

2018 REGULAR SESSION

Acts and Joint Resolutions

of the

GENERAL ASSEMBLY
OF THE STATE OF SOUTH CAROLINA

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Ashley Harwell-Beach, Acting Code Commissioner, P.O. Box 11489,
Columbia, S.C. 29211

If the first portion of the act on the opposite page is incomplete, see the preceding Advance Sheet for the first portion.

habitat and pollinator management plan to be used as technical guidance for the purposes of this act.

An owner of a solar energy generation site implementing solar site management practices under this section may claim that the site increases the habitat value by providing benefits to gamebirds, songbirds, pollinators, and small mammals only if the site adheres to guidance set forth by the wildlife habitat and pollinator plan provided by the department or any other gamebird, songbird, or pollinator foraging-friendly vegetation standard established by the department. An owner wishing to make a beneficial habitat claim must make the site's vegetation management plan available to the public and provide a copy of the plan to the department for review.

The department or another entity may issue a certificate of compliance to the owner of a solar site meeting the plan guidelines that the owner may use to promote its participation in the program.”

Time effective

SECTION 2. This act takes effect upon the approval of the Governor.

Ratified the 23rd day of May, 2018.

Approved the 25th day of May, 2018.

No. 254

(R237, H3209)

AN ACT TO AMEND SECTION 17-22-910, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO APPLICATIONS FOR THE EXPUNGEMENT OF CRIMINAL RECORDS FOR CERTAIN OFFENSES, SO AS TO ADD FIRST OFFENSE SIMPLE POSSESSION OR POSSESSION WITH INTENT TO DISTRIBUTE DRUGS TO THE LIST OF OFFENSES ELIGIBLE FOR EXPUNGEMENT, AND TO PROVIDE FOR ELIGIBILITY FOR EXPUNGEMENT OF OFFENSES SUBSEQUENTLY REPEALED WHEN THE ELEMENTS OF THE OFFENSE ARE CONSISTENT WITH AN EXISTING SIMILAR OFFENSE WHICH IS SUBJECT TO EXPUNGEMENT AND TO CLARIFY THAT EXPUNGEMENT PROVISIONS APPLY

RETROACTIVELY TO THE OFFENSES DELINEATED; TO AMEND SECTION 22-5-910, RELATING TO SUMMARY COURT OFFENSES ELIGIBLE FOR EXPUNGEMENT, SO AS TO EXPAND ELIGIBILITY BEYOND FIRST OFFENSES AND CLARIFY THAT EXPUNGEMENT PROVISIONS APPLY RETROACTIVELY; TO AMEND SECTION 22-5-920, RELATING TO EXPUNGEMENT OF PERSONS CONVICTED AS YOUTHFUL OFFENDERS, SO AS TO REDEFINE "CONVICTION" TO EXPAND ELIGIBILITY, TO INCLUDE THAT A PERSON REQUIRED TO REGISTER ON THE SEX OFFENDER REGISTRY IS NOT ELIGIBLE FOR EXPUNGEMENT, AND PROVIDE RETROACTIVE APPLICATION UNDER CERTAIN CIRCUMSTANCES; BY ADDING SECTION 22-5-930 SO AS TO PROVIDE FOR EXPUNGEMENT ELIGIBILITY FOR FIRST OFFENSE CONVICTIONS OF CERTAIN CONTROLLED SUBSTANCE OFFENSES; TO AMEND SECTION 63-19-2050, RELATING TO DESTRUCTION OF RECORDS OF PERSONS ADJUDICATED DELINQUENT, SO AS TO ALLOW FOR EXPUNGEMENT OF ANY NUMBER OF OFFENSES FROM A SINGLE SENTENCING PROCEEDING FOR CLOSELY CONNECTED OFFENSES; TO AMEND SECTION 17-22-940, RELATING TO FEES ASSOCIATED WITH THE EXPUNGEMENT PROCESS, SO AS TO RESTRUCTURE THE FEES PROCESS AND ALLOW FOR THE COLLECTION OF PRIVATE DONATIONS, AND TO MAKE CONFORMING CHANGES; AND BY ADDING SECTION 17-22-960 SO AS TO PROVIDE IMMUNITY FOR EMPLOYERS WHO HIRE PERSONS WHOSE CRIMINAL RECORDS HAVE BEEN EXPUNGED.

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

Expungement, eligibility expanded

SECTION 1. Section 17-22-910 of the 1976 Code is amended to read:

“Section 17-22-910. (A) 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;

- (3) Section 22-5-910, first offense conviction in magistrates court;
- (4) Section 22-5-920, youthful offender act;
- (5) Section 22-5-930, first offense simple possession or possession with intent to distribute drug convictions;
- (6) Section 56-5-750(f), first offense failure to stop when signaled by a law enforcement vehicle;
- (7) Section 17-22-150(a), pretrial intervention;
- (8) Section 17-1-40, criminal records destruction, except as provided in Section 17-22-950;
- (9) Section 63-19-2050, juvenile expungements;
- (10) Section 17-22-530(A), alcohol education program;
- (11) Section 17-22-330(A), traffic education program; and
- (12) any other statutory authorization.

(B) A person's eligibility for expungement of an offense contained in this section, or authorized by any other provision of law, must be based on the offense that the person pled guilty to or was convicted of committing and not on an offense for which the person may have been charged. In addition, if an offense for which a person was convicted is subsequently repealed and the elements of the offense are consistent with an existing similar offense which is currently eligible for expungement, a person's eligibility for expungement of an offense must be based on the existing similar offense.

(C) The provisions of this section apply retroactively to allow expungement as provided by law for each offense delineated in subsection (A) by persons convicted prior to the enactment of this section or the addition of a specific item contained in subsection (A)."

Expungement, summary court eligibility expanded

SECTION 2. Section 22-5-910 of the 1976 Code is amended to read:

"Section 22-5-910. (A) Following a conviction for a crime carrying a penalty of not more than thirty days imprisonment or a fine of one thousand dollars, or both, the defendant after three years from the date of the conviction, including a conviction in magistrates or general sessions court, 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 and any associated bench warrant. However, this section does not apply to an offense involving the operation of a motor vehicle.

(B) Following a conviction for domestic violence in the third degree pursuant to Section 16-25-20(D), or Section 16-25-20(B)(1) as it existed before June 4, 2015, the defendant after five years from the date of the

conviction, including a conviction in magistrates or general sessions court, 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 and any associated bench warrant.

(C) If the defendant has had no other conviction, including out-of-state convictions, during the three-year period as provided in subsection (A), or during the five-year period as provided in subsection (B), the circuit court may issue an order expunging the records including any associated bench warrant.

(D) After the expungement, the South Carolina Law Enforcement Division is required to keep a nonpublic record of the offense and the date of the expungement to ensure that no person takes advantage of the rights of this section more than once. This nonpublic record is not subject to release pursuant to Section 34-11-95, the Freedom of Information Act, or any other provision of law except to those authorized law or court officials who need to know this information in order to prevent the rights afforded by this section from being taken advantage of more than once.

(E) As used in this section, 'conviction' includes a guilty plea, a plea of nolo contendere, or the forfeiting of bail. For the purpose of this section, any number of offenses for crimes carrying a penalty of not more than thirty days imprisonment or a fine of one thousand dollars, or both, for which the individual received sentences at a single sentencing proceeding that are closely connected and arose out of the same incident may be considered as one offense and treated as one conviction for expungement purposes.

(F) No person may have the person's record expunged under this section if the person has pending criminal charges of any kind unless the charges have been pending for more than five years; however, this five-year time period is tolled for any time the defendant has been under a bench warrant for failure to appear. No person may have the person's records expunged under this section more than once. A person may have the person's record expunged even though the conviction occurred before the effective date of this section."

Expungement, youthful offenders

SECTION 3. Section 22-5-920 of the 1976 Code is amended to read:

"Section 22-5-920. (A) As used in this section, 'conviction' includes a guilty plea, a plea of nolo contendere, or the forfeiting of bail. For the purpose of this section, any number of offenses for which the individual

received a youthful offender sentence at a single sentencing proceeding for offenses that are closely connected and arose out of the same incident may be considered as one offense and treated as one conviction for expungement purposes.

(B)(1) Following a first offense conviction as a youthful offender for which a defendant is sentenced pursuant to the provisions of Chapter 19, Title 24, Youthful Offender Act, the defendant, who has not been convicted of any offense, including an out-of-state offense, while serving the youthful offender sentence, including probation and parole, and for a period of five years from the date of completion of the defendant's sentence, including probation and parole, may apply, or cause someone acting on the defendant's behalf to apply, to the circuit court for an order expunging the records of the arrest and conviction.

(2) However, this section does not apply to:

- (a) an offense involving the operation of a motor vehicle;
- (b) an offense classified as a violent crime in Section 16-1-60;
- (c) an offense contained in Chapter 25, Title 16, except as otherwise provided in Section 16-25-30; or
- (d) an offense for which the individual is required to register in accordance with the South Carolina Sex Offender Registry Act.

(3) If the defendant has had no other conviction, to include out-of-state convictions, during the service of the youthful offender sentence, including probation and parole, and during the five-year period following completion of the defendant's sentence, including probation and parole, for a first offense conviction as a youthful offender for which the defendant was sentenced pursuant to the provisions of Chapter 19, Title 24, Youthful Offender Act, the circuit court may issue an order expunging the records. No person may have the person's records expunged under this section more than once. A person may have the person's record expunged even though the conviction occurred before the effective date of this section. A person eligible for a sentence pursuant to the provisions of Chapter 19, Title 24, Youthful Offender Act, and who is not sentenced pursuant to those provisions, is not eligible to have the person's record expunged pursuant to the provisions of this section; however, a person who was convicted prior to June 2, 2010, and was a youthful offender as that term is defined in Section 24-19-10(d) is eligible to have his record expunged pursuant to the provisions of this section.

(C) After the expungement, the South Carolina Law Enforcement Division is required to keep a nonpublic record of the offense and the date of its expungement to ensure that no person takes advantage of the rights permitted by this section more than once. This nonpublic record is

not subject to release under Section 34-11-95, the Freedom of Information Act, or another provision of law, except to those authorized law enforcement or court officials who need this information in order to prevent the rights afforded by this section from being taken advantage of more than once.”

