

NO. 30

**JOURNAL**  
**OF THE**  
**SENATE**  
**OF THE**  
**STATE OF SOUTH CAROLINA**



REGULAR SESSION BEGINNING TUESDAY, JANUARY 12, 2021

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TUESDAY, MARCH 2, 2021

**Tuesday, March 2, 2021**  
**(Statewide Session)**

~~Indicates Matter Stricken~~  
Indicates New Matter

The Senate assembled at 12:00 Noon, the hour to which it stood adjourned, and was called to order by the PRESIDENT.

A quorum being present, the proceedings were opened with a devotion by the Chaplain as follows:

Psalm 62:5

The Psalmist declares: "Find rest, O my soul, in God alone; my hope comes from him."

Join me as we bow, if you will: Standing tall and blooming boldly this morning in the backyard, O God, is a bright yellow daffodil. That solitary blossom reminds me of the hope we all have, hope that this COVID-winter will -- by your Grace -- not last forever, and hope that this Senate will continue to be diligent in its efforts to accomplish genuine good for the people of South Carolina. It is so easy for any body of leaders to lose focus, to try to do what is simply expedient. May that not happen with these leaders and their staff, dear Lord. Through their unfailing trust in You lead them to do what is truly best and most meaningful for our State and for her citizens, making hope real for everyone. We pray this in Your loving name, dear Savior. Amen.

The PRESIDENT called for Petitions, Memorials, Presentments of Grand Juries and such like papers.

**MESSAGE FROM THE GOVERNOR**

The following appointments were transmitted by the Honorable Henry Dargan McMaster:

**Statewide Appointments**

Reappointment, South Carolina Board of Long Term Health Care Administrators, with the term to commence June 9, 2021, and to expire June 9, 2024

Residential Care Administrator:

Melissa T. Yetter, 202 Player Way, Simpsonville, SC 29681

Referred to the Committee on Medical Affairs.

**TUESDAY, MARCH 2, 2021**

Reappointment, South Carolina Commission for the Blind, with the term to commence May 19, 2018, and to expire May 19, 2022

1st Congressional District:

Peter A. Smith, 120 Dunnemann Ave., Charleston, SC 29403-3529

Referred to the Committee on Family and Veterans' Services.

Reappointment, South Carolina Commission on Higher Education, with the term to commence July 1, 2020, and to expire July 1, 2025

At-Large:

Charles E. Dalton, 11 Harvest Court, Greenville, SC 29601-4409

Referred to the Committee on Education.

Reappointment, South Carolina Commission on Higher Education, with the term to commence July 1, 2020, and to expire July 1, 2024

At-Large/Chairman:

Robert Wesley Hayes, 1486 Cureton Dr., Rock Hill, SC 29732-7754

Referred to the Committee on Education.

Initial Appointment, South Carolina Mental Health Commission, with the term to commence March 21, 2017, and to expire March 21, 2022

4th Congressional District:

Bobby H. Mann, 140 Hammond Dr., Taylors, SC 29687-6923 *VICE*  
Sharon L. Wilson

Referred to the Committee on Medical Affairs.

Reappointment, South Carolina Residential Builders Commission, with the term to commence June 30, 2018, and to expire June 30, 2022

7th Congressional District:

Bryan H. Dowd, 1931 Osprey Drive, P. O. Box 5090, Florence, SC 29501-8133

Referred to the Committee on Labor, Commerce and Industry.

**TUESDAY, MARCH 2, 2021**

Initial Appointment, South Carolina State Board of Cosmetology, with the term to commence March 20, 2021, and to expire March 20, 2025

Cosmetologist:

Ashley Tucker-Johnson, 208 Alice Farr Drive, Greenville, SC 29617-1506

Referred to the Committee on Labor, Commerce and Industry.

Reappointment, South Carolina State Board of Financial Institutions, with the term to commence June 30, 2019, and to expire June 30, 2023

Banker:

Kenneth Wayne Wicker, 601 Addison Court, Myrtle Beach, SC 29577-2277

Referred to the Committee on Banking and Insurance.

Reappointment, State Inspector General, with the term to commence May 10, 2021, and to expire May 10, 2025

Brian D. Lamkin, 308 Old Course Loop, Blythewood, SC 29016

Referred to the Committee on Judiciary.

