

## Session 115 - (2003-2004)

**H\*3231 (Rat #0157, Act #0061 of 2003) General Bill, By Gilham, Stille, Wilkins, Walker, Bales, M.A. Pitts, Cobb-Hunter, Richardson, Ceips, Cotty, Skelton, Owens, Haskins, Martin, Toole, Lourie, Huggins, E.H. Pitts, Talley, Mahaffey, Leach, Hamilton, Loftis, D.C. Smith, McLeod, Thompson and J.E. Smith**

**Summary:** DUI, decrease blood alcohol content to 0.08%

AN ACT TO AMEND SECTION 23-31-420, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PRESUMPTIONS CREATED WHEN CERTAIN LEVELS OF ALCOHOL ARE FOUND IN A CHEMICAL ANALYSIS OF A PERSON WHO USES A FIREARM'S BLOOD OR BREATH, SO AS TO LOWER THE LEVEL OF ALCOHOL FOUND IN A PERSONS BLOOD THAT MAY BE CONSIDERED WITH OTHER COMPETENT EVIDENCE IN DETERMINING WHETHER A PERSON IS UNDER THE INFLUENCE OF ALCOHOL AND THE LEVEL THAT CREATES AN INFERENCE THAT A PERSON IS UNDER THE INFLUENCE OF ALCOHOL; BY ADDING SECTION 42-3-105 SO AS TO AUTHORIZE THE WORKER'S COMPENSATION COMMISSION TO DOUBLE THE AMOUNT OF FINES AND PENALTIES ASSESSED FOR CERTAIN VIOLATIONS OF THE WORKERS' COMPENSATION LAW, TO PROVIDE A MINIMUM PENALTY FOR CERTAIN VIOLATIONS, AND TO ALLOW THE COMMISSION TO RETAIN AND EXPEND ALL REVENUES RECEIVED PURSUANT TO THIS SECTION; TO AMEND SECTION 50-21-114, AS AMENDED, RELATING TO CHEMICAL TESTS ADMINISTERED ON A PERSON WHO OPERATES A WATER DEVICE TO DETERMINE WHETHER HE IS OPERATING THE DEVICE WITH AN UNLAWFUL ALCOHOL CONCENTRATION, SO AS TO ALLOW AN ARRESTING OFFICER TO DIRECT A BLOOD SAMPLE BE TAKEN FROM A DECEASED PERSON WHO HE BELIEVES HAS OPERATED A WATER DEVICE WHILE UNDER THE INFLUENCE OF ALCOHOL, DRUGS, OR A COMBINATION OF BOTH, TO MAKE CERTAIN TECHNICAL CHANGES, AND TO LOWER THE LEVEL OF ALCOHOL FOUND IN A PERSON'S BLOOD THAT MAY BE CONSIDERED WITH OTHER COMPETENT EVIDENCE IN DETERMINING WHETHER A PERSON IS UNDER THE INFLUENCE OF ALCOHOL AND THE LEVEL THAT CREATES AN INFERENCE THAT A PERSON IS UNDER THE INFLUENCE OF ALCOHOL; TO AMEND SECTION 56-1-286, AS AMENDED, RELATING TO THE SUSPENSION OF A DRIVER'S LICENSE OR A PERMIT, AND THE DENIAL OF ISSUANCE OF A DRIVER'S LICENSE OR A PERMIT TO A PERSON UNDER THE AGE OF TWENTY-ONE WHO DRIVES A MOTOR VEHICLE WITH AN ILLEGAL ALCOHOL CONCENTRATION, SO AS TO MAKE CERTAIN TECHNICAL CHANGES, TO PROVIDE THAT IF A LAW ENFORCEMENT OFFICER INITIATES A SUSPENSION PROCEEDING PURSUANT TO THIS SECTION HE MAY NOT PROSECUTE THE PERSON