tag~~ license plate was issued to a person ~~(a) disabled by an impairment in the use of one or more limbs and required to use a wheelchair or (b) disabled by an impairment in mobility, but otherwise qualified for a driver’s license as determined by the department. Each application for the license must be accompanied by the certificate of a licensed physician as defined in Section 40-47-5 as to the permanency of limb impairment or as to the severity or the permanency of mobility impairment. certified as permanently handicapped, but otherwise qualified to obtain a driver’s license. A~~

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license plate issued pursuant to this section must be accompanied by a certification form completed by a licensed physician.

(C)(1) The department must develop a standardized certification form designed to capture criteria related information relating to persons considered handicapped. The form shall indicate whether the applicant meets one or more of the criteria, whether the condition is permanent or temporary, and if temporary, the expected duration.

(2) All persons that have been issued a handicapped license plate as of the effective date of this section will be issued a certificate upon renewal of the license plate. To renew the plate and receive the certificate, the person must be certified as permanently handicapped as provided in this section. Failure to carry a certificate as required by this section by a person that has been issued a handicapped license plate as of the effective date of this section is not a violation of the provisions of this section until after the person renews his license plate.

(D) Forms must be completed by physicians licensed to practice in South Carolina as defined in Section 40-47-5.

(E) The special license plate authorized by this section also may be issued for a vehicle of special design and equipment designed to transport a disabled person who meets the requirements of this section if the vehicle is owned and titled in the name of the disabled person or in the name of a member of his immediate family.

(F) The special license ~~tag~~ plate authorized by this section may also be issued for a vehicle of special design and equipment designed to transport a disabled person who ~~meets~~ is certified as meeting the requirements of this section if the vehicle is owned and titled in the name of the disabled person or in the name of a member of his immediate family or for a vehicle used by an agency, organization, or facility that is designed to transport a handicapped or disabled person if the vehicle is titled in the name of the agency, organization, or facility. Proof that the agency, organization, or facility transports a handicapped or disabled person must be in a manner prescribed by the department. A certificate from a licensed physician is not required to apply for the special license ~~tag~~ plate issued to the agency, organization, or facility.

(G) When processing applications for special license plates pursuant to this section, the department shall also issue a license plate registration certificate that must be carried at all times in the vehicle driven by or transporting the disabled individual. The certificate must display the name of the individual or organization to which the plate was issued.

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(H) Vehicles displaying a special handicapped license plate may only park in designated handicapped parking spaces if that vehicle is driven by or transporting the disabled individual whose name appears on the license plate registration certificate, or if the certificate lists the name of the agency, organization, or facility authorized under subsection (G). The driver of the vehicle displaying the plate must present the registration when requested by law enforcement entities or their duly authorized agents.

(I) A person who qualifies for a license plate under this section and also qualifies as a disabled veteran under Section 56-3-1110 must be issued the license plate provided for in this section free of charge.

(J)(1) Except as provided in item (2), a person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days for each offense.

(2) A person who illegally duplicates, forges, or sells a handicapped license plate or a person who falsifies information on an application form for a handicapped license plate is guilty of a misdemeanor and, upon conviction, must be imprisoned for thirty days and fined not less than five hundred dollars and not more than one thousand dollars.”

SECTION 2. Section 56-3-1950 of the 1976 Code is amended to read:

“Section 56-3-1950. As used in this article:

(1) ~~‘Handicapped’~~ ‘handicapped’ means a person who:

~~(a) has an obvious physical disability that impairs the ability to walk or requires the use of a wheelchair, braces, walkers, or crutches;~~

~~(b) has lost the use of one or both legs;~~

~~(c) suffers from lung disease to such an extent that he is unable to walk without the aid of a respirator;~~

~~(d) is disabled by an impairment in mobility; or~~

~~(e) is determined by the Social Security Administration or the Veterans Administration to be totally and permanently disabled.~~

~~(2) A licensed physician shall certify that the total and permanent disability substantially impairs the ability to walk, unless the applicant is an agency or organization complying with Section 56-3-1910; as defined in Section 56-3-1910;~~

~~(2) ‘access aisle’ means a designated space for maneuvering a wheelchair or other mobility device when entering or exiting a vehicle.~~

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and that is immediately adjacent to a properly designated parking space for handicapped persons, on public or private property. Access aisles must be marked so as to discourage parking in them.”