**REGULATIONS WITHDRAWN AND RESUBMITTED**

The following were received:

Document No. 5004

Agency: Commission on Higher Education

Chapter: 62

Statutory Authority: 1976 Code Section 59-149-10

SUBJECT: LIFE Scholarship Program and LIFE Scholarship Enhancement

Received by Lieutenant Governor January 12, 2021

Referred to Committee on Education

Legislative Review Expiration May 12, 2021

Withdrawn and Resubmitted February 25, 2021

Document No. 5005

Agency: Commission on Higher Education

Chapter: 62

Statutory Authority: 1976 Code Section 59-104-20

SUBJECT: Palmetto Fellows Scholarship Program

**TUESDAY, MARCH 2, 2021**

Received by Lieutenant Governor January 12, 2021  
Referred to Committee on Education  
Legislative Review Expiration May 12, 2021  
Withdrawn and Resubmitted February 25, 2021

Document No. 5006  
Agency: Commission on Higher Education  
Chapter: 62  
Statutory Authority: 1976 Code Section 59-150-370  
SUBJECT: South Carolina HOPE Scholarship  
Received by Lieutenant Governor January 12, 2021  
Referred to Committee on Education  
Legislative Review Expiration May 12, 2021  
Withdrawn and Resubmitted February 25, 2021

**Doctor of the Day**

Senator RANKIN introduced Dr. Gary Vukov of Myrtle Beach, S.C.,  
Doctor of the Day.

**Leave of Absence**

At 12:46 P.M., Senator McLEOD requested a leave of absence for  
Senator MATTHEWS for the day.

**Leave of Absence**

At 12:56 P.M., Senator VERDIN requested a leave of absence for  
Wednesday, March 3, 2021.

**Expression of Personal Interest**

Senator KIMPSON rose for an Expression of Personal Interest.

**CO-SPONSORS ADDED**

The following co-sponsors were added to the respective Bills:

- S. 38 Sens. Corbin, Loftis and Campsen
- S. 133 Sen. Goldfinch
- S. 200 Sen. Turner
- S. 208 Sens. Loftis and Gustafson
- S. 510 Sens. Gustafson, Cash, Allen and Malloy
- S. 584 Sens. Adams and Grooms

**TUESDAY, MARCH 2, 2021**

**OBJECTION**

S. 602 -- Senator Massey: A BILL TO AMEND ARTICLE 1, CHAPTER 9, TITLE 56 OF THE 1976 CODE, RELATING TO THE MOTOR VEHICLE FINANCIAL RESPONSIBILITY ACT, BY ADDING SECTION 56-9-85, TO PROVIDE THAT AN OFFER TO SETTLE A CLAIM FOR PERSONAL INJURY, BODILY INJURY, OR DEATH ARISING FROM THE USE OF A MOTOR VEHICLE THAT IS PREPARED, WITH THE ASSISTANCE OF COUNSEL, PRIOR TO FILING A CIVIL ACTION MUST BE IN WRITING AND CONTAIN CERTAIN TERMS.

Senator RANKIN asked unanimous consent to make a motion to recall the Bill from the Committee on Transportation and commit the Bill to the Committee on Judiciary.

Senator MASSEY objected.

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following were introduced:

S. 621 -- Senator Gambrell: A SENATE RESOLUTION TO RECOGNIZE AND HONOR THE CRESCENT HIGH SCHOOL WRESTLING TEAM, COACHES, AND SCHOOL OFFICIALS FOR A REMARKABLE SEASON AND TO CONGRATULATE THEM FOR WINNING THE 2021 SOUTH CAROLINA CLASS AA STATE CHAMPIONSHIP TITLE.

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The Senate Resolution was adopted.

S. 622 -- Senator Gambrell: A SENATE RESOLUTION TO CELEBRATE THE MEMBERS OF THE BELTON-HONEA PATH HIGH SCHOOL WRESTLING TEAM ON A STELLAR SEASON AND TO CONGRATULATE THE TEAM MEMBERS AND COACHES ON WINNING THE 2021 CLASS AAA STATE CHAMPIONSHIP TITLE.

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The Senate Resolution was adopted.

S. 623 -- Senator Gambrell: A BILL TO AMEND SECTION 38-73-910, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PREMIUM RATE INCREASE REQUIREMENTS FOR AUTOMOBILE INSURANCE POLICIES, SO AS TO PROVIDE THAT A RATE INCREASE MAY NOT BE IMPLEMENTED UNTIL

**TUESDAY, MARCH 2, 2021**

THE ONSET OF A NEW POLICY PERIOD, TO REQUIRE APPROVAL BY THE DIRECTOR OF THE DEPARTMENT OF INSURANCE FOR CERTAIN RATE INCREASES, AND TO REMOVE LANGUAGE REQUIRING THE SUBMISSION OF A REPORT BY THE DIRECTOR OF THE DEPARTMENT OF INSURANCE.

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Read the first time and referred to the Committee on Banking and Insurance.

S. 624 -- Senator Davis: A BILL TO AMEND SECTION 40-47-1250 OF THE 1976 CODE, RELATING TO THE SUPERVISION OF ANESTHESIOLOGIST'S ASSISTANTS, TO INCREASE THE NUMBER OF ANESTHESIOLOGIST'S ASSISTANTS THAT AN ANESTHESIOLOGIST CAN SUPERVISE; AND TO DELETE SECTION 40-47-1240(8) OF THE 1976 CODE, RELATING TO THE LICENSURE REQUIREMENT FOR ANESTHESIOLOGIST'S ASSISTANTS TO APPEAR BEFORE A BOARD MEMBER AND PRESENT CERTAIN CERTIFICATIONS AND KNOWLEDGE.

