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COMMITTEE REPORT

February 17, 2010

**H. 4200**

Introduced by Reps. Cato, Cooper, Wylie and Lucas

S. Printed 2/17/10--H.

Read the first time January 12, 2010.

**THE COMMITTEE ON WAYS AND MEANS**

To whom was referred a Bill (H. 4200) to amend Section 12‑21‑6520, as amended, Code of Laws of South Carolina, 1976, relating to definitions for purposes of the Tourism Infrastructure Admissions Tax Act, etc., respectfully

**REPORT:**

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

DANIEL T. COOPER for Committee.

**A** **BILL**

TO AMEND SECTION 12‑21‑6520, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS FOR PURPOSES OF THE TOURISM INFRASTRUCTURE ADMISSIONS TAX ACT, SO AS TO PROVIDE A REVISED DEFINITION FOR AN “EXTRAORDINARY RETAIL ESTABLISHMENT” BY INCLUDING WITHIN THAT DEFINITION “AN EXTRAORDINARY TOURISM ESTABLISHMENT” AND REVISE THE REQUIREMENTS TO QUALIFY AS “AN EXTRAORDINARY RETAIL OR TOURISM ESTABLISHMENT”; AND TO AMEND SECTION 12‑21‑6590, AS AMENDED, RELATING TO THE DESIGNATION OF AN EXTRAORDINARY RETAIL OR TOURISM ESTABLISHMENT BY THE DEPARTMENT OF PARKS, RECREATION AND TOURISM, SO AS TO DELETE THE LIMIT ON SUCH DESIGNATIONS, TO ADD ADDITIONAL INFRASTRUCTURE IMPROVEMENT COSTS WHICH MAY BE INCLUDED WITH RESPECT TO THE CONSTRUCTION OF SUCH FACILITIES, AND TO REVISE THE REQUIREMENTS RELATING TO THE CONDITIONAL CERTIFICATION OF THE QUALIFICATION ON THESE FACILITIES.

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

SECTION 1. Section 12‑21‑6520(14) of the 1976 Code, as last amended by Act 116 of 2007, is further amended to read:

“(14) ‘Tourism or recreational facility’ also means an aquarium or natural history exhibit or museum located within or directly contiguous to an extraordinary retail or tourism establishment as defined below. An extraordinary retail or tourism establishment is a single store located in South Carolina within two miles of an interstate highway ~~or in a county with at least three and one‑half million visitors a year,~~ and it must be a destination retail establishment which attracts at least two million visitors a year with at least thirty‑five percent of those visitors traveling at least fifty miles to the establishment. The extraordinary retail or tourism establishment must have a capital investment of at least ~~twenty‑five~~ fifty million dollars including land~~,~~ and buildings and site preparation costs~~, and one or more hotels must be built to service the establishment within three years of occupancy~~. Only establishments which receive a certificate of occupancy after July 1, ~~2006~~ 2009, qualify. ~~The Department of Parks, Recreation and Tourism shall determine and annually certify whether a retail establishment meets these criteria and its judgment is conclusive.~~ The extraordinary retail or tourism establishment annually must collect and remit at least two million dollars in sales taxes but is not required to collect or remit admission taxes.”

SECTION 2. A. Section 12‑21‑6590 of the 1976 Code, as last amended by Act 116 of 2007, is further amended to read:

“Section 12‑21‑6590. (A) The Department of Parks, Recreation and Tourism may designate ~~no more than four~~ extraordinary retail or tourism establishments as defined in Section 12‑21‑6520(14), and for purposes of this section, sales taxes must be substituted for admissions taxes wherever admission tax appears in this Tourism Infrastructure Admissions Tax Act. For purposes of this section, additional infrastructure improvements include any aquarium or natural history exhibits or museum located within or directly contiguous to the extraordinary retail or tourism establishment which are dedicated to public use and enjoyment under such terms and conditions as may be required by the municipality or county in which they are located. Additional infrastructure improvements also ~~shall~~ include site prep, construction of real or personal property, parking, roadways, ingress and egress, utilities, costs which are included in the definition of redevelopment project costs as provided in Section 31‑6‑30(8) and other expenditures on the extraordinary retail or tourism establishment which directly support or service the aquarium or natural history museum or exhibits. The certification application made under this section must be executed by both the extraordinary retail or tourism establishment as well as the county or municipality.

(B) Prior to the completion of an extraordinary retail or tourism establishment, an entity may request that the county or municipality in which the facility is located provide an application for conditional certification to the Department of Parks, Recreation and Tourism based on reasonable projections that the facility will meet the requirements of Section 12‑21‑6520(14) within three years of the certificate of occupancy. Upon receipt of the certification from the county or municipality the Department of Parks, Recreation and Tourism ~~may~~ shall grant conditional certification to the entity as an extraordinary retail or tourism establishment ~~based on reasonable projections that the facility will meet the requirements of Section 12‑21‑6520(14) within three years of the certificate of occupancy~~. ~~If the Department of Parks, Recreation and Tourism grants the conditional certification to the entity as an extraordinary retail establishment,~~ and it shall forward the approval for conditional certification to the department. The department shall notify the entity and either the county or the municipality, as applicable, of the approval.

An applicant obtaining conditional certification as an extraordinary retail or tourism establishment under this section and satisfying the requirements of conditional certification by the dates provided therein, ~~shall be~~ is deemed to satisfy all of the requirements of this article pertaining to qualification as an extraordinary retail or tourism establishment for the duration of the benefit period. The entity ~~shall be~~ is deemed to constitute a major tourism or recreation facility under Section 12‑21‑6520(12) and ~~shall be~~ is entitled to all of the benefits of this article for the duration of the benefit period without any further certification requirements. This subsection ~~shall~~ must not be construed to allow an applicant to receive the benefits provided in this article prior to satisfying the requirements of the conditional certification and of Section 12‑21‑6520(14).

The Department of Parks, Recreation and Tourism shall develop in a timely manner application forms and adopt guidelines governing the conditional certification process. If the Department of Parks, Recreation and Tourism fails to adopt application forms and guidelines in a timely manner, then the applicant or other entity may proceed under this article without regard to such forms or guidelines. If the department fails to grant conditional certification to the entity within sixty days of receipt of the conditional certification from the county or municipality, then the certification is deemed approved by the Department of Parks, Recreation and Tourism and the county or municipality may forward the conditional certification directly to the department.

(C) If an applicant obtains conditional certification and complies with both the conditional certification and Section 12‑21‑6520(14), then ~~one‑half~~ three‑quarters ~~shall~~ must be substituted for one‑fourth in Section 12‑21‑6530(A), and twenty years must be substituted for fifteen years in Section 12‑21‑6520(2) and no funds will be transferred to the council pursuant to Section 12‑21‑6540.”

B. For purposes of Section 12‑21‑6590(B) of the 1976 Code, as amended by subsection A of this section, the development of application forms and the adoption of guidelines by the Department of Parks, Recreation and Tourism are deemed timely if completed within ninety days of the effective date of this act.

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

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