FOR A VIOLATION OF CERTAIN OTHER SECTIONS THAT REQUIRE A PERSON TO ENTER AN ALCOHOL AND DRUG SAFETY ACTION PROGRAM AND OBTAIN AN ADMINISTRATIVE HEARING, AND TO REVISE THE ALCOHOL CONCENTRATION LEVEL OF A PERSON WHOSE LICENSE IS SUSPENDED THAT COUNTS AS A DEMERIT OR RESULTS IN AN INSURANCE PENALTY FOR AUTOMOBILE PURPOSES; TO AMEND SECTION 56-5-2933, RELATING TO DRIVING WITH AN UNLAWFUL ALCOHOL CONCENTRATION, SO AS TO LOWER THE UNLAWFUL ALCOHOL CONCENTRATION FROM TEN ONE-HUNDREDTHS OF ONE PERCENT OR MORE TO EIGHT ONE-HUNDREDTHS OF ONE PERCENT OR MORE, TO SUBSTITUTE THE TERM "ARTICULABLE SUSPENSION" FOR THE TERM "PROBABLE CAUSE", AND TO PROVIDE THAT A PERSON CHARGED WITH A VIOLATION OF THIS SECTION MUST BE GIVEN NOTICE OF INTENT TO PROSECUTE AT LEAST FOURTEEN DAYS BEFORE HIS TRIAL DATE; TO AMEND SECTION 56-5-2950, AS AMENDED, RELATING TO A DRIVER OF A MOTOR VEHICLE'S IMPLIED CONSENT TO BE ADMINISTERED CERTAIN CHEMICAL TESTS, AND THE RESULTS OF THESE TESTS THAT LEAD TO VARIOUS INFERENCES OF EITHER DRIVING OR NOT DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS, OR DRIVING WITH AN UNLAWFUL ALCOHOL CONCENTRATION, SO AS TO MAKE A TECHNICAL CHANGE, TO REVISE THE READING THAT THE SIMULATOR TEST MUST REGISTER BEFORE A BREATH TEST IS ADMINISTERED, TO REVISE THE PROVISION THAT REQUIRES A PERSON TO ENROLL IN AN ALCOHOL AND DRUG SAFETY ACTION PROGRAM, TO LOWER THE LEVEL OF ALCOHOL CONCENTRATION THAT GIVES RISE TO AN INFERENCE THAT A PERSON WAS UNDER THE INFLUENCE OF ALCOHOL, OR HAD AN ILLEGAL ALCOHOL CONCENTRATION, TO PROVIDE THAT POLICIES, PROCEDURES, AND REGULATIONS PROMULGATED BY SLED MAY BE REVIEWED BY THE TRIAL JUDGE OR HEARING OFFICER AND THAT FAILURE TO FOLLOW THESE POLICIES, PROCEDURES, AND REGULATIONS SHALL RESULT IN THE EXCLUSION FROM EVIDENCE OF ANY TEST RESULTS UNDER CERTAIN CIRCUMSTANCES, AND TO ALLOW THE EMPLOYER OF A STATE EMPLOYEE CHARGED WITH THE MAINTENANCE AND ADMINISTRATION OF BREATH TEST DEVICES AND POLICY WHO TESTIFIES IN A PROCEEDING TO CHARGE A REASONABLE FEE TO THE DEFENDANT FOR THESE SERVICES; TO AMEND SECTION 56-5-2951, AS AMENDED, RELATING TO THE SUSPENSION OF THE DRIVER'S LICENSE OF A PERSON WHO REFUSES TO SUBMIT TO CERTAIN TESTS TO DETERMINE WHETHER HE IS OPERATING A VEHICLE WITH AN UNLAWFUL ALCOHOL CONCENTRATION, SO AS TO DELETE AND REVISE CERTAIN PROVISIONS THAT REQUIRE A PERSON TO ENROLL IN AN ALCOHOL AND DRUG SAFETY ACTION

