Session 105 - (1983-1984)

H*2841 (Rat #0579, Act #0482 of 1984) General Bill, By M.S. Gulledge, M.O. Alexander, R.L. Altman, W.S. Anderson, W.D. Arthur, D.L. Aydlette, D. Blackwell, Boan, Branton, T.A. Brett, D.M. Bruce, Carnell, M.J. Cooper, P.W. Derrick, Elliott, T. Ferguson, S.R. Foster, J.L. Harris, R.L. Helmly, L.I. Hendricks, D.N. Holt, B.E. Huff, T.E. Huff, J.E. Kinard, J.R. Klapman, W.R. Lee, J.E. Lockemy, Martin, J.G. McAbee, McKay, H.E. Pearce, Russell, D. Sheppard, E.W. Simpson, J.J. Snow, B.E. Thrailkill, D.C. Waldrop, J.M. White, D. Williams and R.R. Woods

A Bill to amend Section 44-53-370, as amended, Code of Laws of South Carolina, 1976, relating to certain crimes involving illegal poisons and controlled substances and the penalties therefor, so as to provide that any person who provides financial assistance for or otherwise aids, abets, or conspires to sell, manufacture, deliver, or bring into this State these illegal substances is also guilty of these crimes, and to revise penalties for the crimes of trafficking in marijuana, trafficking in cocaine, trafficking in illegal drugs, and trafficking in methaqualone; to amend Section 24-21-610, as amended, relating to prerequisite to parole, so as to provide for drug trafficking to be included among the crimes to which the parole provisions do not apply; to amend Section 44-53-520, as amended, relating to narcotics and controlled substances and forfeitures, so as to, among other things, make subject to forfeiture all property which in any manner facilitates trafficking in various controlled substances, as defined, and certain other items of property, delete certain language, provide that in the event of seizure pursuant to certain provisions of law, proceedings under Section 44-53-530 regarding forfeiture and disposition must be instituted promptly, provide that for the purposes of Section 44-53-520, whenever the seizure of any item subject to seizure is accomplished as a result of a joint effort by more than one law enforcement agency, the law enforcement agency initiating the investigation is considered to be the agency making the seizure, provide for insuring the proper maintenance of items seized and for related matters, provide that whenever items are seized under Section 44-53-520, the law enforcement agency making the seizure shall, within ten days of the seizure or within a reasonable period of time where special need can be demonstrated, submit a report to its governing body with a copy to the Attorney General's office, and provide for the contents of the report; to amend Section 44-53-530, as amended, relating to narcotics and controlled substances and forfeiture and disposition of conveyances used to transport illegal drugs, so as to, among other things, delete certain language, provide that forfeiture of items defined in Section 44-53-520 must be accomplished by petition of the Attorney General or his designee or the circuit solicitor or his designee to the court of common pleas for the jurisdiction where the items were seized, provide for matters related to the petition, provide for the court's issuance of a rule to show cause regarding why the items should not be forfeited, provide for matters related to a determination of whether the items are subject to forfeiture, provide that whenever certain defined items are forfeited the Attorney General may retain the items or title or may, in his discretion, and in coordination with the Division of General Services, provide for the transfer of the items or title to certain entities, provide for the use of proceeds and for the remitting of the net proceeds from any sale to the State Treasurer to be placed in a special account, provide for administrative support by the Division of General Services in the disposition of forfeited items, provide that whenever monies, negotiable instruments, or securities as contained in a portion of Section 44-53-520 are forfeited under the provisions of Section 44-53-530, the Attorney General shall provide for the transfer of the items to the State Treasurer, who shall retain them in a special account, and provide for the disposition by the Attorney General of real property or "other things of value" as contained in a certain portion of Section 44-53-520 upon forfeiture; to amend Section 44-53-580, as amended, relating to the disposition of fines and forfeitures and narcotics and controlled substances, so as to delete any reference to the collection of forfeitures; and to amend Article 3 of Chapter 53 of Title 44, relating to narcotics and controlled substances, by adding Section 44-53-582, so as to provide that all monies used by officers or agents in the line of duty to purchase controlled substances must be returned to the state or local unit of government furnishing the monies upon a determination by the court that the monies were used in the line of duty during a criminal investigation; by adding Section 44-53-584, so as to provide for reports of items forfeited and received by any law enforcement agency to be forwarded to the Attorney General, a copy to be retained by the receiving agency, to provide for the contents of the reports, and to provide for the Attorney General to maintain records to develop an annual report on forfeited items, the disposition of the items, and the proceeds from the sale of the items; by adding Section 44-53-586, so as to provide for the manner in which the court of common pleas provides for notice of seizure and a hearing on items seized; to provide for the return of any seized item to the owner of public record if the owner demonstrates certain evidence to the court; to provide for the lien of any innocent person or other legal entity, recorded in public records, to continue upon title transfer of any forfeited item; to require the lienholder to execute an affidavit in a post forfeiture proceeding to the effect that the lienholder had no knowledge of the violation which resulted in the forfeiture; and to provide for presumption of innocence in rental from a legitimate rental agency; by adding Section 44-53-588, so as to provide for a special account to be set up by the State Treasurer for proceeds from the sale of forfeited items which must be remitted in a limited account to the body or agency which seized the items; to provide for the body or agency to report to the Treasurer and Attorney General on the use of the funds and for the Attorney General to report to the Budget and Control Board; to provide for

