**South Carolina General Assembly**

120th Session, 2013-2014

**H. 4850**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. K.R. Crawford, Williams, Bales, Anderson, Atwater, Erickson, Long, G.R. Smith, Henderson, Cobb‑Hunter, H.A. Crawford, Limehouse, J.E. Smith, Huggins, Spires, Toole, R.L. Ott, J.R. Smith, Jefferson, Sabb, Ballentine, Bernstein, Clemmons, Finlay, George, Hamilton, Hardee, Hayes, Lowe, Mitchell, D.C. Moss, Norrell, Parks, Pitts, Pope, Rivers, Simrill, G.M. Smith, Sottile, Taylor, Wells and Bannister

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Introduced in the House on March 5, 2014

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Rights of the Regulated Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/5/2014 House Introduced and read first time ([House Journal‑page 2](file:///H:\HJ%20Archive\2014\03-05-14.docx))

3/5/2014 House Referred to Committee on **Judiciary** ([House Journal‑page 2](file:///H:\HJ%20Archive\2014\03-05-14.docx))

3/12/2014 House Recalled from Committee on **Judiciary** ([House Journal‑page 22](file:///H:\HJ%20Archive\2014\03-12-14.docx))

3/12/2014 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 22](file:///H:\HJ%20Archive\2014\03-12-14.docx))

3/26/2014 House Member(s) request name added as sponsor: Bannister

**VERSIONS OF THIS BILL**

[3/5/2014](file:///p:\pprever\2013-14\4850_20140305.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “RIGHTS OF THE REGULATED ACT” BY ADDING CHAPTER 20 TO TITLE 1 TO PROVIDE REQUIREMENTS FOR STATE AGENCIES WHEN INSPECTING OR INVESTIGATING REGULATED PEOPLE OR FACILITIES, TO PROVIDE NECESSARY DEFINITIONS, TO REQUIRE INVESTIGATING AGENCIES TO PROVIDE TIMELY STATUS REPORTS TO INVESTIGATED PARTIES, TO PROVIDE INVESTIGATING AGENCIES SHALL REPORT UNRESOLVED INVESTIGATIONS TO THE DEPARTMENT OF ADMINISTRATION AFTER A CERTAIN PERIOD OF TIME, TO REQUIRE THE DEPARTMENT TO EITHER TERMINATE THESE UNRESOLVED INVESTIGATIONS OR PERMIT THEM TO CONTINUE, TO REQUIRE THE DEPARTMENT TO SUMMARIZE AND REPORT ITS RATIONALE FOR A TERMINATION OR CONTINUATION TO INVESTIGATING AGENCIES AND INVESTIGATED PARTIES, AND TO REQUIRE THE DEPARTMENT TO DEVELOP AND PROVIDE RELATED FORMS AND PROCEDURES BY REGULATION, AMONG OTHER THINGS.

Whereas, the South Carolina General Assembly finds that the hard work and productivity of people and enterprises regulated by the State play a fundamental and incomparable role in driving our economy and funding the institutions that govern our society; and

Whereas, the South Carolina General Assembly recognizes that a certain level of regulation of professions, occupations, and enterprises promotes public safety and other important purposes in our society, but that this regulation must be conducted in a manner respectful of the individuals and enterprises whose taxes enable this regulation to occur; and

Whereas, the South Carolina General Assembly strives to serve the general public and the business community by striking a fair balance between the competing goals of allowing the regulated to pursue economic goals critical to the success of our State and nation by promoting the public interest with respect to public health and safety, among other things. Now, therefore,

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

SECTION 1. Title 1 of the 1976 Code is amended by adding:

“CHAPTER 20

Rights of the Regulated Act

Section 1‑20‑110. This act must be known and may be cited as the ‘Rights of the Regulated Act’.

Section 1‑20‑120. The purposes of this chapter are to require each department and agency of the State that regulates individuals or enterprises to do the following when exercising this responsibility and privilege:

(1) exercise its authority to inspect facilities and people regulated by the law of this State in a manner that demonstrates the highest level of respect for the dignity and rights of the regulated party being inspected and with minimal interference with the economic and professional endeavors being regulated;

(2) conscientiously conduct investigations as efficiently, unobtrusively, and discretely as reasonably possible; and

(3) affirmatively and diligently communicate information concerning investigations to regulated parties in a timely manner, and to respond to requests for this information from regulated parties promptly, thoroughly, and in easily understandable terms.