PROGRAM, AND THE NON-ISSUANCE OF AN ALCOHOL RESTRICTED LICENSE TO A PERSON WHO DOES NOT ENROLL IN THE PROGRAM; TO AMEND SECTION 56-5-2953, AS AMENDED, RELATING TO THE VIDEOTAPING OF THE INCIDENT SITE AND THE BREATH TEST SITE OF A PERSON CHARGED WITH OPERATING A VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL, DRUGS, OR THE COMBINATION OF BOTH, OR WHO CAUSES GREAT BODILY HARM OR DEATH WHILE OPERATING A VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL, DRUGS, OR A COMBINATION OF BOTH, SO AS TO MAKE A TECHNICAL CHANGE, AND TO PROVIDE THAT CERTAIN PROVISIONS CONTAINED IN THIS SECTION TAKE EFFECT WHEN VIDEOTAPING DEVICES ARE PRESENT IN CERTAIN LAW ENFORCEMENT VEHICLES AND BREATH TEST SITES; TO REQUEST THE ATTORNEY GENERAL TO BRING AN APPROPRIATE ACTION IN FEDERAL COURT THAT CHALLENGES THE FEDERAL GOVERNMENT'S RIGHT TO WITHHOLD FUNDS TO WHICH A STATE IS OTHERWISE ENTITLED BECAUSE OF A STATE'S FAILURE TO ENACT A STATE LAW CONSISTENT WITH A FEDERAL GOAL OR POLICY; TO REPEAL SECTION 30 OF ACT 390 OF 2000 WHICH RELATES TO LOWERING THE ALCOHOL CONCENTRATION LEVEL FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL OR OTHER INTOXICATING SUBSTANCES FROM TEN ONE-HUNDREDTHS OF ONE PERCENT OR MORE TO EIGHT ONE-HUNDREDTHS OF ONE PERCENT OR MORE; TO AMEND SECTION 56-5-2940, AS AMENDED, RELATING TO THE PENALTY FOR OPERATING A VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL, ANY OTHER DRUG, OR A COMBINATION OF DRUGS, AND OPERATING A VEHICLE WITH AN UNLAWFUL ALCOHOL CONCENTRATION, SO AS TO REVISE THE MINIMUM IMPRISONMENT FOR A SECOND OFFENSE, THE MONETARY PENALTY FOR ALL OFFENSES, AND TO PROVIDE THAT A PORTION OF THE PENALTY SHALL BE USED BY THE DEPARTMENT OF PUBLIC SAFETY AND THE STATE LAW ENFORCEMENT DIVISION; BY ADDING SECTION 56-5-2942 SO AS TO PROVIDE THAT A PERSON WHO IS CONVICTED OF A SECOND OR SUBSEQUENT OFFENSE OF OPERATING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL, ANOTHER DRUG, OR A COMBINATION OF DRUGS, OR OPERATING A VEHICLE WITH AN UNLAWFUL ALCOHOL CONCENTRATION MUST HAVE ALL MOTOR VEHICLES OWNED BY OR REGISTERED TO HIM IMMOBILIZED UNDER CERTAIN CIRCUMSTANCES; BY ADDING SECTION 23-6-180 SO AS TO PROVIDE THAT THE DEPARTMENT OF PUBLIC SAFETY MUST KEEP PERMANENT RECORDS OF ALL HIGHWAY PATROLMEN KILLED IN THE LINE OF DUTY, WHO DIE WHILE ACTIVELY EMPLOYED, AND WHO ARE RETIRED; TO AMEND SECTION 56-5-2934, RELATING TO THE RIGHT TO COMPULSORY PROCESS OF A PERSON WHO IS CHARGED WITH CERTAIN ALCOHOL RELATED OFFENSES SO AS TO PROVIDE THAT THE PROVISION CONTAINED IN THIS SECTION THAT REQUIRES THE ATTENDANCE AT A HEARING OR COURT PROCEEDING OF A STATE EMPLOYEE CHARGED WITH MAINTENANCE AND THE ADMINISTRATION OF BREATH TESTING DEVICES TAKES EFFECT ONCE THE COMPULSORY PROCESS PROGRAM AT THE STATE LAW ENFORCEMENT DIVISION IS FUNDED, AND TO DELETE THE PROVISION THAT REQUIRES A DEFENDANT TO COMPLETE A HEARING REQUEST FORM AND GIVE IT TO AN ARRESTING OFFICER WHO WOULD FORWARD IT TO THE DEPARTMENT OF PUBLIC SAFETY; TO AMEND SECTION 56-5-2945, AS AMENDED, RELATING TO CAUSING GREAT BODILY INJURY OR DEATH WHILE DRIVING UNDER THE INFLUENCE OF ALCOHOL, DRUGS, OR A COMBINATION OF BOTH, SO AS TO INCREASE THE FINES IMPOSED FOR A VIOLATION OF THIS PROVISION AND TO PROVIDE THAT A PORTION OF THE FINES MUST BE SET ASIDE FOR THE HIGHWAY PATROL; TO AMEND SECTION 56-5-2952, RELATING TO THE FILING FEE FOR AN ADMINISTRATIVE HEARING, SO AS TO PROVIDE THAT THIS FEE APPLIES TO ANY HEARING BEFORE THE DEPARTMENT OF PUBLIC SAFETY, AND TO INCREASE THE FEE FROM FIFTY DOLLARS TO ONE HUNDRED DOLLARS. - ratified title

