**South Carolina General Assembly**

121st Session, 2015-2016

**H. 3951**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Putnam, Simrill, Hill, Loftis, Sandifer, Burns, Goldfinch, Clemmons, Rivers, Hamilton, Allison, Felder, Huggins, Limehouse, Clary, Forrester, Gagnon, Henderson, Norman, G.R. Smith, Spires, Stringer, Thayer, Toole and Wells

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Introduced in the House on April 14, 2015

Currently residing in the House Committee on **Judiciary**

Summary: Prohibition Against Employer Intimidation Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

4/14/2015 House Introduced and read first time ([House Journal‑page 29](file:///h:\HJ%20Archive\2015\04-14-15.docx))

4/14/2015 House Referred to Committee on **Judiciary** ([House Journal‑page 29](file:///h:\HJ%20Archive\2015\04-14-15.docx))

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**VERSIONS OF THIS BILL**

[4/14/2015](file:///p:\pprever\2015-16\3951_20150414.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “PROHIBITION AGAINST EMPLOYER INTIMIDATION ACT” BY ADDING ARTICLE 3 TO CHAPTER 7, TITLE 41 SO AS TO PROVIDE THAT A PERSON, ORGANIZATION, CORPORATION, UNION, OR AGENCY MAY NOT DAMAGE, HARM, INJURE, OR THREATEN TO INJURE OR COERCE A BUSINESS, OR AN EMPLOYEE OR REPRESENTATIVE OF THE BUSINESS, WITH THE INTENT TO UNLAWFULLY INTIMIDATE THE BUSINESS OR ITS EMPLOYEES; TO PROVIDE THAT A PERSON, ORGANIZATION, CORPORATION, UNION, OR AGENCY MAY NOT CONSPIRE WITH ANOTHER TO DISRUPT LAWFUL COMMERCE IN PLACES OF BUSINESS; TO PROVIDE THAT A PERSON, ORGANIZATION, CORPORATION, UNION, OR AGENCY MAY NOT INTENTIONALLY OR RECKLESSLY DAMAGE BUSINESS PROPERTY OF ANOTHER; TO PROVIDE THAT THE PROVISIONS OF THE ARTICLE MAY NOT BE CONSTRUED TO INFRINGE AND IMPEDE UPON FIRST AMENDMENT RIGHTS UNDER THE UNITED STATES CONSTITUTION; TO PROVIDE FOR DAMAGES FOR CERTAIN VIOLATIONS; AND TO DESIGNATE EXISTING SECTIONS IN CHAPTER 7, TITLE 41 AS ARTICLE 1, ENTITLED “GENERAL PROVISIONS”.

Whereas, the South Carolina General Assembly recognizes that the State of South Carolina is a right‑to‑work state with right‑to‑work laws founded on the basic principle that every individual has an inherent right to choose if they want to join a union or an employee organization, and this right to choose should not impact their employment; and

Whereas, the South Carolina General Assembly recognizes the importance and necessity of fostering economic development and job creation, and that intimidation and coercion against a business can make the State an unwelcoming and dangerous place for new business and job growth; and

Whereas, the South Carolina General Assembly finds that intimidation, extortion, and coercion are illegal and present a substantial risk to public safety and the well‑being of the State’s citizens, workers, and businesses, thus necessitating certain limited and reasonable restrictions that the State considers necessary to protect its citizens from these harms. Now, therefore,

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

SECTION 1. Chapter 7, Title 41 of the 1976 Code is amended by adding:

“Article 3

Prohibition Against Employer Intimidation Act

Section 41‑7‑310. This article must be known and may be cited as the “Prohibition Against Employer Intimidation Act.”

Section 41‑7‑320. (A) A person, organization, corporation, union, or agency may not:

(1) damage, harm, injure, or threaten to injure or coerce a business, or an employee or representative of the business, with the intent to unlawfully intimidate the business or its employees from exercising their rights, which are protected by state and federal law, in an effort to obtain something of value for a public or private organization, corporation, union, agency, or other entity, including, but not limited to, a neutrality agreement, card check agreement, collective bargaining recognition, or another objective of an organized initiative;

(2) restrict a business, a union, or the owners or employees of a business, from exercising their rights, which are protected under state and federal law, in an effort to obtain something of value for a public or private organization, corporation, union, agency, or other entity; or

(3) conspire with another, for the purpose of disrupting lawful commerce in places of business, where the activity constitutes an assault or causes physical injury to an individual, located in or around the place of business.

(B) For purposes of this article, ‘something of value’ includes, but is not limited to, a neutrality agreement, card check agreement, recognition, or another objective that is motivating such activities.

Section 41‑7‑330. (A) A person, organization, corporation, union, or agency may not intentionally or recklessly damage the business property of another if the:

(1) property is used by its owner or possessor in the owner’s or possessor’s profession, business, trade, or occupation; or

(2) person damages or otherwise marks the property owner’s merchandise.

(B) A person who organizes, coordinates, controls, supervises, finances, manages, aids, or abets an activity prohibited by subsection (A) must be subject to the same penalties as the person, organization, corporation, union, or agency.

Section 41‑7‑340. Nothing in the provisions of this act may be construed to infringe and impede upon an individual’s First Amendment rights under the United States Constitution.

Section 41‑7‑350. In a civil action filed under the provisions of this article, the prevailing plaintiff is entitled to damages upon showing that the conspiracy constitutes an assault or causes physical injury, as defined by law for those causes of action, to the plaintiff, in addition to other damages otherwise authorized by law.”

SECTION 2. Sections 41-7-10 through 41-7-130 are designated as Article 1, Chapter 7, Title 41, entitled “General Provisions”. The Code Commissioner is directed to change references from “chapter” to “article” as appropriate to reflect the designated provisions.

SECTION 3. This act takes effect July 1, 2015.

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