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Indicates New Matter

AMENDED

February 23, 2017

**H. 3719**

Introduced by Reps. Burns, Hiott, Hixon, Chumley, Bannister and G.R. Smith

S. Printed 2/23/17--H.

Read the first time February 9, 2017.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Amended by House Agriculture, Natural Resources, and Environmental Affairs on February 16, 2017**

**State Expenditure**

This bill as amended expands the authority of the State Forester to prohibit all open burning, except fires to provide human warmth or to prepare food for immediate consumption. The bill increases the maximum fine which may be imposed for a first offense from one hundred to two hundred dollars, and increases the fine for subsequent offenses from up to three hundred dollars to not less than five hundred dollars. The maximum prison time for a first offense remains unchanged at thirty days, but the minimum required sentence of ten days is deleted. For subsequent offenses (those occurring within ten years of a previous offense) the maximum prison time is reduced from six months to sixty days.

**Forestry Commission**. The commission reports that mechanisms are already in place to notify field officers and the public of burning restrictions. This bill would have no expenditure impact on the general fund, federal funds, or other funds.

**State Revenue**

Revenue generated by court fines, assessments, and surcharges imposed on persons convicted of violations of this Section would be distributed to the general fund, specified state agencies and programs, and local government in accordance with existing law. Because courts have discretion regarding the punishment imposed for violations of fire regulations established under Chapter 35 of Title 48, the effect of this bill on general fund and other funds revenue is undetermined.

**Local Expenditure**

This bill reduces the maximum sentence of imprisonment for subsequent fire offenses from six months to two months. Consequently, offenders could be confined in local jails for shorter terms. However, because of the latitude allowed in sentencing and the lack of data, the expenditure impact on local government is undetermined.

**Local Revenue**

Revenue generated by court fines, assessments, and surcharges imposed on persons convicted of violations of this Section would be distributed to the general fund, specified state agencies and programs, and local government in accordance with existing law. Because courts have discretion regarding the punishment imposed for violations of fire regulations established under Chapter 35 of Title 48, the effect of this bill on local government revenue is undetermined.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 48‑35‑50, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATE FORESTER’S AUTHORITY TO DIRECT THAT CERTAIN FIRES NOT BE STARTED, SO AS TO PROVIDE THAT WHEN EXTREME CONDITIONS EXIST, THE STATE FORESTER MAY PROHIBIT ALL OPEN BURNING EXCEPT FIRES USED FOR NONRECREATIONAL PURPOSES; AND TO AMEND SECTION 48‑35‑60, RELATING TO PENALTIES ASSOCIATED WITH THE STARTING OF UNLAWFUL FIRES, SO AS TO REVISE THE PENALTIES.

Amend Title To Conform

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

SECTION 1. Section 48‑35‑50 of the 1976 Code is amended to read:

“Section 48‑35‑50. The State Forester may direct at any time, when deemed necessary in the interest of public safety, that fires covered by this chapter not be started. The State Forester also may prohibit all open burning regardless of whether a permit or notification is required, including campfires, bonfires, and other fires for recreational purposes. This prohibition shall not apply to fires used for nonrecreational purposes such as those for human warmth or for the preparation of food for immediate consumption.”

SECTION 2. Section 48‑35‑60 of the 1976 Code is amended to read:

“Section 48‑35‑60. Any person violating the provisions of this chapter ~~shall~~ may be deemed guilty of a misdemeanor and, upon conviction, ~~shall~~ may be fined not ~~less than ten dollars nor~~ more than ~~one~~ two hundred dollars or imprisoned for not ~~less than ten days nor~~ more than thirty days for a first offense. For any second or subsequent offense, a fine of not less than ~~twenty‑five~~ five hundred dollars ~~nor more than three hundred dollars~~ or imprisonment for not more than ~~six months~~ sixty days, or both may be imposed in the discretion of the court. ‘Subsequent offense’, as used in this section, shall mean an offense committed within ten years of a previous offense.”

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

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