~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 25, 2009

**H. 3013**

Introduced by Reps. Limehouse, Parker and Toole

S. Printed 3/25/09--H.

Read the first time January 13, 2009.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3013) to amend Section 16‑11‑650, Code of Laws of South Carolina, 1976, relating to the offense of removing or destroying fences, gates, or other barriers, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking Section 16‑11‑650, as contained in SECTION 1 beginning on page 1, and inserting:

/ Section 16‑11‑650. (A) ~~Any~~A person, other than the owner or a person acting under the authority of the owner, who ~~shall remove, destroy or leave~~ wilfully and knowingly removes, destroys, or leaves down any portion of ~~any~~a fence in this State intended to enclose animals of any kind or crops or uncultivated lands or who ~~shall leave~~wilfully and knowingly leaves open ~~any~~or removes a gate or ~~leave~~leaves down ~~any~~ bars or other structure intended for ~~a like~~the same purpose ~~shall be~~is guilty of a misdemeanor and ~~shall~~must be punished ~~by a fine of not less than five nor more than thirty dollars or be imprisoned in the county jail not less than five and not more than thirty days~~as follows:

(1) for a first offense, by a fine of one thousand dollars or imprisonment for thirty days, or both;

(2) for a second offense, by a fine of five thousand dollars, or imprisonment for six months, or both;

(3) for a third or subsequent offense, by a fine of ten thousand dollars or imprisonment for one year, or both.

Only those offenses occurring within ten years of the last offense constitute prior offenses within the meaning of this section.

The magistrates court is vested with jurisdiction to hear and dispose of these cases.

(B) Nothing in this section shall affect an easement holder’s right and ability to maintain such easement and rights‑of‑way consistent with the provisions of the document granting such easement. /

Renumber sections to conform.

Amend title to conform.

JAMES H. HARRISON for Committee.

**A** **BILL**

TO AMEND SECTION 16‑11‑650, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE OFFENSE OF REMOVING OR DESTROYING FENCES, GATES, OR OTHER BARRIERS ENCLOSING ANIMALS, CROPS, OR UNCULTIVATED LANDS, SO AS TO REVISE THE ELEMENTS OF THE OFFENSE AND INCREASE PENALTIES FOR VIOLATIONS AND TO VEST JURISDICTION TO HEAR AND DISPOSE OF THIS OFFENSE IN MAGISTRATES COURT.

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

SECTION 1. Section 16‑11‑650 of the 1976 Code is amended to read:

“Section 16‑11‑650. ~~Any~~A person, other than the owner or a person acting under the authority of the owner, who ~~shall remove, destroy or leave~~ wilfully and knowingly removes, destroys, or leaves down any portion of ~~any~~a fence in this State intended to enclose animals of any kind or crops or uncultivated lands or who ~~shall leave~~wilfully and knowingly leaves open ~~any~~or removes a gate or ~~leave~~leaves down ~~any~~ bars or other structure intended for ~~a like~~the same purpose ~~shall be~~is guilty of a misdemeanor and ~~shall~~must be punished ~~by a fine of not less than five nor more than thirty dollars or be imprisoned in the county jail not less than five and not more than thirty days~~as follows:

(1) for a first offense, by a fine of one thousand dollars or imprisonment for thirty days, or both;

(2) for a second offense, by a fine of five thousand dollars, or imprisonment for six months, or both;

(3) for a third or subsequent offense, by a fine of ten thousand dollars or imprisonment for one year, or both.

Only those offenses occurring within ten years of the last offense constitute prior offenses within the meaning of this section.

The magistrates court is vested with jurisdiction to hear and dispose of these cases.”

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

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

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