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Read the first time and referred to the Committee on Medical Affairs.

S. 625 -- Senator Harpootlian: A JOINT RESOLUTION TO DIRECT THE CITADEL TO REMOVE THE CONFEDERATE NAVAL JACK FROM ITS DISPLAY IN SUMMERALL CHAPEL.

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Senator HARPOOTLIAN spoke on the Resolution.

Read the first time and referred to the Committee on Education.

S. 626 -- Senator Cromer: A SENATE RESOLUTION TO CONGRATULATE THE NEWBERRY ACADEMY GIRLS BASKETBALL TEAM, COACHES, AND SCHOOL OFFICIALS ON AN OUTSTANDING SEASON AND TO HONOR THEM FOR WINNING THE SOUTH CAROLINA INDEPENDENT SCHOOL ASSOCIATION CLASS A GIRLS STATE CHAMPIONSHIP.

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The Senate Resolution was adopted.

S. 627 -- Senators Bennett, Adams, Kimbrell, M. Johnson, Davis, Turner, Campsen, Hembree, Alexander, Williams, Cromer, McElveen, Loftis, Climer, Talley, Rice, Garrett and Rankin: A BILL TO AMEND

**TUESDAY, MARCH 2, 2021**

SECTION 12-6-545, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO INCOME TAX RATES FOR PASS-THROUGH TRADE AND BUSINESS INCOME, SO AS TO CREATE AN ELECTION TO TAX PARTNERSHIPS AND "S" CORPORATIONS AT THE ENTITY LEVEL; AND TO AMEND SECTION 12-6-3400, RELATING TO CREDIT FOR INCOME TAX PAID BY SOUTH CAROLINA RESIDENTS TO ANOTHER STATE, SO AS TO PROVIDE THAT AN ELECTING PASS-THROUGH BUSINESS ENTITY IS ELIGIBLE FOR THE CREDIT.

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Read the first time and referred to the Committee on Finance.

S. 628 -- Senator Davis: A BILL TO ENACT THE "PHARMACY ACCESS ACT"; TO AMEND CHAPTER 43, TITLE 40 OF THE 1976 CODE, RELATING TO THE SOUTH CAROLINA PHARMACY PRACTICE ACT, BY ADDING SECTIONS 40-43-210 THROUGH 40-43-280, TO PROVIDE THAT THE SOUTH CAROLINA PHARMACY PRACTICE ACT DOES NOT CREATE A DUTY OF CARE FOR A PERSON WHO PRESCRIBES OR DISPENSES A SELF-ADMINISTERED HORMONAL CONTRACEPTIVE OR ADMINISTERS AN INJECTABLE HORMONAL CONTRACEPTIVE, TO PROVIDE THAT CERTAIN PHARMACISTS MAY DISPENSE A SELF-ADMINISTERED HORMONAL CONTRACEPTIVE OR ADMINISTER AN INJECTABLE HORMONAL CONTRACEPTIVE PURSUANT TO A STANDING PRESCRIPTION DRUG ORDER, TO PROVIDE A JOINT PROTOCOL FOR DISPENSING A SELF-ADMINISTERED HORMONAL CONTRACEPTIVE OR ADMINISTERING AN INJECTABLE HORMONAL CONTRACEPTIVE WITHOUT A PATIENT-SPECIFIC WRITTEN ORDER, TO REQUIRE CONTINUING EDUCATION FOR A PHARMACIST DISPENSING A SELF-ADMINISTERED HORMONAL CONTRACEPTIVE OR ADMINISTERING AN INJECTABLE HORMONAL CONTRACEPTIVE, TO IMPOSE REQUIREMENTS ON A PHARMACIST WHO DISPENSES A SELF-ADMINISTERED HORMONAL CONTRACEPTIVE OR ADMINISTERS AN INJECTABLE HORMONAL CONTRACEPTIVE, TO PROVIDE THAT A PRESCRIBER WHO ISSUES A STANDING PRESCRIPTION DRUG ORDER FOR A SELF-ADMINISTERED HORMONAL CONTRACEPTIVE OR INJECTABLE HORMONAL CONTRACEPTIVE IS NOT LIABLE FOR ANY CIVIL DAMAGES



**TUESDAY, MARCH 2, 2021**

FOR ACTS OR OMISSIONS RESULTING FROM THE DISPENSING OR ADMINISTERING OF THE CONTRACEPTIVE, AND TO PROVIDE THAT THE SOUTH CAROLINA PHARMACY PRACTICE ACT SHALL NOT BE CONSTRUED TO REQUIRE A PHARMACIST TO DISPENSE, ADMINISTER, INJECT, OR OTHERWISE PROVIDE HORMONAL CONTRACEPTIVES; AND TO AMEND ARTICLE 1, CHAPTER 6, TITLE 44 OF THE 1976 CODE, RELATING TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, BY ADDING SECTION 44-6-115, TO PROVIDE FOR PHARMACIST SERVICES COVERED UNDER MEDICAID; AND TO DEFINE NECESSARY TERMS.