SECTION 3. Section 56-3-1960 of the 1976 Code is amended to read:

~~“Section 56-3-1960. (A)(1) Any person who is handicapped as defined in this article must be allowed to park in metered or timed parking places without being subject to parking fees or fines. This section has no application to those areas or during those times in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles. As a condition to this privilege, a vehicle must display a distinguishing license plate which must be issued by the department, pursuant to this section, Section 56-3-1910, or Section 56-3-1110, for vehicles registered to the disabled person. The license plate must be issued for the usual fee applicable to standard license plates, except that a person who qualifies for a license plate under this section and also qualifies as a disabled veteran under Section 56-3-1110 must be issued the license plate provided for in this section free of charge. Application must be made on a form prescribed by the department and applicants may apply by mail. Each application must be accompanied by a certificate from a licensed physician as defined in Section 40-47-5 that the applicant is handicapped as defined in this article and that the handicap is permanent. No applicant may be denied a license plate if the completed application is accompanied by a certificate from a licensed physician as defined in Section 40-47-5 as required by this subsection.~~

~~(2) An agency, organization, or facility that transports a disabled or handicapped person or any person who is handicapped as defined in this article may apply to the department for issuance of a temporary or permanent distinguishing placard to be designed by the department. The department, if necessary, may design another distinguishing placard for an agency, organization, or facility that is eligible for a placard, however, all placards must be at least three inches by nine and one-half inches in size and must hang from the rearview mirror of a vehicle or be displayed on the driver's side dashboard when there is no hanging apparatus. The placard must be used on vehicles transporting the disabled person in lieu of the distinguishing license plate issued pursuant to subsection (1) of this section. When the placard is displayed on the driver's side dashboard of a vehicle, all parking rights and privileges extended to vehicles displaying a distinguishing license~~

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~~plate issued pursuant to subsection (1) of this section are applicable to the vehicle. The department shall establish procedures for the issuance of distinguishing placards, and the procedures shall permit applicants to apply by mail. Each application must be accompanied by a certificate from a licensed physician as defined in Section 40-47-5 that the applicant is handicapped as defined in this article, except that a physician's certificate is not required for applications by an agency, organization, or facility which must include sufficient documentation as may be prescribed by the department that the applying agency, organization, or facility transports handicapped or disabled persons. The physician shall state on the certificate whether the applicant is handicapped temporarily or permanently. If the applicant is temporarily handicapped, the physician shall state the length of time for which the applicant is temporarily handicapped. A placard issued for a temporary disability is valid only for the anticipated length of time of the disability specified by the physician in the certificate. No applicant may be denied a placard if the applicant follows the procedures established by the department and if the completed application is accompanied by a certificate from a licensed physician as defined in Section 40-47-5, as required by this subsection. A person who is 'handicapped' as defined in Section 56-3-1910 may apply to the department for issuance of a temporary or permanent placard. A person may be issued a temporary placard if the condition causing his handicap is expected last for at least four months. No applicant may be denied a placard if the applicant follows the procedures established by the department and if the application is accompanied by a certificate from a licensed physician that certifies that the individual is handicapped and whether the handicap is temporary or permanent. The placards must indicate that the person is qualified to use reserved handicapped parking spaces. Applications for placards must be processed through and issued by the department's headquarters. Only one placard may be issued to an applicant. The certification procedure shall adhere to the requirements set forth in Section 56-3-1910. In conjunction with the issuance of a placard, applicants also must be issued a placard registration certificate that must be carried at all times in the vehicle driven by or transporting the handicapped individual. The certificate will display the name of the individual to which the placard was issued. A placard can only be displayed on a vehicle driven by or transporting the disabled individual whose name appears on the placard registration certificate. The department shall charge a~~

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fee of one dollar for a placard and may issue two placards to an individual applicant upon request. An agency, organization, or facility that transports a disabled or handicapped person may receive a placard for each vehicle registered upon proper application and the payment of the appropriate fees.