Expungement, first offense drug convictions

SECTION 4. Article 11, Chapter 5, Title 22 of the 1976 Code is amended by adding:

“Section 22-5-930. (A) Following a first offense conviction for either simple possession of a controlled substance under Article 3, Chapter 53, Title 44 or unlawful possession of a prescription drug under Section 40-43-86(EE), including those charges for which the person would now be eligible for a conditional discharge pursuant to Section 44-53-450, the defendant after three years from the date of the completion of the sentence, including probation and parole, for this conviction, and including a conviction in magistrates or general sessions court, 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 and any associated bench warrant.

(B) Following a first offense conviction for possession with intent to distribute a controlled substance under Article 3, Chapter 53, Title 44, the defendant after twenty years from the date of the completion of any sentence, including probation and parole, for a drug conviction or any felony 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 and any associated bench warrant.

(C) If the defendant had no other convictions, to include out-of-state convictions, during the three-year period as provided in subsection (A) or no other drug conviction or felony conviction during the twenty-year period as provided in subsection (B), the circuit court may issue an order expunging the records including any associated bench warrant.

(D) No person may have the person’s record expunged under this section if the person has pending criminal charges of any kind unless the charges have been pending for more than five years; however, this five-year time period is tolled for any time the defendant has been under a bench warrant for failure to appear. No person may have the person’s records expunged under this section more than once. No person may have the person’s records expunged pursuant to this section if the person has had a conditional discharge within the five years prior to the date of

arrest for the charge sought to be expunged if the charge sought to be expunged is simple possession of marijuana, or within the ten years prior to the date of arrest for the charge sought to be expunged if the charge sought to be expunged is for the simple possession of any other controlled substance or the unlawful possession of a prescription drug under Section 40-43-86(EE). A person may have the person's record expunged even though the conviction occurred before the effective date of this section; however, the expungement will not affect a subsequent enhanced conviction or sentence that occurred before the effective date of this section.

(E) After the expungement, the South Carolina Law Enforcement Division is required to keep a nonpublic record of the offense and the date of expungement to ensure that no person takes advantage of the rights of this section more than once. This nonpublic record is not subject to release pursuant to Section 34-11-95, the Freedom of Information Act, or any other provision of law except to those authorized law or court officials who need to know this information in order to prevent the rights afforded by this section from being taken advantage of more than once.

(F) As used in this section, 'conviction' includes a guilty plea, a nolo contendere, or the forfeiting of bail. For the purpose of this section, any number of offenses for which the individual received sentences at a single sentencing proceeding for offenses that are closely connected and arose out of the same incident may be considered as one offense and treated as one conviction for expungement purposes."

Expungement, juvenile offenses

SECTION 5. Section 63-19-2050(C)(2) of the 1976 Code is amended to read:

"(2) If the person has been taken into custody for, charged with, or adjudicated delinquent for having committed a nonviolent crime, as defined in Section 16-1-70, the court may grant the expungement order. For the purpose of this section, any number of offenses for which the individual received youthful offender sentences at a single sentencing proceeding for offenses that are closely connected and arose out of the same incident may be considered as one offense and treated as one conviction for expungement purposes."

Expungement, fee process restructured

SECTION 6. Section 17-22-940 of the 1976 Code is amended to read:

“Section 17-22-940. (A) In exchange for the 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 to defray the costs associated with the expungement process except as provided in items (1) and (2). 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.

(1) Any person who applies to the solicitor’s office for an expungement of general session 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 nolle prossed as part of the plea arrangement under which the defendant pled guilty and was sentenced to other charges.

(2) Each solicitor’s office shall establish an account to collect private donations for the purpose of assisting in defraying the administrative fee of an expungement by up to fifty percent (50%). These funds shall be available on a first come, first serve basis to applicants. This item does not require the solicitor to request or solicit funds for this account.

(B) 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) collecting funds from individuals choosing to contribute to the fund to defray the costs of administrative fees for expungements;

(4) 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;

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

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

(7) 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;
- (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.

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

(D) In cases when charges are sought to be expunged pursuant to Section 17-22-150(a), 17-22-530(A), 17-22-330(A), 22-5-910, or 44-53-450(b), the circuit pretrial intervention director, alcohol education program director, traffic 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.

(E) 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, Section 17-22-150(a), Section 17-22-530(A), Section 17-22-330(A), or Section 44-53-450(b), 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, Section 63-19-2050, or Section 56-5-750(f), the conviction for any minor traffic-related offense that is not related in any way to driving under the influence of alcohol or other drugs 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, Section 17-22-530(A), Section 17-22-330(A), Section 17-22-150(a), or Section 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.

(F) 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.

(G) 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.

(H) 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, nolle prossed, or the applicant was acquitted.

(I) 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.

(J) 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.

(K) 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.”

Expungement, employer immunity

SECTION 7. Article 9, Chapter 22, Title 17 of the 1976 Code is amended by adding:

“Section 17-22-960. Any employer that employs a worker who has had an expungement shall not, at any time, be subject to any administrative or legal claim or cause of action related to the worker’s expunged offense. Except for criminal justice agencies, employers shall not use expunged information adversely against an employee. No information related to an expungement shall be used or introduced as evidence in any administrative or legal proceeding involving negligent hiring, negligent retention, or similar claims.”

Time effective

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

Ratified the 14th day of May, 2018.

Vetoed by the Governor -- 5/19/18.

Veto overridden by House -- 6/27/18.

Veto overridden by Senate -- 6/27/18.

No. 255

(R272, H4973)

AN ACT TO AMEND SECTION 56-3-2150, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SPECIAL LICENSE PLATES ISSUED TO CERTAIN CURRENT AND RETIRED PUBLIC OFFICIALS, SO AS TO DELETE THE PROVISION THAT REQUIRES A FORMER MEMBER OF THE GENERAL ASSEMBLY TO RECEIVE RETIREMENT BENEFITS TO OBTAIN A SPECIAL LICENSE PLATE, TO PROVIDE THAT A FORMER MEMBER OF THE GENERAL ASSEMBLY MAY BE

ISSUED TWO SPECIAL LICENSE PLATES, AND TO PROVIDE THAT A PERSON WHO RESIGNS FROM OFFICE AS A RESULT OF AN INVESTIGATION OR CONVICTION OF CERTAIN CRIMES MAY NOT APPLY FOR OR MAINTAIN A SPECIAL LICENSE PLATE; TO AMEND SECTION 56-3-2350, RELATING TO THE DEPARTMENT OF MOTOR VEHICLES ISSUANCE OF A SPECIAL REGISTRATION FOR A PERSON ENGAGED IN THE BUSINESS OF OPERATING MOTOR VEHICLES TO FACILITATE THE MOVEMENT OF CERTAIN VEHICLES, SO AS TO DEFINE THE TERM "FINANCIAL INSTITUTION", AND TO PROVIDE THAT A FINANCIAL INSTITUTION ENGAGED IN THE BUSINESS OF REPOSSESSING VEHICLES UNDER CERTAIN CIRCUMSTANCES MAY APPLY FOR SPECIAL REGISTRATION PURSUANT TO THIS PROVISION, TO REVISE THE APPLICATION FOR PERSONS ENGAGED IN THE BUSINESS OF OPERATING VEHICLES TO MOVE VEHICLES FROM A MANUFACTURER TO A DEALER OR DISTRIBUTOR OR FROM A RAILROAD TERMINAL TO CERTAIN LOCATIONS, AND TO PROVIDE THAT ALL REGISTRATION RECORDS AND REGISTERED VEHICLES MUST BE AVAILABLE TO THE DEPARTMENT FOR INSPECTION; AND TO AMEND SECTION 56-3-2370, RELATING TO THE TRANSFER OF TRANSPORTER LICENSE PLATES, SO AS TO REVISE THE PURPOSES FOR WHICH THE LICENSE PLATES MAY BE USED.

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

Special license plates

SECTION 1. Section 56-3-2150 of the 1976 Code is amended to read:

"Section 56-3-2150. The Department of Motor Vehicles may issue special motor vehicle license plates to former members of the South Carolina Delegation of the United States Congress, retired judicial officers elected by the General Assembly or confirmed by the United States Senate, respectively, members of municipal and county councils, county coroners, and mayors of this State for private passenger motor vehicles owned by them. The department also may issue special motor vehicle license plates to former members of the General Assembly for private passenger motor vehicles and vehicles classified as private

passenger motor vehicles in Section 56-3-630 owned by them. The biennial fee for these special license plates is the same as the fee provided in Section 56-3-2020, and only one plate may be issued to former members of the South Carolina Delegation of the United States Congress, retired judicial officers elected by the General Assembly or confirmed by the United States Senate, respectively, a councilman or a mayor. A coroner and a former member of the General Assembly may be issued two license plates. These license plates must be issued or revalidated biennially for the regular registration and licensing period. A person who has been investigated by state or local authorities resulting in a resignation or convicted of a crime involving dishonesty or moral turpitude, or another crime punishable by imprisonment for at least one year may not apply for special motor vehicle license plates issued pursuant to this section. A person convicted of an offense contained in this section subsequent to issuance of a special motor vehicle license plate shall surrender the special license plate to the Department of Motor Vehicles within three days of the date of the conviction.”

Transporter license plates

SECTION 2. Section 56-3-2350 of the 1976 Code is amended to read:

“Section 56-3-2350. (A) For purposes of this section ‘financial institution’ means a supervised financial organization as defined in Section 37-1-301(27) or a supervised lender as defined in Section 37-3-501(2).

(B) A financial institution engaged in the business of repossessing vehicles or accepting voluntary repossession or relinquishment of vehicles for which the financial institution has exercised rights under a valid security agreement or lien may apply for special registration only for the purpose of repossession of such vehicles; acceptance of voluntary repossession or reclamation of such vehicles; transport of such vehicles to locations of repair, cleaning, or reconditioning; storage of such vehicles; or demonstration of such vehicles for purposes of potential resale. Transporter plates must not be used to operate wreckers or service vehicles. The use of transporter plates for demonstration purposes is limited to prospective purchasers and limited to seven days. The financial institution must provide the prospective purchaser with a dated demonstration certificate approved by the department.