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Read the first time and referred to the Committee on Medical Affairs.

S. 629 -- Senator Senn: A BILL TO AMEND SECTION 50-5-997 OF THE 1976 CODE, RELATING TO OUT-OF-SEASON HARVEST PERMITS FOR SHELLFISH MARICULTURE PERMITTEES, TO PROHIBIT THE ISSUANCE OF OUT-OF-SEASON HARVEST PERMITS FOR THE PRIVILEGE OF HARVESTING OYSTERS OUT OF SEASON.

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Read the first time and referred to the Committee on Fish, Game and Forestry.

S. 630 -- Senator Davis: A BILL TO AMEND SECTION 40-75-5, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, SECTION 40-75-10, AS AMENDED, SECTION 40-75-20, AS AMENDED, SECTION 40-75-30, AS AMENDED, SECTION 40-75-110, AS AMENDED, SECTION 40-75-190, AS AMENDED, SECTION 40-75-200, SECTION 40-75-220, AS AMENDED, SECTION 40-75-250, AS AMENDED, SECTION 40-75-260, AS AMENDED, SECTION 40-75-285, AS AMENDED, ALL RELATING TO THE REGULATION OF LICENSED PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, ADDICTION COUNSELORS, AND PSYCHO-EDUCATIONAL SPECIALISTS, SO AS TO PROVIDE FOR THE REGULATION OF BEHAVIOR ANALYSTS AND ASSISTANT BEHAVIOR ANALYSTS, AND TO MAKE MISCELLANEOUS AND CONFORMING CHANGES; TO REDESIGNATE CHAPTER 75, TITLE 40 AS "PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, BEHAVIOR ANALYSTS, AND LICENSED

**TUESDAY, MARCH 2, 2021**

PSYCHO-EDUCATIONAL SPECIALISTS", AND TO REDESIGNATE ARTICLE 1, CHAPTER 75, TITLE 40 AS "PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, BEHAVIOR ANALYSTS, AND LICENSED PSYCHO-EDUCATIONAL SPECIALISTS".

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Read the first time and referred to the Committee on Labor, Commerce and Industry.

S. 631 -- Senator Talley: A BILL TO ENACT THE "SOUTH CAROLINA ELECTRONIC NOTARY PUBLIC ACT"; TO AMEND TITLE 26 OF THE 1976 CODE, RELATING TO NOTARIES PUBLIC AND ACKNOWLEDGEMENTS, BY ADDING CHAPTER 2, TO PROVIDE FOR PROCEDURES AND TRAINING REQUIREMENTS, TO PROVIDE FOR ACTS THAT MAY BE PERFORMED, RESTRICTIONS ON THOSE ACTS, AND REQUIREMENTS TO COMPLETE THOSE ACTS, TO ESTABLISH MAXIMUM FEES, TO ESTABLISH PROCEDURES FOR ELECTRONIC NOTARIES PUBLIC, TO PROVIDE THAT THE SECRETARY OF STATE MAY PROMULGATE REGULATIONS, TO PROVIDE FOR THE TERMINATION OF ELECTRONIC NOTARIES PUBLIC, TO PROVIDE A PENALTY, TO PROVIDE REQUIREMENTS TO CERTIFY AUTHENTICITY, AND TO DEFINE NECESSARY TERMS.

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Read the first time and referred to the Committee on Family and Veterans' Services.

S. 632 -- Senators Malloy, Adams, Alexander, Allen, Bennett, Campsen, Cash, Climer, Corbin, Cromer, Davis, Fanning, Gambrell, Garrett, Goldfinch, Grooms, Gustafson, Harpootlian, Hembree, Hutto, Jackson, K. Johnson, M. Johnson, Kimbrell, Kimpson, Leatherman, Loftis, Martin, Massey, Matthews, McElveen, McLeod, Peeler, Rankin, Rice, Sabb, Scott, Senn, Setzler, Shealy, Stephens, Talley, Turner, Verdin, Williams and Young: A CONCURRENT RESOLUTION TO CONGRATULATE DARLINGTON RACEWAY FOR ANNOUNCING A SECOND NASCAR CUP SERIES RACE, THEREBY DOUBLING THE ECONOMIC IMPACT TO THE STATE OF SOUTH CAROLINA AND HIGHLIGHTING THE RICH HISTORY OF THIS TREASURED ATTRACTION IN THE STATE, TO ACKNOWLEDGE NASCAR RACING AS AN INTEGRAL AND

**TUESDAY, MARCH 2, 2021**

VITAL PART OF THE STATE AND ITS ECONOMY, AND TO RECOGNIZE THE WEEKS OF MAY 2ND THROUGH MAY 9TH, 2021, AND AUGUST 29TH THROUGH SEPTEMBER 5TH, 2021, AS "DARLINGTON RACEWAY WEEK" IN SOUTH CAROLINA.