- 12/18/02 House Prefiled**
- 12/18/02 House Referred to Committee on Judiciary**
- 01/14/03 House Introduced and read first time HJ-95**
- 01/14/03 House Referred to Committee on Judiciary HJ-95**
- 01/21/03 House Member(s) request name added as sponsor: Ceips**
- 02/04/03 House Member(s) request name added as sponsor: Cotty**
- 02/05/03 House Member(s) request name added as sponsor: Skelton**
- 02/06/03 House Member(s) request name added as sponsor: Owens**
- 02/12/03 House Member(s) request name added as sponsor: Haskins, Martin, Toole**
- 02/26/03 House Member(s) request name added as sponsor: Lourie, Huggins**
- 02/26/03 House Committee report: Favorable with amendment Judiciary HJ-6**
- 02/27/03 House Member(s) request name added as sponsor: E.H.Pitts, Talley**
- 02/27/03 Scrivener's error corrected**
- 03/04/03 House Member(s) request name added as sponsor: Mahaffey, Leach, Hamilton, Loftis, D.C.Smith**

03/04/03 House Requests for debate-Rep(s). Altman, Walker, Clemmons, GM Smith, Sheheen, Scarborough, Jennings, White, Ott, Lloyd, Sinclair, JE Smith, Whitmire, Merrill, Hinson, EH Pitts, Pinson, Weeks, Rhoad, Moody-Lawrence, Hayes, Viers and Hosey HJ-86

03/05/03 House Member(s) request name added as sponsor: McLeod

03/06/03 House Member(s) request name added as sponsor: Thompson

03/19/03 House Member(s) request name added as sponsor: J.E.Smith

03/19/03 House Amended HJ-59

03/19/03 House Read second time HJ-78

03/19/03 House Roll call Yeas-106 Nays-6 HJ-78

03/20/03 Scrivener's error corrected

03/25/03 House Read third time and sent to Senate HJ-38

03/26/03 Senate Introduced and read first time SJ-20

03/26/03 Senate Referred to Committee on Judiciary SJ-20

04/09/03 Senate Recalled from Committee on Judiciary SJ-53

04/09/03 Senate Amended SJ-53

04/09/03 Senate Read second time SJ-53

04/09/03 Senate Ordered to third reading with notice of amendments SJ-53

04/09/03 Senate Recommitted to Committee on Judiciary SJ-53

04/09/03 Senate Unanimous consent to be placed on third reading calendar when reported out of committee SJ-69

04/11/03 Scrivener's error corrected

05/27/03 Senate Committee report: Favorable with amendment Judiciary SJ-23

05/28/03 Scrivener's error corrected

05/28/03 Senate Debate interrupted SJ-55

05/29/03 Senate Amended SJ-105

05/29/03 Senate Read third time and returned to House with amendments SJ-105

06/03/03 House Senate amendment amended HJ-35

06/03/03 House Returned to Senate with amendments HJ-48

06/03/03 Senate Non-concurrence in House amendment SJ-46

06/04/03 House House insists upon amendment and conference committee appointed Reps. Gilham, Sinclair and Lucas HJ-118

06/04/03 Senate Conference committee appointed Sens. McConnell, Martin, Hutto SJ-24

06/05/03 Senate Free conference powers granted SJ-267

06/05/03 Senate Free conference committee appointed Sens. McConnell, Martin, Hutto SJ-267

06/05/03 Senate Free conference report received and adopted SJ-267

06/05/03 House Free conference powers granted HJ-320

06/05/03 House Free conference committee appointed Gilham, Sinclair and Lucas HJ-322

06/05/03 House Free conference report received and adopted HJ-322

06/05/03 Senate Ordered enrolled for ratification SJ-295

06/05/03 Ratified R 157

06/09/03 Scrivener's error corrected

06/11/03 Scrivener's error corrected

06/19/03 Signed By Governor

06/26/03 Copies available

06/26/03 Effective date 08/19/03

07/01/03 Act No. 61