(C) A person engaged in the business of limited operation of motor vehicles to facilitate the movement of vehicles from a manufacturer to a dealer or distributor, or from a railroad terminal yard to a temporary

storage facility prior to delivery to a dealer, or for the movement of vehicles to further the construction of cabs or bodies, or in connection with the foreclosure or repossession of these motor vehicles may apply to the Department of Motor Vehicles for special registration to be issued to and used by the person upon the following conditions:

(1) The application must be in a form prescribed by the department to include the applicable liability insurance as prescribed by statute and filed with the department each year. If the applicant is an entity with multiple branches, then an application may be made for each branch, not to exceed two registrations. The application must include the name and residence address of the applicant as follows:

(a) if an individual, the name under which he intends to conduct business;

(b) if a partnership, the name and residence address of each member of the partnership and the name under which the business is to be conducted, and if multiple branches are intended to have registrations, an appropriate identifier for each branch;

(c) if a corporation, the name and company address of the corporation and the name and residence address of its responsible officer.

(2) The application must be certified by the applicant and by an agent of the department to verify the facts set forth in the application.

(3) The annual fee for registration is fifty dollars, plus an annual fee of ten dollars for each license plate.

(4) License plates authorized by this section must not be used on vehicles that are loaned, rented, or leased by the licensed registrants to employees or any other individuals.

(D) All records relating to registration must be open at all reasonable times for inspection and copying by the department or any of its duly authorized agents. The vehicles for which special registrations are issued must be made available to the department or any of its duly authorized agents at the place where the vehicles may be located at the time that the department or any of its duly authorized agents request an opportunity to inspect them.”

Transporter license plates

SECTION 3. Section 56-3-2370 of the 1976 Code is amended to read:

“Section 56-3-2370. Transporter license plates issued under this article may be transferred from vehicle to vehicle, but shall be used only for the limited purposes as provided in Section 56-3-2350.”

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 14th day of May, 2018.

Vetoed by the Governor -- 5/19/18.

Veto overridden by House -- 6/27/18.

Veto overridden by Senate -- 6/28/18.

No. 256

(R284, S709)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-17-160 SO AS TO PROVIDE THE OFFICE OF THE STATE FIRE MARSHAL AND THE STATE DEPARTMENT OF EDUCATION SHALL CREATE MODEL FIRE AND SAFETY POLICY AND PROGRAM GUIDELINES AND MAKE SUCH GUIDELINES AVAILABLE TO PUBLIC SCHOOL DISTRICTS AND CHARTER SCHOOLS BEFORE THE 2019-2020 SCHOOL YEAR, TO PROVIDE PUBLIC SCHOOL DISTRICTS AND CHARTER SCHOOLS SHALL ADOPT CERTAIN FIRE AND SAFETY POLICIES AND PROGRAMS BEFORE THE 2020-2021 SCHOOL YEAR AND SUBMIT THESE POLICES AND PROGRAMS TO THE OFFICE OF THE STATE FIRE MARSHAL AND THE STATE DEPARTMENT OF EDUCATION FOR THEIR COLLABORATIVE REVIEW AND COMMENT BEFORE JULY 1, 2021, TO PROVIDE SCHOOL DISTRICTS AND CHARTER SCHOOLS MAY REQUEST RELATED TECHNICAL ASSISTANCE IN THE DEVELOPMENT OF THESE POLICIES AND PROGRAMS, AND TO EXCLUDE CHARTER SCHOOLS THAT PRIMARILY DELIVER INSTRUCTION ONLINE FROM THESE PROVISIONS; TO AMEND SECTION 59-63-910, RELATING TO REQUIRED MONTHLY FIRE DRILLS IN PUBLIC SCHOOLS, SO AS TO PROVIDE PUBLIC SCHOOLS INSTEAD SHALL CONDUCT A CERTAIN NUMBER OF FIRE DRILLS, ACTIVE SHOOTER/INTRUDER DRILLS, AND

SEVERE WEATHER/EARTHQUAKE DRILLS DURING EACH SEMESTER, TO PROVIDE THE STATE DEPARTMENT OF EDUCATION AND STATE LAW ENFORCEMENT DIVISION SHALL DEVELOP CERTAIN RELATED GUIDELINES AND DEVELOPMENTALLY APPROPRIATE TRAINING MATERIALS IN CONSULTATION WITH THE OFFICE OF THE STATE FIRE MARSHAL AND MENTAL HEALTH PROFESSIONALS EMPLOYED BY SCHOOL DISTRICTS, TO PROVIDE FOR THE PERIODIC UPDATING OF THESE GUIDELINES, TO PROVIDE THESE GUIDELINES MUST BE INCLUDED IN REQUIRED ANNUAL TEACHER COLLEGIAL DEVELOPMENT, AND TO DELETE MONETARY PENALTIES FOR NONCOMPLIANCE BY PUBLIC SCHOOL TEACHERS AND SUPERINTENDENTS; TO AMEND SECTION 59-63-920, RELATING TO OBSOLETE COMPLIANCE REPORTING REQUIREMENTS AND MONETARY PENALTIES FOR NONCOMPLIANCE WITH PUBLIC SCHOOL FIRE DRILL REQUIREMENTS, SO AS TO INSTEAD REQUIRE DOCUMENTATION OF COMPLIANCE AND REMOVE THESE MONETARY PENALTIES; TO REPEAL SECTION 59-63-930 RELATING TO OBSOLETE REQUIREMENTS THAT COUNTY SUPERINTENDENTS OF EDUCATION PRINT AND POST CERTAIN STATUTES RELATED TO MANDATORY PUBLIC SCHOOL FIRE DRILLS; AND TO REDESIGNATE ARTICLE 9, CHAPTER 63, TITLE 59 AS "SAFETY AND SECURITY DRILLS".

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

Model fire and safety policy and procedure guidelines

SECTION 1. Chapter 17, Title 59 of the 1976 Code is amended by adding:

“Section 59-17-160. (A) Prior to the beginning of the 2019-2020 School Year, the State Department of Education and the Office of the State Fire Marshal shall collaborate and develop model fire and safety policies and program guidelines that must be made available to each school district and charter school in the State. The provisions of this section do not apply to charter schools whose instruction is primarily delivered online.

(B) Each school district board of trustees and the governing body of each charter school shall adopt a policy and program for school facility fire and safety, including inspections, before the beginning of the 2020-2021 School Year. The policy and program must:

- (1) be adopted in open meetings in which the public may provide comment on the terms of the policies and programs;
- (2) include routine self-assessments; and
- (3) be published on the district's or charter school's Internet website in a prominent location that is easily accessible by the public.

(C) Prior to July 1, 2021, each district and charter school shall submit its fire and safety policy and program to the Office of the State Fire Marshal and the State Department of Education. The office and department shall collaborate in the review of the school policies and programs. Within one hundred twenty days of the receipt of a policy or program, the office and department must jointly provide written comments to the district on how the policies and programs may be improved.

(D) Local school district boards of trustees and charter school governing bodies may request technical assistance in the development of fire and safety policies and programs.”

Required public school drills, active shooter/intruder drill training

SECTION 2. Section 59-63-910 of the 1976 Code is amended to read:

“Section 59-63-910. (A) All public schools, including charter schools whose instruction is not primarily delivered online, shall conduct fire, active shooter/intruder, and severe weather/earthquake drills. Within each school year, schools must conduct at least two fire drills, two active shooter/intruder drills, and two severe weather/earthquake drills, with at least one of each drill conducted each semester.

(B) Before August 1, 2018, the State Department of Education and the South Carolina Law Enforcement Division shall develop guidelines for the conduct of active shooter/intruder training required in this section, and developmentally appropriate training materials. The department and the State Law Enforcement Division must consult with school-employed mental health professionals and the State Fire Marshal in creating and updating the guidelines. These guidelines must be included in annual teacher collegial development required by Section 59-1-425(A).”

School compliance and documentation

SECTION 3. Section 59-63-920 of the 1976 Code is amended to read:

“Section 59-63-920. The principal or charter school leader of each school shall comply with the requirements of Section 59-63-910 and document their compliance.”

Repeal

SECTION 4. Section 59-63-930 of the 1976 Code is repealed.

Article redesignation

SECTION 5. Article 9, Chapter 63, Title 59 of the 1976 Code is redesignated “Safety and Security Drills”.

Time effective

SECTION 6. This act takes effect upon approval by the Governor.

Ratified the 28th day of June, 2018.

Approved the 2nd day of July, 2018.

No. 257

(R286, H4009)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 69 TO TITLE 12 SO AS TO ENACT THE “MOTORSPORTS ENTERTAINMENT COMPLEX INVESTMENT ACT” BY EXEMPTING CERTAIN BUILDING MATERIALS FOR A COMPLEX FROM THE SALES TAX AND TO PROVIDE THE PROCESS BY WHICH A QUALIFIED COMPANY MAY CLAIM THE EXEMPTION.

Whereas, since 1950, with the inaugural running of the Southern 500, the first stock car race on a paved track, South Carolina has served as a

cornerstone in the development of stock car racing, one of the fastest growing and most popular spectator sports in the country; and

Whereas, South Carolina lays claim to many of the legends of NASCAR racing, including Rex White, David Pearson, Bud Moore, James Hylton, Tiny Lund, and Cale Yarborough; and

Whereas, the State of South Carolina is rich in historical references to the sport of stock car racing, as evidenced by the Darlington Raceway Stock Car Museum and the National Motorsports Press Association Hall of Fame, in addition to dirt raceways across the State of South Carolina that served as home to the fledgling sport of NASCAR racing in the 1950s; and

Whereas, the NASCAR events in South Carolina focus our nation's attention and the attention of the world upon our great State as a sport and tourism destination each year; and

Whereas, the annual economic impact that NASCAR racing has on South Carolina is in excess of fifty million dollars, as NASCAR fans from across the country and around the world visit the State each year to attend racing events and then vacation in communities throughout the Palmetto State. Now, therefore,

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

Motorsports Entertainment Complex Investment Act

SECTION 1. Title 12 of the 1976 Code is amended by adding:

“CHAPTER 69

Motorsports Entertainment Complex Investment

Section 12-69-10. This chapter may be cited as the ‘Motorsports Entertainment Complex Investment Act’.

Section 12-69-20. For purposes of this chapter:

- (1) ‘Company’ means any corporation, partnership, limited liability company, or other business entity.
- (2) ‘Department’ means the Department of Revenue.

(3) 'Motorsports entertainment complex' has the same meaning as provided in Section 12-21-2425.

Section 12-69-30. (A) A company, upon making application for, meeting the requirements of, and receiving written certification of that designation from the department, as provided in subsection (B), is exempt from state and local sales tax on building materials, supplies, fixtures, and equipment for the construction, repair, or improvement of or that become a part of a motorsports entertainment complex.