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The Concurrent Resolution was adopted, ordered sent to the House.

S. 633 -- Senators Jackson and K. Johnson: A JOINT RESOLUTION TO PROVIDE FOR A STATEWIDE ADVISORY REFERENDUM TO BE HELD AT THE SAME TIME AS THE 2022 GENERAL ELECTION TO DETERMINE WHETHER THE QUALIFIED ELECTORS OF THIS STATE FAVOR RAISING THE MINIMUM WAGE.

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Senator JACKSON spoke on the Resolution.

Read the first time and referred to the Committee on Judiciary.

S. 634 -- Senator Scott: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "SOUTH CAROLINA MINIMUM WAGE ACT"; BY ADDING ARTICLE 3 TO CHAPTER 10, TITLE 41 SO AS TO PROVIDE FOR A CITATION, TO PROVIDE EMPLOYERS SHALL PAY EMPLOYEES A CERTAIN MINIMUM WAGE, TO PROVIDE IT IS UNLAWFUL FOR AN EMPLOYER TO RETALIATE AGAINST AN EMPLOYEE WHO EXERCISES HIS RIGHTS WITH RESPECT TO THE MINIMUM WAGE, TO PROVIDE CERTAIN REMEDIES TO THE EMPLOYEE AND STATE, TO PROVIDE A STATUTE OF LIMITATIONS, TO PROVIDE THAT AN ACTION BROUGHT UNDER THE ACT MAY BE BROUGHT AS A CLASS ACTION, AND TO LIMIT AUTHORITY OF THE DEPARTMENT WITH RESPECT TO IMPLEMENTING THE ACT; TO AMEND SECTION 6-1-130, RELATING TO THE SCOPE OF AUTHORITY OF A POLITICAL SUBDIVISION OF THE STATE TO SET A MINIMUM WAGE RATE, TO AMEND SECTION 44-22-160, RELATING TO COMPENSATION OF MENTAL HEALTH PATIENTS FOR THERAPEUTIC EMPLOYMENT, TO AMEND SECTION 53-1-100, RELATING TO COMPENSATION FOR SUNDAY WORK BY MACHINE SHOP EMPLOYEES, AND TO AMEND SECTION 53-1-110, RELATING TO COMPENSATION FOR SUNDAY WORK BY A PERSON EMPLOYED IN THE MANUFACTURE OR FINISHING OF TEXTILE PRODUCTS, ALL SO AS TO MAKE CONFORMING

**TUESDAY, MARCH 2, 2021**

CHANGES; AND TO DESIGNATE THE EXISTING SECTIONS OF CHAPTER 10, TITLE 41 AS ARTICLE 1 ENTITLED "PAYMENT OF WAGES GENERALLY".

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Senator SCOTT spoke on the Bill.

Read the first time and referred to the Committee on Labor, Commerce and Industry.

S. 635 -- Senator Setzler: A BILL TO AMEND SECTION 13-17-40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MEMBERS OF THE SOUTH CAROLINA RESEARCH AUTHORITY BOARD OF TRUSTEES, SO AS TO PROVIDE THAT THE BOARD CONSISTS OF CERTAIN UNIVERSITY PRESIDENTS OR THEIR DESIGNEES, TO PROVIDE CERTAIN REQUIREMENTS FOR DESIGNEES, AND TO PROVIDE THAT THE EXECUTIVE COMMITTEE SHALL ELECT TWO ADDITIONAL MEMBERS WHO ARE NOT REQUIRED TO BE TRUSTEES AT THE TIME OF THEIR ELECTION; TO AMEND SECTION 13-17-70, RELATING TO THE POWERS OF THE BOARD OF TRUSTEES, SO AS TO PROVIDE THAT THE BOARD MAY INVEST IN CERTAIN OBLIGATIONS OF PRIVATE ENTITIES; TO AMEND SECTION 13-17-87, RELATING TO THE ESTABLISHMENT OF RESEARCH INNOVATION CENTERS, SO AS TO PROVIDE THAT THE SOUTH CAROLINA RESEARCH AUTHORITY MAY ALLOW A COMPANY TO REMAIN IN AN INNOVATION CENTER FOR UP TO FIVE YEARS OR UNTIL EXCEEDING FIVE MILLION DOLLARS BUT DOES NOT APPLY WITH RESPECT TO THIRTY-FIVE PERCENT OF THE SQUARE FEET IN AN INNOVATION CENTER; AND TO AMEND SECTION 12-6-3585, AS AMENDED, RELATING TO THE INDUSTRY PARTNERSHIP FUND TAX CREDIT, SO AS TO PROVIDE THAT IF THE AGGREGATE CREDIT AMOUNT IS NOT MET IN A CERTAIN TIMEFRAME THEN THE SINGLE TAXPAYER MAXIMUM CREDIT IS INCREASED TO ONE MILLION DOLLARS.