~~The permanent placards may be issued and renewed only for a maximum period of four years renewable on the owner's birth date; however, placards issued to an agency, organization, or facility must be renewed every four years. The placards must be of a color as determined by the department which is easily recognizable by law enforcement personnel. The placard shall indicate on its face when it expires.~~

~~(3) A vehicle displaying an out of state handicapped license plate or placard or other evidence of handicap issued by the appropriate authority as determined by the department is entitled to the parking privileges provided for in this section.~~

(B) The placards authorized by this section also may be issued for a vehicle of special design and equipment designed to transport a disabled person who is certified as meeting the requirements of this section for a vehicle used by an agency, organization, or facility that is designed to transport a handicapped or disabled person if the vehicle is titled in the name of the agency, organization, or facility. Proof that the agency, organization, or facility transports a handicapped or disabled person must be in a manner prescribed by the department. A certificate from a licensed physician is not required to apply for placards issued to an agency, organization, or facility. At the time of qualification, applicants qualifying for a placard under this section also must be issued a placard registration certificate that must be carried at all times in the vehicle transporting handicapped or disabled individuals. The certificate will display the name of the agency, organization, or facility to which the placard was issued.

(C) The placards shall conform to specifications set forth in the standards established for compliance with the Americans with Disabilities Act. The design must incorporate a means for hanging the placard from a vehicle windshield rearview mirror, and:

- (1) contain the international symbol of access;
- (2) be color-coded to reflect user status in the following manner:
  - (a) dark blue - permanently disabled; and
  - (b) red - temporarily disabled.

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(D) Blue and red placards shall contain the qualified user's photograph. The photograph must be taken from the qualified user's driver's license or identification card on file with the department. However, a photograph is not required for a placard issued to an agency, organization, or facility.

(E) Each placard shall contain the placard's expiration date.

(F) When qualified users park in designated spaces, the placard must be displayed in the windshield of the vehicle by hanging it from the rearview mirror. In vehicles in which hanging may not be feasible, the placard must be placed on the side of the dashboard so that it is clearly visible through the windshield. When more than one placard holder is transported in the same vehicle, only one placard needs to be displayed.

(G) Placards used for parking in designated handicapped spaces must be displayed on vehicles driven by or transporting the handicapped individual whose name appears on the placard registration certificate. When parked in designated spaces, the driver of the vehicle displaying the placard must present the placard registration certificate when requested by law enforcement entities or their duly authorized agents.

(H) Placards and placard registration certificates for permanently disabled persons may be issued and renewed for a maximum period of four years and are renewable on the owner's birth date. Placards issued to an agency, organization, or facility must be renewed every four years.

(I) A vehicle displaying a valid out-of-state handicapped license plate or placard or other evidence of handicap issued by the appropriate authority as determined by the department is entitled to the parking privileges provided in this section. Handicapped individuals from other states seeking permanent residence in South Carolina have forty-five days after becoming a resident to obtain South Carolina certification.

(J) Placards issued prior to the effective date of this section must be renewed by the expiration date on the placard or by January 1, 2013, whichever is sooner. To renew the placard and receive the certificate, the person must be certified as permanently handicapped as provided in Section 56-3-1910. Upon renewal, the department will issue a certificate as required by this section. Failure to carry a certificate as required by this section by a person using a placard issued prior to the effective date of this section is not a violation of the provisions of this

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section until after the placard is renewed or January 1, 2013, whichever is sooner.