(B) A company shall become a qualified company by applying with the department. The director of the department shall approve the application so long as the application is accompanied by a practical plan to make a capital investment of at least ten million dollars on any motorsports entertainment complex in this State within the five-year period immediately following the approval of the application. Upon receiving written certification from the department, a company may utilize the exemption specified in subsection (A).

(C) Once a company has met the requirements of subsection (B), the department shall issue a sales and use tax exemption certificate to the company as evidence of the exemption. The exemption is effective upon receipt and shall remain effective until December thirty-first of the fifth full calendar year after its issuance. Once the exemption certificate is ineffective, the company must return the exemption certificate to the department and submit a report to the department of the actual expenditures made in South Carolina in connection with the investment. The company must designate a member or representative of the company to work with the department on reporting of the investment.

(D) A company that is approved and receives a sales and use tax exemption certificate but fails to meet the capital investment requirements within the five-year period, is liable for the sales and use taxes that would have been paid had the approval not been granted in the same proportion as the actual capital investment failed to meet the required capital investment. The company must be given a sixty-day period in which to pay the sales and use taxes without incurring penalties. The sales and use taxes are considered due as of the date the tangible personal property was purchased in or brought into South Carolina for use, storage, or consumption."

Time effective

SECTION 2. Except where specified otherwise, this act takes effect upon approval by the Governor and applies to tax years beginning after 2017.

Ratified the 28th day of June, 2018.

Approved the 2nd day of July, 2018.

No. 258

(R287, H4375)

AN ACT TO AMEND SECTION 58-33-220, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS UNDER THE BASE LOAD REVIEW ACT, SO AS TO ADD CERTAIN DEFINITIONS; TO PROVIDE THAT THE PUBLIC SERVICE COMMISSION MUST NOT ACCEPT A BASE LOAD REVIEW APPLICATION, NOR MAY IT CONSIDER ANY REQUESTS MADE PURSUANT TO ARTICLE 4, CHAPTER 33, TITLE 58, OTHER THAN IN A DOCKET CURRENTLY PENDING BEFORE THE COMMISSION, AND TO PROVIDE THAT THE PROVISIONS OF ARTICLE 4, CHAPTER 33, TITLE 58 ARE REPEALED UPON THE CONCLUSION OF LITIGATION CONCERNING THE ABANDONMENT OF V.C. SUMMER UNITS 2 AND 3; BY ADDING CHAPTER 34 TO TITLE 58 SO AS TO PROVIDE FOR THE MANNER IN WHICH AND PROCEDURES UNDER WHICH ELECTRICITY RATES FOR CERTAIN RATEPAYERS WHO ARE PAYING ADDITIONAL CHARGES UNDER THE BASE LOAD REVIEW ACT FOR THE CONSTRUCTION OF NUCLEAR PLANTS OR PROJECTS SHALL BE REVISED AND DETERMINED, AND TO PROVIDE FOR PROCEDURES AND PROVISIONS OF LAW WHICH APPLY AND DO NOT APPLY IN REGARD TO THE ADJUSTMENT OF ELECTRICITY RATES AS PROVIDED BY CHAPTER 34; TO AMEND SECTION 58-33-280, RELATING TO REQUESTS FOR APPROVAL OF REVISED RATES UNDER THE BASE LOAD REVIEW ACT, SO AS TO DELETE THE REQUIREMENT THAT THE COMMISSION MUST GIVE

SUBSTANTIAL WEIGHT TO AN AGREEMENT WHERE BOTH THE OFFICE OF REGULATORY STAFF AND THE UTILITY AGREE ON THE REVISED RATES AND INSTEAD PROVIDE IN THIS INSTANCE THAT THE COMMISSION MAY GIVE WEIGHT TO THE AGREEMENT IN ISSUING ITS REVISED RATES ORDER BUT MAY CONSIDER ADDITIONAL FACTORS AT ITS DISCRETION; TO AMEND SECTION 37-6-602, RELATING TO THE QUALIFICATIONS OF THE CONSUMER ADVOCATE WITHIN THE DEPARTMENT OF CONSUMER AFFAIRS, SO AS TO REVISE THESE QUALIFICATIONS; TO AMEND SECTION 37-6-604, RELATING TO THE FUNCTIONS AND DUTIES OF THE DIVISION OF CONSUMER ADVOCACY, SO AS TO DELETE A PROHIBITION AGAINST THE DIVISION REPRESENTING CONSUMERS IN UTILITY MATTERS, AND PERMIT THE CONSUMER ADVOCATE TO INTERVENE ON BEHALF OF CONSUMERS IN CERTAIN MATTERS BEFORE THE COMMISSION AND APPELLATE COURTS THAT AFFECT CONSUMERS; TO AMEND SECTION 37-6-607, RELATING TO PERMITTING THE CONSUMER ADVOCATE TO MAINTAIN ACTIONS FOR JUDICIAL REVIEW AND TO INTERVENE IN CIVIL PROCEEDINGS ON BEHALF OF CONSUMERS, SO AS TO DELETE LANGUAGE WHICH PROVIDES THAT THE ABOVE PROVISIONS DO NOT APPLY IN MATTERS ARISING UNDER TITLE 58 AFFECTING PUBLIC UTILITIES, SERVICES, AND CARRIERS; TO AMEND SECTION 58-4-10, RELATING TO THE OFFICE OF REGULATORY STAFF, SO AS FURTHER DEFINE THE TERM "PUBLIC INTEREST" IN REGARD TO THE OFFICE OF REGULATORY STAFF'S REPRESENTATION OF THE PUBLIC INTEREST BEFORE THE COMMISSION; TO AMEND SECTION 58-4-80, RELATING TO ACTIONS FOR JUDICIAL REVIEW OF ORDERS OF THE COMMISSION, SO AS TO PROVIDE THAT ON APPEAL, THE OFFICE OF REGULATORY STAFF DOES NOT REPRESENT THE COMMISSION; AND TO AMEND SECTION 58-4-55, RELATING TO THE PRODUCTION OF BOOKS, RECORDS, AND INFORMATION AS REQUIRED BY THE OFFICE OF REGULATORY STAFF, AND OTHER PROVISIONS RELATING TO NONCOMPLIANCE, INSPECTIONS, AUDITS, EXAMINATIONS, AND COSTS, SO AS TO REQUIRE SUCH PRODUCTION WITHOUT THE REQUIREMENT OF A CONFIDENTIALITY AGREEMENT OR

PROTECTIVE ORDER, EXCEPT UNDER SPECIFIED CIRCUMSTANCES, TO PROVIDE WHEN SUCH INFORMATION MUST BE KEPT CONFIDENTIAL AND WHEN SUCH INFORMATION MAY BE DISCLOSED, TO PROVIDE SPECIFIC PROCEDURES TO PROTECT CONFIDENTIALITY, AND TO ALLOW THE OFFICE OF REGULATORY STAFF TO APPLY IN CIRCUIT COURT FOR SUBPOENAS TO BE ISSUED TO ENTITIES OVER WHICH THE COMMISSION DOES NOT HAVE JURISDICTION.

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

Definitions added

SECTION 1. Section 58-33-220 of the 1976 Code is amended by adding appropriately numbered items to read:

“() ‘Imprudent’ or ‘imprudence’ includes, but is not limited to, lack of caution, care, or diligence as determined by the commission in regard to any action or decision taken by the utility or one acting on its behalf including, but not limited to, its officers, board, agents, employees, contractors, subcontractors, consultants affecting the project, or any other person acting on behalf of or for the utility affecting the project. Imprudent or imprudence includes, but does not require, a finding of negligence, carelessness, or recklessness.

Imprudence on behalf of any contractor, subcontractor, agent, or person hired to construct a plant or perform any action or service on behalf of the utility shall be attributed to the utility.

() ‘Prudent’, ‘prudence’, or ‘prudency’ means a high standard of caution, care, and diligence in regard to any action or decision taken by the utility or one acting on its behalf including, but not limited to, its officers, board, agents, employees, contractors, subcontractors, consultants affecting the project, or any other person acting on behalf of or for the utility affecting the project.

To the extent a utility enters a contract with a third party that delegates some or all decision-making authority related to the project, the utility retains the burden of establishing the prudency of specific items of cost or specific third-party decisions.

‘Prudent’, ‘prudence’, or ‘prudency’ also requires that any action or decision be made in a timely manner.

In determining whether any action or decision was prudent, the commission shall consider, including, but not limited to:

(a) whether the utility acts in a timely manner, with any passage of time which results in increased costs or expense prior to the utility acting or making the decision weighing against a finding of prudence;

(b) whether prior actions or decisions by the utility were imprudent and such imprudent actions led to a decision by the utility that could otherwise be prudent. Such circumstances weigh against a finding of prudence; and

(c) any other relevant factors, including commission of a fraudulent act, which are deemed not to be prudent.

As used in item (c), 'fraud' includes, in addition to its normal legal connotation, concealment, omission, misrepresentation, or nondisclosure of a material fact in any proceeding or filing before the commission or Office of Regulatory Staff. Proceedings and filings to which the provisions of this paragraph apply include, but are not limited to, rate or revised rate filings, responsive filings, motions, pleadings, briefs, memoranda, document requests, and other communications before the commission or Office of Regulatory Staff."

Consideration limited, repeal

SECTION 2. A. As of the effective date of this act, the Public Service Commission must not accept a base load review application, nor may it consider any requests made pursuant to Article 4, Chapter 33, Title 58 other than in a docket currently pending before the commission.

B. The provisions of Article 4, Chapter 33, Title 58 are repealed upon the conclusion of litigation concerning the abandonment of V.C. Summer Units 2 and 3.

Determination of certain electric rates

SECTION 3. Title 58 of the 1976 Code is amended by adding:

"CHAPTER 34

Determination of Electricity Rates

Section 58-34-10. (A) The investor-owned utility holding the majority interest in the V.C. Summer Nuclear Reactor Units 2 and 3 at Jenkinsville, South Carolina, has entered into a merger agreement with an out-of-state investor-owned utility. This merger agreement

contemplates the continuation of rate increases imposed under the Base Load Review Act contained in Article 4, Chapter 33, Title 58.

(B) Pursuant to the authority vested in the General Assembly by Section 1, Article IX of the Constitution of this State, the General Assembly is required to regulate investor-owned utilities in order to protect the public interest. The General Assembly has determined that Section 1, Article IX of the Constitution requires that the General Assembly exercise its authority to set certain utility rates for the purpose of protecting the public interest until a determination can be made by the appropriate regulatory and judicial authorities. This rate shall apply to all customers of the investor-owned utility identified in subsection (A), which has imposed nine rate increases for the purpose of funding the V.C. Summer project.

