**South Carolina General Assembly**

119th Session, 2011-2012

**H. 4459**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. G.R. Smith, Rutherford and Clyburn

Document Path: l:\council\bills\ms\7628ahb12.docx

Introduced in the House on January 10, 2012

Currently residing in the House Committee on **Judiciary**

Summary: Search of cellular and portable electronic wireless communication devices

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

11/29/2011 House Prefiled

11/29/2011 House Referred to Committee on **Judiciary**

1/10/2012 House Introduced and read first time ([House Journal‑page 49](file:///h:\hj%20archive\2012\01-10-12.docx))

1/10/2012 House Referred to Committee on **Judiciary** ([House Journal‑page 49](file:///h:\hj%20archive\2012\01-10-12.docx))

**VERSIONS OF THIS BILL**

[11/29/2011](file:///p:\pprever\2011-12\4459_20111129.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 17‑13‑180 SO AS TO DEFINE THE TERM “CELLULAR OR OTHER PORTABLE ELECTRONIC WIRELESS COMMUNICATIONS DEVICE” AND TO PROHIBIT THE SEARCH OF CELLULAR OR OTHER PORTABLE ELECTRONIC WIRELESS COMMUNICATIONS DEVICES INCIDENT TO A LAWFUL CUSTODIAL ARREST WITHOUT A SEARCH WARRANT OR WITHOUT THE EXPRESS WRITTEN PERMISSION OF THE PERSON OR OTHER LAWFUL OWNER OF THE DEVICE.

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

SECTION 1. Chapter 13, Title 17 of the 1976 Code is amended by adding:

“Section 17‑13‑180. (A) As used in this section, ‘cellular or other portable electronic wireless communications device’ means a moveable or transportable device that is capable of creating, receiving, accessing, or storing electronic data or communications and includes, but is not limited to, cellular telephones or ‘smart phones’.

(B) Notwithstanding another provision of law, information contained or stored in a cellular or other portable electronic wireless communications device is not subject to a search by a law enforcement officer incident to a lawful custodial arrest except pursuant to the provisions of Section 17‑13‑140 providing for the issuance, execution, and return of a search warrant or pursuant to the express written consent of the person subject to the lawful custodial arrest or other lawful owner of the device.”

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

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

‑‑‑‑XX‑‑‑‑