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Read the first time and referred to the Committee on Labor, Commerce and Industry.

S. 636 -- Senator Cromer: A BILL TO AMEND SECTION 37-3-210, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO REBATES DUE UPON PREPAYMENT IN FULL OF A CONSUMER

**TUESDAY, MARCH 2, 2021**

LOAN, SO AS TO PROVIDE THAT A REBATE MAY NOT BE DUE UPON PREPAYMENT OF A LOAN SECURED BY A MANUFACTURED HOME.

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Read the first time and referred to the Committee on Banking and Insurance.

S. 637 -- Senator Cromer: A BILL TO AMEND SECTION 37-22-110, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS APPLICABLE TO THE MORTGAGE LENDING LAWS OF THIS STATE SO AS TO ESTABLISH CERTAIN CRITERIA A RETAILER OF MANUFACTURED OR MODULAR HOMES MUST MEET TO QUALIFY AS AN "EXEMPT PERSON"; AND TO AMEND SECTION 40-58-20, RELATING TO DEFINITIONS APPLICABLE TO THE LICENSING OF MORTGAGE BROKERS ACT, SO AS TO ESTABLISH CERTAIN CRITERIA A RETAILER OF MANUFACTURED OR MODULAR HOMES MUST MEET TO QUALIFY AS AN "EXEMPT PERSON".

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Read the first time and referred to the Committee on Banking and Insurance.

H. 3443 -- Reps. Lucas, Jordan, J. E. Johnson, McGarry, Fry, Taylor, B. Newton, Pope, McCravy, Forrest, Yow, Elliott, B. Cox, Wooten, T. Moore, Caskey, McGinnis, Oremus, Martin, Brittain, Hixon, Hiott, Blackwell, Davis, Erickson and Bradley: A BILL TO AMEND SECTION 1-3-420, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO GUBERNATORIAL PROCLAMATIONS OF EMERGENCY, SO AS TO REMOVE REFERENCES TO PUBLIC HEALTH EMERGENCIES; AND TO AMEND SECTION 25-1-440, RELATING TO POWERS AND DUTIES OF THE GOVERNOR DURING A DECLARED EMERGENCY, SO AS TO PROVIDE THAT AFTER THE ELAPSE OF AT LEAST THIRTY DAYS FOLLOWING THE DECLARATION OF AN EMERGENCY BY THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE MAY CONVENE THEIR RESPECTIVE BODIES FOR THE PURPOSE OF CONSIDERING SUCH DECLARATION, THAT THE GENERAL ASSEMBLY BY CONCURRENT RESOLUTION, MAY TERMINATE, ALTER, AMEND, OR CONSENT TO THE TERMS OF ANY DECLARATION OF EMERGENCY DURING THIS CALLED SESSION, THAT

**TUESDAY, MARCH 2, 2021**

SHOULD THE GENERAL ASSEMBLY NOT ACT, THEN THE TERMS OF THE DECLARATION SHALL CONTINUE UNTIL SUCH TIME AS THE GENERAL ASSEMBLY DOES ACT, THAT A GOVERNOR MAY NOT DECLARE SUCCESSIVE STATES OF EMERGENCY THAT HAVE THE EFFECT OF REINSTATING, CONTINUING, ALTERING, OR AMENDING ANY DECLARATION OF EMERGENCY ADDRESSED BY THE GENERAL ASSEMBLY, AND THAT THE GOVERNOR MAY NOT ISSUE ADDITIONAL OR SUCCESSIVE STATES OF EMERGENCY FOR THE SAME UNDERLYING EVENTS WITHOUT A SUBSTANTIAL CHANGE OF CIRCUMSTANCE.

Read the first time and referred to the Committee on Judiciary.

**REPORTS OF STANDING COMMITTEES**

Senator CLIMER from the Committee on Agriculture and Natural Resources submitted a favorable report on:

S. 108 -- Senator Campsen: A BILL TO AMEND SECTION 48-22-40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DUTIES OF THE STATE GEOLOGICAL SURVEY UNIT, SO AS TO REQUIRE THE UNIT TO CONDUCT TOPOGRAPHIC MAPPING USING LIGHT DETECTION AND RANGING (LiDAR) DATA COLLECTIONS AND ESTABLISH REQUIREMENTS FOR THE INFORMATION COLLECTED DURING THE TOPOGRAPHIC MAPPING.

Ordered for consideration tomorrow.