Section 58-34-20. Within five calendar days after the effective date of this chapter, the Public Service Commission, by order, is directed to exercise its authority pursuant to Section 58-27-870(F) to provide an experimental rate that customers of the utility identified in Section 58-34-10 shall pay during the pendency of litigation currently before the commission which shall include full and final compliance by the utility with the order issued by the Public Service Commission under this section or until replaced by an order of the commission under Section 58-34-30. This experimental rate shall cause rates to be reduced on a going forward basis in an amount equal to the electric utility rates these ratepayers are paying reduced by the following rate increases imposed under the provisions of the Base Load Review Act in the Public Service Commission's orders Docket No. 2011-207-E, Order No. 2011-738, Docket No. 2012-186-E, Order No. 2012-761, Docket No. 2013-150-E, Order No. 2013-680(A), Docket No. 2014-187-E, Order No. 2014-785, Docket No. 2015-160-E, Order No. 2015-712, Docket No. 2016-224-E, Order No. 2016-758, for the period of no earlier than April 1, 2018, until the issuance of the Public Service Commission's final order on the merits on the matters before the commission.

Section 58-34-30. Notwithstanding any other provision of law, the experimental rate set pursuant to Section 58-34-20 shall remain in full force and effect during the pendency of the matters before the commission. However, the commission shall monitor the net effect of the experimental rate and may alter the experimental rate, on its own motion, only if it determines that an adjustment to the experimental rate is necessary to satisfy constitutional requirements of utility ratemaking. If required to adjust the rate, the commission shall, under applicable

provisions of law, determine the just and reasonable rates for these ratepayers after considering all factors and evidence. In determining such rate and in considering the constitutionally allowable zone of reasonableness in which rates may properly fall, the commission is directed to set the lowest possible rate within the zone of reasonableness. Nothing herein prevents the commission from adopting as its own rate the experimental rate directed by the General Assembly in Section 58-34-10 and ordered pursuant to Section 58-34-20.

Section 58-34-40. Any provision of Article 7, Chapter 27, Title 58 in conflict with the provisions of this chapter, including, but not limited to, Section 58-27-870(B), are suspended for purposes of the utility rates provided for by this chapter and for any pending matters related to V.C. Summer Nuclear Reactor Units 2 and 3 at Jenkinsville, South Carolina, pending before the commission on or after the effective date of this chapter. The suspension remains in effect during the pendency of any litigation or appeal concerning the experimental or interim rates directed by the General Assembly or ordered by the Public Service Commission pursuant to this chapter, or related issues surrounding the establishment of these rates, until a final determination of the matter, including any subsequent appeals, is made by the appropriate court.

Section 58-34-50. Section 58-27-930 and the time limitations contained in Section 58-33-240(A) and (E) are hereby suspended for purposes of the utility rates provided for by this chapter and for any pending matters related to V.C. Summer Nuclear Reactor Units 2 and 3 at Jenkinsville, South Carolina, pending before the commission on or after the effective date of this chapter. The suspension remains in effect during the pendency of any litigation or appeal concerning the experimental or interim rates directed by the General Assembly or ordered by the Public Service Commission pursuant to this chapter, or related issues surrounding the establishment of these rates, until a final determination of the matter, including any subsequent appeals, is made by the appropriate court.”

Weight to be given agreement

SECTION 4. Section 58-33-280(G) of the 1976 Code is amended to read:

“(G) Where both Office of Regulatory Staff and the utility agree in writing on the revised rates to be implemented, the commission may give

weight to the agreement in issuing its revised rates order but may consider additional factors at its discretion.”

Qualifications revised

SECTION 5. Section 37-6-602 of the 1976 Code is amended to read:

“Section 37-6-602. The Consumer Advocate may be the Administrator of Consumer Affairs or he may be appointed by the administrator with the approval of the Commission on Consumer Affairs. The Consumer Advocate must be an attorney qualified to practice in all courts of this State with a minimum of eight years’ practice experience.”

Intervention on behalf of consumers

SECTION 6. Section 37-6-604 of the 1976 Code is amended to read:

“Section 37-6-604. (A) The functions and duties of the Division of Consumer Advocacy are:

(1) to provide legal representation of the consumer interest before the state and federal regulatory agencies which undertake to fix rates or prices for consumer products or services or to enact regulations or establish policies related thereto and to provide legal representation of the consumer interest concerning insurance matters, certificates of need for health facilities and services as required for an activity under Section 44-7-160, and other health-related provisions;

(2) to monitor existing regulations, rate structures, and policies of that agency of special interest to consumers and report to the public through the news media proposed changes therein under consideration and the effect of those changes on the lives of the citizens of the State; and

(3) to evaluate and act upon requests from consumers concerning the matters set forth in items (1) and (2), except that any proceedings initiated by the Consumer Advocate must be brought on behalf of the public at large and not for individuals; initiation or continuation of any proceedings is in the sole discretion of the Consumer Advocate.

(B) The annual report required of the Commission on Consumer Affairs must include a report on the activities of the Division of Consumer Advocacy.

(C) The Consumer Advocate shall be provided notice of any matter filed at the Public Service Commission that could impact consumers’

utility rates, and may intervene as a party to advocate for the interest of consumers before the Public Service Commission and appellate courts in such matters as the Consumer Advocate deems necessary and appropriate.”

Utility exception deleted

SECTION 7. Section 37-6-607 of the 1976 Code is amended to read:

“Section 37-6-607. The Consumer Advocate is considered to have an interest sufficient to maintain actions for judicial review and may, as of right and in the manner prescribed by law, intervene or otherwise participate in any civil proceeding which involves the review or enforcement of an agency action that the Consumer Advocate determines may substantially affect the interests of consumers.”

Public interest definition revised

SECTION 8. Section 58-4-10 of the 1976 Code is amended to read:

“Section 58-4-10. (A) There is hereby created the Office of Regulatory Staff as a separate agency of the State with the duties and organizations as hereinafter provided.

(B) Unless and until it chooses not to participate, the Office of Regulatory Staff must be considered a party of record in all filings, applications, or proceedings before the commission. The regulatory staff must represent the public interest of South Carolina before the commission. For purposes of this chapter, ‘public interest’ means the concerns of the using and consuming public with respect to public utility services, regardless of the class of customer and preservation of continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

(C) The Office of Regulatory Staff is subject to the provision of Section 58-3-260 prohibiting ex parte communications with the commission, and any advice given to the commission by the regulatory staff must be given in a form, forum, and manner as may lawfully be given by any other party or person.”

Representation on appeal

SECTION 9. Section 58-4-80 of the 1976 Code is amended to read:

“Section 58-4-80. The executive director representing the regulatory staff is considered to have an interest sufficient to maintain actions for judicial review from commission orders or decisions and may, as of right and in a manner prescribed by law, intervene or otherwise participate in any civil proceeding which involves the review or enforcement of commission action that the executive director determines may substantially affect the public interest. This right includes intervention in any action for judicial review from commission orders or decisions that are pending at any stage of the action. The executive director representing the regulatory staff has the same rights of appeal from commission orders or decisions as other parties to commission proceedings. On appeal, the Office of Regulatory Staff does not represent the commission.”

Confidentiality requirements, exceptions, procedures, and subpoena authority

SECTION 10. Section 58-4-55 of the 1976 Code is amended to read:

“Section 58-4-55. (A) The regulatory staff, in accomplishing its responsibilities under Section 58-4-50, may require the production of books, records, and other information to be produced at the regulatory staff’s office, that, upon request of the regulatory staff, must be submitted under oath and without the requirement of a confidentiality agreement or protective order being first executed or sought. The regulatory staff must treat the information as confidential or proprietary unless or until the commission rules such information is not entitled to protection from public disclosure or the public utility agrees that such information is no longer confidential or proprietary. Unless the commission’s order contains a finding to the contrary, all documents or information designated as confidential or proprietary pursuant to this subsection are exempt from public disclosure under Sections 30-4-10, et seq., and the regulatory staff shall not disclose such documents and information, or the contents thereof, to any member of the commission or to any other person or entity; provided, however, that, if the commission determines that it is necessary to view such documents or information, it shall order the regulatory staff to file the documents or information with the commission under seal, and such documents or information shall not be available for public inspection unless otherwise ordered by the commission.

If the books, records, or other information provided do not appear to disclose full and accurate information and, if such apparent deficiencies

are not cured after reasonable notice, the regulatory staff may require the attendance and testimony under oath of the officers, accountants, or other agents of the parties having knowledge thereof at such place as the regulatory staff may designate and the expense of making the necessary examination or inspection for the procuring of the information must be paid by the party examined or inspected, to be collected by the regulatory staff by suit or action, if necessary. If, however, the examination and inspection and the reports thereof disclose that full and accurate information had previously been made, the expense of making the examination and inspection must be paid out of the funds of the regulatory staff.

(B) If the regulatory staff initiates an inspection, audit, or examination of a public utility, the public utility that is the subject of the inspection, audit, or examination may petition the commission to terminate or limit the scope of such inspection, audit, or examination. The commission must grant such petition if it finds that such inspection, audit, or examination is arbitrary, capricious, unnecessary, unduly burdensome, or unrelated to the public utility's regulated operations.

(1) If such an inspection, audit, or examination is not part of a contested case proceeding, the public utility may also raise objections or seek relief available under the South Carolina Rules of Civil Procedure to a party upon whom discovery is served or to a person upon whom a subpoena is served. The commission shall provide the regulatory staff reasonable notice to respond to any such objection or request. Absent the consent of the public utility raising such an objection or request and the Office of Regulatory Staff, the commission must rule on such an objection or request within sixty days of the date it was filed. During the pendency of the commission's ruling, the public utility making such an objection or request is not required to produce or provide access to any documents or information that is the subject of the objection or request.

(2) If such an inspection, audit, or examination is part of a contested case proceeding, the commission shall address objections to information sought by the regulatory staff in the same manner in which it addresses objections to discovery issued by the parties to the contested case proceeding.