(K)(1) Except as provided in item (2), a person that violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days, or both, for each offense.

(2) A person who illegally duplicates, forges, or sells a handicapped placard or a person who falsifies information on an application form for a handicapped placard is guilty of a misdemeanor and, upon conviction, must be imprisoned for thirty days and fined not less than five hundred dollars and not more than one thousand dollars.”

SECTION 4. Section 56-3-1965 of the 1976 Code is amended to read:

“Section 56-3-1965. Those municipalities having marked parking spaces shall provide appropriately designated space or spaces reserved for the parking of handicapped persons. A person who is handicapped as defined in this article must be allowed to park in metered or timed parking places without being subject to parking fees or fines. This section does not apply to areas or during times in which the stopping, parking, or standing of all vehicles is prohibited or to areas which are reserved for special types of vehicles. A vehicle must display a distinguishing license plate which must be issued by the department, pursuant to Section 56-3-1910, or Section 56-3-1110, or a distinguishing placard which must be issued by the department, pursuant to Section 56-3-1960 when parked in metered or timed parking places.”

SECTION 5. Section 56-3-2010 of the 1976 Code is amended by adding at the end:

“(C) If a person who qualifies for the special license plate issued under this section also qualifies for the handicapped license plate issued pursuant to Section 56-3-1910, then the license plate issued pursuant to this section also shall include a decal with the International Symbol of Access used on license plates issued pursuant to Section 56-3-1910. The decal can only be used if space is available to place the decal on the license plate without covering any identifying numbers or letters on the license plate.”

SECTION 6. Section 56-3-1970 of the 1976 Code is amended to read:

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“Section 56-3-1970. (A) It is unlawful to park any vehicle in a parking place clearly designated for handicapped persons unless the vehicle bears the distinguishing license plate provided in Section 56-3-1910 or placard provided in Section 56-3-1960.

(B) It is unlawful for any person who is not handicapped or who is not transporting a handicapped person to exercise the parking privileges granted handicapped persons pursuant to Section 56-3-1910, Section 56-3-1960, and Section 56-3-1965.

(C) A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than ~~one~~ five hundred dollars nor more than ~~two hundred~~ one thousand dollars or imprisoned for not more than thirty days for each offense.”

SECTION 7. Section 56-3-1975 of the 1976 Code is amended to read:

“Section 56-3-1975. Each handicapped parking place must be clearly identified as a handicapped parking place. The handicapped parking place includes all access aisles. If the handicapped parking place is on public property, the marker must be maintained by the political subdivision having jurisdiction over the public property or the street or highway where the handicapped parking place is located. If the handicapped parking place is on private property, the marker must be maintained by the owner of the property.”

SECTION 8. This act takes effect six months after the approval of the Governor. /

Amend title to conform.

Senator SHEHEEN explained the amendment.

The amendment was adopted.

There being no further amendments, the Bill was ordered returned to the House with amendments.

#### RECALLED

H. 3926 -- Reps. Knight, Horne and A.D. Young: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION ERECT APPROPRIATE MARKERS OR SIGNS AT THE BRIDGE THAT CROSSES FOUR HOLE SWAMP WHERE IT FLOWS INTO THE EDISTO RIVER ALONG WIRE ROAD IN DORCHESTER COUNTY THAT

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CONTAIN THE WORDS "MUCKENFUSS (1792 - 1813) MINUS (1813 - 1848) HARLEY (1848 - 1862) BRIDGE".

Senator GROOMS asked unanimous consent to make a motion to recall the Bill from the Committee on Transportation.

On motion of Senator GROOMS, the Bill was recalled from the Committee on Transportation and ordered placed on the Calendar for consideration tomorrow.

**ADJOURNMENT**

At 5:58 P.M., on motion of Senator L. MARTIN, the Senate adjourned to meet tomorrow at 11:00 A.M.

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