Section 1‑20‑130. For the purposes of this chapter:

(1) ‘Agency’ means any department within the executive branch of state government as in Section 1‑30‑10(A).

(2) ‘Department’ means the Department of Administration.

(3) ‘Director’ means the director of the Department of Administration.

(4) ‘Inspection’ means actions by an agency to examine and observe a regulated individual or facility within the scope of its statutory authority for compliance with applicable regulations.

(5) ‘Investigation’ means actions by an agency to investigate violations of a regulation or statute regulating an individual or facility by the individual or facility. An investigation may be made for such violations alleged by a third party or as discovered or suspected by the agency during the course of an inspection.

Section 1‑20‑140. (A) An agency employee when conducting an inspection or investigation of a regulated facility or regulated party shall wear an identification badge stating:

(1) his first and last names with appropriate initials and suffixes;

(2) the name of the agency on whose behalf he is acting;

(3) the department, division or other applicable named part of the agency in which he works; and

(4) his job title.

(B) The information required in subsection (A) must be clearly visible on the badge, which also must include a color head and shoulders photograph of the face of the agency employee. This photograph may be no more than five years old.

Section 1‑20‑150. Except in emergency admissions, all agency staff when conducting an investigation shall present to the regulated individual, in the case of an investigation of an individual being investigated, or an employee of the regulated facility, in the case of an investigation or inspection of a regulated facility, a Notice of Regulatory Inspection and Investigation form. The department shall develop this form customized by each agency with respect to its name, address, and telephone number of the primary office of the agency and as otherwise considered appropriate by the department. The department shall include standard language explaining that an investigation and inspection of the premises, individual, or both, as applicable, is being undertaken. The form also must include citations to the applicable statutory and regulatory authority for the inspection, the reason for the investigation, the scope of the investigation, and a date by which mandatory reports will be available. The form must provide the name, title, telephone number, electronic mail address, address, and other contact information that the department considers appropriate of all agency personnel conducting the investigation, and the names, titles, and contact numbers of their immediate supervisors.

Section 1‑20‑160. After conducting an inspection or investigation, the agency shall provide to the inspected or investigated person or facility a findings report summarizing the findings of the investigation or inspection within fifteen calendar days, and any further action that the agency intends to take as a result of these findings, if any. When an agency indicates it will pursue such further action, it shall provide in its report the schedule of dates on which it shall provide additional status reports to the inspected or investigated party until the investigation is resolved and a good faith estimate of the date by which the investigation will be resolved. These reports must be provided every thirty calendar days. The agency shall provide these reports to the investigated party in compliance with this schedule. An agency that fails to finalize an investigation within eighteen months shall file an Investigation Delay Status Report summarizing the status of the investigation to the Director of the Department of Administration, with specific reasons for which the investigation has not been completed or a resolution reached. This status report shall include all documents previously provided to the investigated party, and a copy of this status report must be provided to the investigated party within twenty‑four hours after it is provided to the director or his designee. Within thirty days after receipt of an Investigation Delay Status Report, the director or his designee either shall terminate the investigation or authorize its continuation, along with a rationale of his decision in a Delayed Status Report Order which the department shall develop and use uniformly. The director or his designee shall provide a copy of this order to the investigating agency and the investigated party within twenty‑four hours after the order is issued. Failure of the director to provide this order terminates the investigation, which may not be reopened without consent of the investigated party.

Section 1‑20‑170. An investigating agency shall assign a reference number specific and unique to each investigation. This reference number must appear on all reports and correspondence concerning the investigation, and serve as a means by which the investigated party may easily identify his investigation when inquiring about the investigation.

Section 1‑20‑180. This article does not create a civil cause of action; however, this article must not be construed to preclude a claim that may have otherwise been asserted under common law or any other provision of law. An investigated party may seek relief from the administrative law court as provided for an appeal from a final decision of the agency.

Section 1‑20‑190. The provisions of this chapter do not apply to a law enforcement officer conducting an undercover operation or any other official function in which his identity as law enforcement officer would be counterproductive.

Section 1‑20‑200. To the extent the provisions of this chapter conflict with another provision of the laws of this State, the provisions of this chapter must prevail.”

SECTION 2. This act takes place upon the effective date of regulations required to carry out the provisions of this act.

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