(C) Any public utility that provides the regulatory staff with copies of or access to documents or information in the course of an inspection, audit, or examination that is not part of a contested case proceeding may designate any such documents or information as confidential or proprietary if it believes in good faith that such documents or information would be entitled to protection from public disclosure under the South Carolina Rules of Civil Procedure or any provision of South

Carolina or federal law. The regulatory staff may petition the commission for an order that some or all of the documents so designated are not entitled to protection from public disclosure and it shall be incumbent on the utility to prove that such documents are entitled to protection from public disclosure under the South Carolina Rules of Civil Procedure or any provision of South Carolina or federal law. The commission shall rule on such petition after providing the regulatory staff and the utility an opportunity to be heard. Unless the commission's order on such a petition contains a finding to the contrary, all documents or information designated as confidential or proprietary pursuant to this subsection are exempt from public disclosure under Sections 30-4-10, et seq. and the regulatory staff shall not disclose such documents and information, or the contents thereof, to any member of the commission or to any other person or entity; provided, however, that, if the commission determines that it is necessary to view such documents or information in order to rule on such a petition, it shall order the regulatory staff to file the documents or information with the commission under seal, and such documents or information shall not be available for public inspection during the pendency of the petition.

(D) Nothing in this section restricts the regulatory staff's ability to serve discovery in a contested case proceeding that seeks the type of documents or information the regulatory staff has obtained in the course of any review, investigation, inspection, audit, or examination, nor does anything in this section restrict the ability of any public utility to object to such discovery or to seek relief regarding such discovery, including without limitation, the entry of a protective order. The regulatory staff shall not be required to execute a confidentiality agreement or seek a protective order prior to accessing the public utility's documents or information, and such information or documents shall be treated as confidential or proprietary unless or until the commission rules such information is not entitled to protection from public disclosure or the public utility agrees that such information is no longer confidential or proprietary. Unless the commission's order contains a finding to the contrary, all documents or information designated as confidential or proprietary pursuant to this subsection are exempt from public disclosure under Section 30-4-10, et seq., and the regulatory staff shall not disclose such documents and information, or the contents thereof, to any member of the commission or to any other person or entity; provided, however, that, if the commission determines that it is necessary to view such documents or information, it shall order the regulatory staff to file the documents or information with the commission under seal, and such

documents or information shall not be available for public inspection unless otherwise ordered by the commission.

(E) The Office of Regulatory Staff, in order to accomplish any of the responsibilities assigned to it by Chapter 4, Title 58 or any other provision of law, may apply to the circuit court for subpoenas to be issued to entities over which the Public Service Commission does not have jurisdiction. Such subpoenas will be issued by the circuit court in the same manner as subpoenas are issued to parties to proceedings before that court, and all rules applicable to the issuance of such subpoenas, including enforcement and penalties, shall apply to subpoenas issued at the request of the regulatory staff.”

Severability

SECTION 11. If any provision of this act is enjoined, held, or determined to be unconstitutional, invalid, or otherwise unenforceable by a court of competent jurisdiction, it is the intention of the General Assembly that the provision is severable from the remaining provisions of this act and that the injunction or holding does not invalidate or render unenforceable another provision of this act.

Time effective

SECTION 12. This act takes effect upon approval by the Governor and applies to all cases, proceedings, petitions, or matters pending before the Public Service Commission or in any other court or venue on or after the effective date of this act.

Ratified the 28th day of June, 2018.

Vetoed by the Governor -- 6/28/18.

Veto overridden by House -- 6/28/18.

Veto overridden by Senate -- 6/28/18.

No. 259

(R288, H4676)

**AN ACT TO AMEND SECTIONS 56-1-50, AS AMENDED,
56-1-125, 56-1-175, AS AMENDED, AND 56-1-180, AS AMENDED,**

CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ISSUANCE OF A BEGINNER'S PERMIT, A CONDITIONAL DRIVER'S LICENSE, AND A SPECIAL RESTRICTED DRIVER'S LICENSE, AND THE REQUIREMENT THAT CERTAIN INDIVIDUALS MUST REGISTER WITH THE UNITED STATES SELECTIVE SERVICE, ALL SO AS TO EXPAND APPROVAL AUTHORITY FOR CERTAIN DRIVERS' LICENSES FOR MINORS.

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

Expanded approval authority for beginners' permits

SECTION 1. Section 56-1-50(B)(1) of the 1976 Code, as last amended by Act 89 of 2017, is further amended to read:

“(1) vehicles after six o'clock a.m. and not later than midnight. Except as provided in subsection (E), while driving, the permittee must be accompanied by a licensed driver twenty-one years of age or older who has had at least one year of driving experience. A permittee may not drive between midnight and six o'clock a.m. unless accompanied by any licensed individual listed in Section 56-1-100(A)(1-7);”

Expanded approval authority for Selective Service System

SECTION 2. Section 56-1-125(E) of the 1976 Code is amended to read:

“(E) The department shall inform the individual who is less than eighteen years of age, on his application, that his submission of the application for a license or identification card serves as his consent to be registered with the Selective Service System upon attaining eighteen years of age, if required by federal law. His application also must be signed by any individual listed in Section 56-1-100(A)(1-7). By signing the application, the signatory authorizes the department to register the applicant with the Selective Service System upon attaining eighteen years of age, if required by federal law. The applicant or any individual listed in Section 56-1-100(A)(1-7) may decline the Selective Service System registration. If the applicant or any individual listed in Section 56-1-100(A)(1-7) declines the Selective Service System registration, the department may issue a license or identification card, but the applicant

must renew the license or identification card upon attaining eighteen years of age.”

Expanded approval authority for conditional drivers’ licenses

SECTION 3. Section 56-1-175(A) and (B) of the 1976 Code, as last amended by Act 89 of 2017, is further amended to read:

“(A) The Department of Motor Vehicles may issue a conditional driver’s license to a person who is at least fifteen years of age and less than sixteen years of age, who has:

- (1) held a beginner’s permit for at least one hundred eighty days;
- (2) passed a driver’s education course as defined in subsection (D);
- (3) completed at least forty hours of driving practice, including at least ten hours of driving practice during darkness, supervised by any licensed individual listed in Section 56-1-100(A)(1-7);
- (4) passed successfully the road tests or other requirements the department may prescribe; and
- (5) satisfied the school attendance requirement contained in Section 56-1-176.

(B) A conditional driver’s license is valid only in the operation of vehicles during daylight hours. The holder of a conditional license must be accompanied by a licensed adult twenty-one years of age or older after six o’clock p.m. or eight o’clock p.m. during daylight saving time. A conditional driver’s license holder may not drive between midnight and six o’clock a.m. unless accompanied by any licensed individual listed in Section 56-1-100(A)(1-7). The accompanying driver must:

- (1) occupy a seat beside the conditional license holder when the conditional license holder is operating a motor vehicle; or
- (2) be within a safe viewing distance of the conditional license holder when the conditional license holder is operating a motorcycle or a moped.”

Expanded approval authority for restricted drivers’ licenses

SECTION 4. Section 56-1-180(A) and (B) of the 1976 Code, as last amended by Act 89 of 2017, is further amended to read:

“(A) The Department of Motor Vehicles may issue a special restricted driver’s license to a person who is at least sixteen years of age and less than seventeen years of age, who has:

- (1) held a beginner's permit for at least one hundred eighty days;
- (2) passed a driver's education course as defined in subsection (F);
- (3) completed at least forty hours of driving practice, including at least ten hours of driving practice during darkness, supervised by any licensed individual listed in Section 56-1-100(A)(1-7);
- (4) passed successfully the road test or other requirements the department may prescribe; and
- (5) satisfied the school attendance requirement contained in Section 56-1-176.

(B) A special restricted driver's license is valid only in the operation vehicles during daylight hours. The holder of a special restricted driver's license must be accompanied by a licensed adult, twenty-one years of age or older after six o'clock p.m. or eight o'clock p.m. during daylight saving time. The holder of a special restricted driver's license may not drive between midnight and six o'clock a.m. unless accompanied by any licensed individual listed in Section 56-1-100(A)(1-7). The accompanying driver must:

- (1) occupy a seat beside the conditional license holder when the conditional license holder is operating a motor vehicle; or
- (2) be within a safe viewing distance of the conditional license holder when the conditional license holder is operating a motorcycle or a moped."

Savings

SECTION 5. 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.

Time effective

SECTION 6. This act takes effect on November 19, 2018.

Ratified the 28th day of June, 2018.

Approved the 2nd day of July, 2018.

No. 260

(R289, H4931)

AN ACT TO AMEND SECTION 59-103-15, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE MISSIONS AND FOCUSES OF INSTITUTIONS OF HIGHER LEARNING, SO AS TO AUTHORIZE APPLIED BACCALAUREATE IN ADVANCED MANUFACTURING TECHNOLOGY DEGREES, AND TO PROVIDE AUTHORIZATIONS OF SUCH DEGREES ONLY ARE ALLOWED WHEN NEW STATE GENERAL FUNDS ARE NOT APPROPRIATED FOR THE OPERATIONS OF THE DEGREE PROGRAMS.

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

Baccalaureate in Advanced Manufacturing Technology degrees authorized

SECTION 1. Section 59-103-15 of the 1976 Code is amended to read:

“Section 59-103-15. (A)(1) The General Assembly has determined that the mission for higher education in South Carolina is to be a global leader in providing a coordinated, comprehensive system of excellence in education by providing instruction, research, and life-long learning opportunities which are focused on economic development and benefit the State of South Carolina.

- (2) The goals to be achieved through this mission are:
- (a) high academic quality;
 - (b) affordable and accessible education;
 - (c) instructional excellence;
 - (d) coordination and cooperation with public education;

(e) cooperation among the General Assembly, Commission on Higher Education, Council of Presidents of State Institutions, institutions of higher learning, and the business community;

(f) economic growth;

(g) clearly defined missions.