Senator ALEXANDER from the Committee on Labor, Commerce and Industry submitted a favorable report on:

S. 505 -- Senators Talley, Alexander and Gambrell: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 77 TO TITLE 39 SO AS TO PROVIDE DEFINITIONS, TO PROVIDE THAT A PERSON WHO OWNS OR OPERATES A WEBSITE DEALING IN ELECTRONIC DISSEMINATION OF THIRD-PARTY COMMERCIAL RECORDINGS OR AUDIOVISUAL WORKS SHALL MAKE CERTAIN DISCLOSURES, TO PROVIDE FOR A PRIVATE CAUSE OF ACTION, TO PROVIDE THAT THIS CHAPTER IS SUPPLEMENTAL TO STATE AND FEDERAL CRIMINAL AND CIVIL LAW, AND TO PROVIDE THAT VIOLATIONS CONSTITUTE AN UNFAIR TRADE PRACTICE.

Ordered for consideration tomorrow.

**TUESDAY, MARCH 2, 2021**

Senator CLIMER from the Committee on Agriculture and Natural Resources submitted a favorable with amendment report on:

S. 506 -- Senators Kimbrell, Rice, Garrett, Talley, M. Johnson and Fanning: A BILL TO AMEND SECTION 44-1-143 OF THE 1976 CODE, RELATING TO REQUIREMENTS FOR HOME-BASED FOOD PRODUCTION OPERATIONS, TO EXPAND THE TYPES OF NONPOTENTIALLY HAZARDOUS FOODS THAT MAY BE SOLD TO INCLUDE ALL NONPOTENTIALLY HAZARDOUS FOODS, TO ALLOW FOR DIRECT SALES TO RETAIL STORES, TO ALLOW FOR ONLINE AND MAIL ORDER DIRECT-TO-CONSUMER SALES, TO ALLOW HOME-BASED FOOD PRODUCTION OPERATORS TO PROVIDE ON THEIR LABELS AN IDENTIFICATION NUMBER PROVIDED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, AT THE OPERATOR'S REQUEST, IN LIEU OF THEIR ADDRESSES, AND TO PROVIDE PENALTIES FOR VIOLATIONS.

Ordered for consideration tomorrow.

**Appointment Reported**

Senator ALEXANDER from the Committee on Labor, Commerce and Industry submitted a favorable report on:

**Statewide Appointment**

Reappointment, South Carolina State Board of Barber Examiners, with the term to commence June 30, 2018, and to expire June 30, 2022

Barber:

Renee H. Patton, 5535 Highway 9, Suite C, Inman, SC 29349-7195

Received as information.

**THE SENATE PROCEEDED TO A CALL OF THE UNCONTESTED LOCAL AND STATEWIDE CALENDAR.**

**AMENDED, READ THE SECOND TIME**

S. 510 -- Senators Grooms, Verdin, Davis, Adams, Bennett, Campsen, Climer, Corbin, Cromer, Gambrell, Hembree, Hutto, K. Johnson, Kimbrell, Loftis, Massey, McElveen, Peeler, Senn, Shealy, Talley, Turner, Williams, Young, Alexander, Goldfinch, Harpootlian, Jackson, M. Johnson, Kimpson, Matthews, Rice, Sabb, Setzler, Stephens, Rankin, Scott, Garrett, Fanning, Leatherman, Gustafson, Cash, Allen and Malloy: A BILL TO AMEND SECTION 56-15-10 OF THE 1976

**TUESDAY, MARCH 2, 2021**

CODE, RELATING TO DEFINITIONS FOR THE REGULATION OF MOTOR VEHICLE MANUFACTURERS, DISTRIBUTORS, AND DEALERS, TO AMEND AND ADD DEFINITIONS, TO AMEND ARTICLE 1, CHAPTER 15, TITLE 56 OF THE 1976 CODE BY ADDING SECTION 56-15-35, TO PROVIDE FOR HOW A FRANCHISOR, MANUFACTURER, DISTRIBUTOR, OR A THIRD PARTY AFFILIATE MUST HANDLE CONSUMER DATA; TO AMEND SECTION 56-15-40 OF THE 1976 CODE, RELATING TO SPECIFIC ACTS DEEMED UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS OR PRACTICES, TO AMEND A VIOLATION FOR TAKING ANY ADVERSE ACTION AGAINST A DEALER FOR OFFERING OR DECLINING TO OFFER PROMOTIONS, SERVICE CONTRACTS, DEBT CANCELLATION AGREEMENTS, MAINTENANCE AGREEMENTS, OR OTHER SIMILAR PRODUCTS; AND TO ADD AND PROVIDE FOR ADDITIONAL VIOLATIONS; TO AMEND SECTION 56-15-45(A)(3) AND (D) OF THE 1976 CODE, RELATING TO OWNERSHIP, OPERATION OR CONTROL OF COMPETING DEALERSHIPS BY MANUFACTURER OR FRANCHISOR, TO PROVIDE FOR A DATE CHANGE, TO DELETE QUALIFICATIONS FOR AN EXEMPTION, AND TO ADD THAT A MANUFACTURER MAY NOT LEASE OR ENTER INTO A SUBSCRIPTION AGREEMENT EXCEPT TO A NEW DEALER HOLDING A FRANCHISE IN THE LINE MAKE THAT INCLUDES THE VEHICLE; TO AMEND SECTION 56-15-46 OF THE 1976 CODE, RELATING TO THE NOTICE OF INTENT TO ESTABLISH OR RELOCATE COMPETING DEALERSHIP, TO AMEND THE RADIUS AND ADD A TIME REQUIREMENT FOR NOTICE; TO AMEND SECTION 56-15-50 OF THE 1976 CODE, RELATING TO THE REQUIREMENT THAT MANUFACTURERS MUST SPECIFY DELIVERY AND PREPARATION OBLIGATIONS OF DEALERS, FILING OF COPY OF OBLIGATIONS, AND SCHEDULE OF COMPENSATION, TO ADD A PROVISION FOR INDEMNIFICATION; TO AMEND SECTION 56-15-60 OF THE 1976 CODE, RELATING TO THE FULFILLMENT OF WARRANTY AGREEMENTS AND A DEALERS' CLAIMS FOR COMPENSATION, TO PROVIDE THAT IT IS UNLAWFUL FOR A NEW MOTOR VEHICLE MANUFACTURER TO RECOVER ANY PORTION OF ITS COSTS FOR COMPENSATING DEALERS FOR RECALLS OR WARRANTY PARTS AND SERVICE, EITHER BY REDUCTION IN THE AMOUNT DUE TO THE DEALER, OR BY