the Commission on Alcohol and Drug Abuse to serve in an advisory capacity to the Department of Corrections in the use of the special account proceeds; and to provide for any state agency to request funds from the special account; and by adding Section 44-53-590, so as to provide that any person who uses property or a conveyance in a manner which would make the property or conveyance subject to forfeiture as provided for in Sections 44-53-520 or 44-53-530, with certain stated exceptions, is guilty of a misdemeanor, provide penalties, and provide that the penalties prescribed in Section 44-53-590 are cumulative and must be construed to be in addition to any other penalty prescribed by any other provision of Article 3 (of Chapter 53 of Title 44) relating to controlled substances or harmful or illegal drugs.-amended title

04/07/83	**House**	**Introduced and read first time HJ-1954**
04/07/83	**House**	**Referred to Committee on Medical, Military, Public and Municipal Affairs HJ-1954**
04/17/84	**House**	**Recalled from Committee on Medical, Military, Public and Municipal Affairs HJ-2415**
04/25/84	**House**	**Debate adjourned until Thursday, May 10, 1984 HJ-2588**
04/25/84	**House**	**Reconsidered HJ-2602**
04/25/84	**House**	**Objection by Rep. Mitchell, Broadwater, & Gregory HJ-2603**
04/26/84	**House**	**Objection withdrawn by Rep. Broadwater & Mitchell HJ-2661**
04/26/84	**House**	**Amended HJ-2739**
04/26/84	**House**	**Read second time HJ-2739**
04/27/84	**House**	**Read third time and sent to Senate HJ-2755**
05/01/84	**Senate**	**Introduced and read first time SJ-1632**
05/01/84	**Senate**	**Referred to Committee on Judiciary SJ-1632**
05/23/84	**Senate**	**Committee report: Favorable with amendment Judiciary SJ-1897**
05/24/84	**Senate**	**Amended SJ-1921**
05/24/84	**Senate**	**Read second time SJ-1922**
05/24/84	**Senate**	**Ordered to third reading with notice of amendments SJ-1923**
06/13/84	**Senate**	**Special order SJ-2476**
06/15/84	**Senate**	**Amended SJ-2587**
06/15/84	**Senate**	**Read third time SJ-2587**
06/15/84	**Senate**	**Returned SJ-2587**
06/18/84	**House**	**Debate adjourned on amendments HJ-3775**
06/18/84	**House**	**Reconsidered HJ-3776**
06/18/84	**House**	**Concurred in Senate amendment and enrolled HJ-3776**
06/19/84		**Ratified R 579**
06/19/84		**Signed By Governor**
06/19/84		**Effective date 06/19/84**
06/19/84		**Act No. 482**
07/02/84		**Copies available**