(B) The General Assembly has determined that the primary mission or focus for each type of institution of higher learning or other post-secondary school in this State is as follows:

(1) Research institutions

(a) college-level baccalaureate education, master's, professional, and doctor of philosophy degrees which lead to continued education or employment;

(b) research through the use of government, corporate, nonprofit-organization grants, or state resources, or both;

(c) public service to the State and the local community;

(2) Four-year colleges and universities

(a) college-level baccalaureate education and selected master's degrees which lead to employment or continued education, or both, except for doctoral degrees currently being offered;

(b) bachelor of science degree in Mechanical Engineering approved by the Commission on Higher Education at South Carolina State University;

(c) bachelor of science degree in Electrical Engineering approved by the Commission on Higher Education at South Carolina State University;

(d) doctoral degree in Marine Science approved by the Commission on Higher Education;

(e) subject to subsection (C), doctoral degree in Nursing Practice approved by the Commission on Higher Education at Francis Marion University;

(f) subject to subsection (C), doctoral degree in Nursing Practice approved by the Commission on Higher Education at the University of South Carolina Aiken;

(g) subject to subsection (C), doctor of philosophy degree in Education Administration approved by the Commission on Higher Education at Coastal Carolina University;

(h) subject to subsection (C), doctor of philosophy degree in Computer and Information Science approved by the Commission on Higher Education at the College of Charleston;

(i) limited and specialized research;

(j) public service to the State and the local community;

(3) Two-year institutions - branches of the University of South Carolina

(a) college-level pre-baccalaureate education necessary to confer associates degrees which lead to continued education at a four-year or research institution;

(b) public service to the State and the local community;

(4) State technical and comprehensive education system

(a) all post-secondary vocational, technical, and occupational diploma and associate degree programs leading directly to employment or maintenance of employment and associate degree programs which enable students to gain access to other post-secondary education;

(b) up-to-date and appropriate occupational and technical training for adults;

(c) special school programs that provide training for prospective employees for prospective and existing industry in order to enhance the economic development of South Carolina;

(d) public service to the State and the local community;

(e) continue to remain technical, vocational, or occupational colleges with a mission as stated in item (4) and primarily focused on technical education and the economic development of the State;

(f) subject to subsection (C), an Applied Baccalaureate in Advanced Manufacturing Technology degree approved first by the Board for Technical and Comprehensive Education and then the Commission on Higher Education.

(C) Notwithstanding subsection (B), the degrees set forth in subsection (B)(2) (e), (f), (g), and (h), and subsection (B)(4)(f) are only allowed so long as new state general funds are not appropriated for the operations of the degree program.”

Time effective

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

Ratified the 28th day of June, 2018.

Approved the 2nd day of July, 2018.

No. 261

(R290, S107)

AN ACT TO AMEND SECTION 1-11-720, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ENTITIES WHOSE EMPLOYEES AND RETIREES ARE ELIGIBLE FOR STATE HEALTH AND DENTAL INSURANCE PLANS, SO AS TO UPDATE A REFERENCE TO THE DEPARTMENT ON AGING; TO AMEND SECTION 1-30-10, RELATING TO THE DEPARTMENTS OF STATE GOVERNMENT, SO AS TO DESIGNATE THE DEPARTMENT ON AGING AS A DEPARTMENT WITHIN THE EXECUTIVE BRANCH OF STATE GOVERNMENT; TO AMEND SECTION 9-1-10, RELATING TO DEFINITIONS APPLICABLE TO THE SOUTH CAROLINA RETIREMENT SYSTEM, SO AS TO UPDATE TWO REFERENCES TO THE DEPARTMENT ON AGING; TO AMEND SECTION 29-4-60, RELATING TO INDEPENDENT INFORMATION AND COUNSELING SERVICES REGARDING REVERSE MORTGAGES, SO AS TO UPDATE A REFERENCE TO THE DEPARTMENT ON AGING; TO AMEND SECTIONS 43-21-10, 43-21-20, 43-21-45, 43-21-60, 43-21-70, 43-21-100, 43-21-130, AND 43-21-190, ALL RELATING TO THE DIVISION AND ADVISORY COUNCIL ON AGING, SO AS TO UPDATE REFERENCES TO THE DEPARTMENT ON AGING; AND TO AMEND SECTIONS 44-36-20, 44-36-50, 44-36-310, 44-36-320, AND 44-36-330, ALL RELATING TO THE ALZHEIMER'S DISEASE REGISTRY OR THE ALZHEIMER'S DISEASE AND RELATED DISORDERS RESOURCE COORDINATION CENTER, SO AS TO UPDATE REFERENCES TO THE DEPARTMENT ON AGING.

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

PART I

Office or Division on Aging and Related Provisions

Entities whose employees and retirees are eligible for state health and dental insurance plans

SECTION 1. Section 1-11-720(A)(9) of the 1976 Code is amended to read:

“(9) local councils on aging or other governmental agencies providing aging services funded by the Department on Aging;”

Departments of State Government

SECTION 2. Section 1-30-10(A) of the 1976 Code is amended to read:

“(A) There are hereby created, within the executive branch of the state government, the following departments:

1. Department of Administration
2. Department of Agriculture
3. Department of Alcohol and Other Drug Abuse Services
4. Department of Commerce
5. Department of Corrections
6. Department of Disabilities and Special Needs
7. Department of Education
8. Department of Health and Environmental Control
9. Department of Health and Human Services
10. Department of Insurance
11. Department of Juvenile Justice
12. Department of Labor, Licensing and Regulation
13. Department of Mental Health
14. Department of Motor Vehicles
15. Department of Natural Resources
16. Department of Parks, Recreation and Tourism
17. Department of Probation, Parole and Pardon Services
18. Department of Public Safety
19. Department of Revenue
20. Department of Social Services
21. Department of Transportation
22. Department of Employment and Workforce
23. Department on Aging.”

Definitions applicable to the South Carolina Retirement System

SECTION 3. Section 9-1-10(11)(g) of the 1976 Code is amended to read:

“(g) an employee of a local council on aging or other governmental agency providing aging services funded by the Department on Aging.”

Definitions applicable to the South Carolina Retirement System

SECTION 4. Section 9-1-10(14) of the 1976 Code is amended to read:

“(14) ‘Employer’ means this State, a county board of education, a district board of trustees, the board of trustees or other managing board of a state-supported college or educational institution, or any other agency of this State by which a teacher or employee is paid; the term ‘employer’ also includes a county, municipality, or other political subdivision of the State, or an agency or department of any of these, which has been admitted to the system under the provisions of Section 9-1-470, a service organization referred to in item (11)(e) of this section, an alcohol and drug abuse planning agency authorized to receive funds pursuant to Section 61-12-20, and a local council on aging or other governmental agency providing aging services funded by the Department on Aging.”

Independent information and counseling services regarding reverse mortgages

SECTION 5. Section 29-4-60(D) of the 1976 Code is amended to read:

“(D) The Department on Aging shall provide independent consumer information on reverse mortgages and their alternatives.”

Department on Aging created

SECTION 6. Section 43-21-10 of the 1976 Code is amended to read:

“Section 43-21-10. There is created the Department on Aging. The department must be supported by an Advisory Council on Aging consisting of one member from each of the ten planning and service areas and five members from the State at large. The director of the

department shall provide statewide notice that nominations may be submitted to the director from which the Governor shall appoint the members of the council. The members must be citizens of the State who have an interest in and a knowledge of the problems of an aging population. In making appointments to the council, consideration must be given to assure that the council is composed of appointees who are diverse in age, who are able and disabled, and who are active leaders in organizations and institutions that represent different concerns of older citizens and their families. The chair must be elected by the members of the advisory council from its members for a term of two years and until a successor is elected. Members of the council shall serve without compensation but shall receive mileage and subsistence authorized by law for members of boards, commissions, and committees. The advisory council shall meet at least once each quarter and special meetings may be called at the discretion of the director of the department. Rules and procedures must be adopted by the council for the governance of its operations and activities.”

Advisory Council on Aging, terms of members, vacancies, and termination of appointments

SECTION 7. Section 43-21-20 of the 1976 Code is amended to read:

“Section 43-21-20. The members of the advisory council shall serve for terms of four years and until their successors are appointed and qualify. The terms of the members expire on June thirtieth and all vacancies must be filled in the manner of the original appointment for the unexpired portion of the term only. No member may serve more than two consecutive terms.

The Governor may terminate a member of the council for any reason pursuant to the provisions of Section 1-3-240, and the reason for the termination must be communicated to each member of the council.”

Area agencies on aging designated

SECTION 8. Section 43-21-45 of the 1976 Code is amended to read:

“Section 43-21-45. The Department on Aging shall designate area agencies on aging, and area agencies on aging shall designate focal points. Focal points shall provide leadership on aging issues in their respective communities and shall carry out a comprehensive service system for older adults or shall coordinate with a comprehensive service

system in providing services for older adults. The area agencies on aging represent the regional level of the state aging network and the focal points represent the local level of the state aging network.”

Submission and contents of annual report

SECTION 9. Section 43-21-60 of the 1976 Code is amended to read:

“Section 43-21-60. The Department on Aging shall submit an annual report to the Governor and to the General Assembly on or before January first of each year. The report shall deal with the present and future needs of the elderly and with the work of the department during the year.”

Employment of Department on Aging director

SECTION 10. Section 43-21-70 of the 1976 Code is amended to read:

“Section 43-21-70. The Governor shall appoint with the advice and consent of the Senate a director to be the administrative officer of the Department on Aging who shall serve at the Governor’s pleasure and who is subject to removal pursuant to the provisions of Section 1-3-240.”

Preparation and approval of Department on Aging budget

SECTION 11. Section 43-21-100 of the 1976 Code is amended to read:

“Section 43-21-100. The Department on Aging shall prepare the budget for its operation which must be submitted to the Governor and to the General Assembly for approval.”

Long Term Care Council, composition

SECTION 12. Section 43-21-130(A)(1) of the 1976 Code is amended to read:

“(1) the Governor or his designee;”

Model legislature on aging issues

SECTION 13. Section 43-21-190(2) of the 1976 Code is amended to read:

“(2) make recommendations to the Governor and members of the General Assembly and to the Joint Legislative Committee on Aging;”

Alzheimer’s Disease Registry Advisory Committee, membership, duties

SECTION 14. Section 44-36-20(21) of the 1976 Code is amended to read:

“(21) Alzheimer’s Disease and Related Disorders Resource Coordination Center of the Department on Aging;”

Alzheimer’s Disease Registry annual report requirement

SECTION 15. Section 44-36-50 of the 1976 Code is amended to read:

“Section 44-36-50. The registry shall submit an annual report to the Alzheimer’s Disease and Related Disorders Resource Coordination Center of the Department on Aging, the Department of Health and Environmental Control, and the Office of Research and Statistics of the Revenue and Fiscal Affairs Office.”

Alzheimer’s Disease and Related Disorders Resource Coordination Center created

SECTION 16. Section 44-36-310 of the 1976 Code is amended to read:

“Section 44-36-310. In the Department on Aging, there is created the Alzheimer’s Disease and Related Disorders Resource Coordination Center to provide statewide coordination, service system development, information and referral, and caregiver support services to individuals with Alzheimer’s disease and related disorders, their families, and caregivers.”

Duties of Alzheimer’s Disease and Related Disorders Resource Coordination Center

SECTION 17. Section 44-36-320(7) of the 1976 Code is amended to read:

“(7) submit an annual report to the Chairman of the Medical Affairs Committee of the Senate and the Chairman of the Medical, Military, Public and Municipal Affairs Committee of the House of Representatives in addition to publishing the report on the Governor’s website.”

**Alzheimer’s Disease and Related Disorders Resource Coordination
Center advisory council**

SECTION 18. Section 44-36-330 of the 1976 Code is amended to read:

“Section 44-36-330. (A) The Alzheimer’s Disease and Related Disorders Resource Coordination Center must be supported by an advisory council appointed by the Governor including, but not limited to, representatives of:

- (1) Alzheimer’s Association Chapters;
- (2) American Association of Retired Persons;
- (3) Clemson University;
- (4) Department of Disabilities and Special Needs;
- (5) Department of Health and Environmental Control;
- (6) Department of Mental Health;
- (7) Department of Social Services;
- (8) Department of Health and Human Services;
- (9) Medical University of South Carolina;
- (10) National Association of Social Workers, South Carolina Chapter;
- (11) South Carolina Adult Day Care Association;
- (12) South Carolina Association of Area Agencies on Aging;
- (13) South Carolina Association of Council on Aging Directors;
- (14) South Carolina Association of Nonprofit Homes for the Aging;
- (15) South Carolina Association of Residential Care Homes;
- (16) South Carolina Health Care Association;
- (17) South Carolina Home Care Association;
- (18) South Carolina Hospital Association;
- (19) South Carolina Medical Association;
- (20) South Carolina Nurses’ Association;
- (21) Statewide Alzheimer’s Disease and Related Disorders Registry;
- (22) University of South Carolina;
- (23) South Carolina State University.

(B) Members of the advisory council are not entitled to mileage, per diem, subsistence, or any other form of compensation.”

PART II

Joint Legislative Committee on Aging's Report

Joint Legislative Committee on Aging's report

SECTION 19. On or before January 1, 2019, the Joint Legislative Committee on Aging shall prepare and deliver a report to the President of the Senate and the Speaker of the House of Representatives recommending any additional changes to the Department on Aging created by this act to enhance efficient and cost effective delivery of services to the aging community in accordance with the federal Older Americans Act.

PART III

Severability

Severability

SECTION 20. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

PART IV

Effective Dates

Time effective

SECTION 21. PART I takes effect on January 1, 2019. All other PARTS take effect upon approval by the Governor.

Ratified the 29th day of June, 2018.

Approved the 2nd day of July, 2018.

No. 262

(R292, H3789)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “SOUTH CAROLINA YOUTH CHALLENGE ACADEMY AND SOUTH CAROLINA JOBS CHALLENGE PROGRAM EXPUNGEMENT ACT”; BY ADDING ARTICLE 10 TO CHAPTER 22, TITLE 17 SO AS TO PROVIDE THAT PERSONS ELIGIBLE FOR EXPUNGEMENT OF A CRIMINAL RECORD PURSUANT TO CERTAIN DESIGNATED PROVISIONS WHO SUCCESSFULLY GRADUATE AND COMPLETE THE SOUTH CAROLINA YOUTH CHALLENGE ACADEMY AND SOUTH CAROLINA JOBS CHALLENGE PROGRAM ADMINISTERED BY THE SOUTH CAROLINA ARMY NATIONAL GUARD MAY APPLY TO HAVE THEIR RECORD EXPUNGED UPON SUCCESSFUL GRADUATION AND COMPLETION OF THE PROGRAMS UNDER CERTAIN DELINEATED CIRCUMSTANCES; TO AMEND SECTION 17-22-910, RELATING TO APPLICATIONS FOR EXPUNGEMENT OF CERTAIN CRIMINAL RECORDS, SO AS TO ADD PERSONS WHO COMPLETE THE YOUTH CHALLENGE ACADEMY AND JOBS CHALLENGE PROGRAM TO THE LIST OF THOSE THAT ARE ABLE TO APPLY FOR EXPUNGEMENT; AND TO AMEND SECTION 17-22-940, RELATING TO THE EXPUNGEMENT PROCESS, SO AS TO INCLUDE A REFERENCE TO THE DIRECTOR OF THE

**SOUTH CAROLINA YOUTH CHALLENGE ACADEMY
ATTESTING TO THE ELIGIBILITY OF THE CHARGE FOR
EXPUNGEMENT ON AN EXPUNGEMENT APPLICATION.**

Whereas, the South Carolina General Assembly recognizes the efforts of the South Carolina National Guard in administering the South Carolina Youth Challenge Academy program designed to help at-risk youth learn basic skills and achieve the education necessary to succeed in life; and

Whereas, offering two classes a year, the program provides a unique educational environment and serves the state's youth looking for a second chance to succeed; and

Whereas, the program is led by current and retired members of the South Carolina Army National Guard and other branches of the military providing military leadership and discipline to students in the program with the eight core components of the intensive residential program being academic excellence, life-coping skills, job skills, health and hygiene, responsible citizenship, service to community, leadership/followership, and physical fitness; and

Whereas, in partnership with the federal Department of Labor, the State is pleased to offer youth who successfully graduate from the program an opportunity to take part in a five and one-half month South Carolina Jobs Challenge Program which provides training for careers in such fields as nursing assistance, welding, and computer technology; and

Whereas, this approximate yearlong commitment by youth ages sixteen to nineteen towards building a better future warrants allowing those youths that may have a criminal record otherwise eligible for expungement to apply to have their record expunged upon the successful graduation and completion of the South Carolina Youth Challenge Academy and the South Carolina Jobs Challenge Program administered by the South Carolina Army National Guard. Now, therefore,

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

Citation of act

SECTION 1. This act may be cited as the “South Carolina Youth Challenge Academy and South Carolina Jobs Challenge Program Expungement Act”.

South Carolina Youth Challenge Academy and South Carolina Jobs Challenge Program Expungement

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

“Article 10

South Carolina Youth Challenge Academy
and South Carolina Jobs Challenge Program Expungement

Section 17-22-1010. (A) A person who is eligible for expungement of his criminal record pursuant to the provisions of Sections 22-5-910, 22-5-920, 34-11-90(e), and 56-5-750(F) may apply to have his record expunged pursuant to the procedures provided in Article 9 if he graduates and successfully completes the South Carolina Youth Challenge Academy and the South Carolina Jobs Challenge Program administered by the South Carolina Army National Guard. Notwithstanding another provision of law, such person may apply for expungement immediately upon graduation and successful completion of the South Carolina Youth Challenge Academy and the South Carolina Jobs Challenge Program.

(B) If the person has had no other conviction during the approximately one-year period as provided in subsection (A), the circuit court may issue an order expunging the records including any associated bench warrant. No person may have his records expunged under this section more than once.

(C) If the expungement order is granted by the court, the records must be destroyed or retained by any law enforcement agency or municipal, county, or state agency or department pursuant to the provisions of Section 17-1-40.

(D) The effect of the expungement order is to restore the person, in the contemplation of the law, to the status he occupied before the arrest or indictment or information. No person as to whom the order has been entered may be held pursuant to another provision of law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge the arrest, or indictment or information, or trial in response to an inquiry made of him for any purpose.

(E) After the expungement, the South Carolina Law Enforcement Division is required to keep a nonpublic record of the offense and the date of the expungement to ensure that no person takes advantage of the rights of this section more than once. This nonpublic record is not subject to release pursuant to Section 34-11-95, the Freedom of Information Act, or any other provision of law except to those authorized law or court officials who need to know this information in order to prevent the rights afforded by this section from being taken advantage of more than once.

(F) As used in this section, 'conviction' includes a guilty plea, a plea of nolo contendere, or the forfeiting of bail."

Expungement, Youth Challenge Academy and Jobs Challenge Program added, similar offenses, retroactivity

SECTION 3. Section 17-22-910 of the 1976 Code is amended to read:

"Section 17-22-910. (A) 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;
- (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 63-19-2050, juvenile expungements;
- (9) Section 17-22-530(A), alcohol education program;
- (10) Section 17-22-330(A), traffic education program;
- (11) Section 17-22-1010, Youth Challenge Academy and Jobs Challenge Program; and
- (12) any other statutory authorization.

(B) A person's eligibility for expungement of an offense contained in this section, or authorized by any other provision of law, must be based on the offense that the person pled guilty to or was convicted of committing and not on an offense for which the person may have been charged. In addition, if an offense for which a person was convicted is subsequently repealed and the elements of the offense are consistent with an existing similar offense which is currently eligible for expungement, a person's eligibility for expungement of an offense must be based on the existing similar offense.

(C) The provisions of this section apply retroactively to allow expungement as provided by law for each offense delineated in subsection (A) by persons convicted prior to the enactment of this section or the addition of a specific item contained in subsection (A)."

Expungement, eligibility, Youth Challenge Academy director added

SECTION 4. Section 17-22-940(E) of the 1976 Code is amended to read:

“(E) In cases when charges are sought to be expunged pursuant to Section 17-22-150(a), 17-22-530(a), 22-5-910, 44-53-450(b), or 17-22-1010, the circuit pretrial intervention director, alcohol education program director, traffic education program director,

South Carolina Youth Challenge Academy 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.”

Time effective

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 29th day of June, 2018.

Approved the 2nd day of July, 2018.

No. 263

(R294, H5231)

AN ACT TO AMEND SECTION 50-9-920, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DISTRIBUTION OF REVENUES GENERATED FROM THE SALE OF PRIVILEGES TO HUNT AND FISH BY THE DEPARTMENT OF NATURAL RESOURCES, SO AS TO REVISE THE DISTRIBUTION OF REVENUE GENERATED FROM THE SALE OF RECREATIONAL AND COMMERCIAL MARINE LICENSES, PERMITS, AND TAGS.

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

Distribution of revenues from the sale of marine licenses, permits, and tags

SECTION 1. Section 50-9-920(C) of the 1976 Code is amended to read:

“(C) Revenue generated from the sale of recreational and commercial marine licenses, permits, and tags shall be deposited to the Marine Resources Fund. Revenue generated from the sale of recreational

licenses, permits, and tags must be distributed in accordance with the provisions of Sections 50-9-960 and 50-9-965.”

Time effective

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

Ratified the 29th day of June, 2018.

Approved the 2nd day of July, 2018.

ASHLEY HARWELL-BEACH
Acting Code Commissioner
P. O. Box 11489
Columbia, S.C. 29211