**TUESDAY, MARCH 2, 2021**

SEPARATE CHARGE, SURCHARGE, OR OTHER IMPOSITION, TO PROVIDE FOR COMPENSATION AND A COMPENSATION SCHEDULE, TO PROVIDE EXCLUSIONS, TO PROHIBIT A MANUFACTURER FROM TAKING CERTAIN ADVERSE ACTION AGAINST A DEALER TO SEEKING TO OBTAIN COMPENSATION, TO PROVIDE FOR A PROTEST PROCEDURE, TO PROVIDE FOR CLAIMS AND VIOLATIONS, TO PROVIDE FOR AUDITS, AND TO PROVIDE FOR USED MOTOR VEHICLES; TO AMEND SECTION 56-15-65 OF THE 1976 CODE, RELATING TO REQUIREMENTS FOR A CHANGE OF LOCATION OR ALTERATION OF A DEALERSHIP, TO PROVIDE ADDITIONAL VIOLATIONS; TO AMEND SECTION 56-15-70 OF THE 1976 CODE, RELATING TO CERTAIN UNREASONABLE RESTRICTIONS ON DEALERS OR FRANCHISEES THAT ARE UNLAWFUL, TO ADD RELOCATION; TO AMEND SECTION 56-15-75 OF THE 1976 CODE, RELATING TO REQUIREMENTS THAT THE DEALER REFRAIN FROM ACQUIRING ANOTHER LINE OF NEW MOTOR VEHICLES, TO DELETE THE EVIDENTIARY STANDARD; TO AMEND SECTION 56-15-90 OF THE 1976 CODE, RELATING TO THE FAILURE TO RENEW, TERMINATION OR RESTRICTION OF TRANSFER OF FRANCHISE AND DETERMINING REASONABLE COMPENSATION FOR THE VALUE OF A DEALERSHIP FRANCHISE, TO EXPAND FAIR MARKET VALUE CONSIDERATIONS; TO AMEND SECTION 56-15-140 OF THE 1976 CODE, RELATING TO VENUE, AND TO DECLARE THAT VENUE IS IN STATE COURTS IN SOUTH CAROLINA RATHER THAN THE STATE OF SOUTH CAROLINA.

The Senate proceeded to a consideration of the Bill.

Senators BENNETT, MALLOY, HEMBREE, McELVEEN, and CLIMER proposed the following amendment (SA\ 510C002.BH.SA21), which was adopted:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Section 56-15-10(h)(1), (j), and (l) of the 1976 Code is amended to read:

“(1) manufacturers, distributors, or wholesalers;

(j) ~~‘Franchiser,~~ Franchisor’ a manufacturer, distributor or wholesaler who grants a franchise to a motor vehicle dealer.

**TUESDAY, MARCH 2, 2021**

(l) ‘Sale,’ shall include the issuance, transfer, agreement for transfer, exchange, pledge, hypothecation, mortgage in any form, whether by transfer in trust or otherwise, of any motor vehicle or interest therein or of any franchise related thereto; and any option, lease, subscription or other contract, or solicitation, looking to a sale, or offer or attempt to sell in any form, whether spoken or written. A gift or delivery of any motor vehicle or franchise with respect thereto with, or as, a bonus on account of the sale of anything shall be deemed a sale of such motor vehicle or franchise.’

SECTION 2. Section 56-15-10 of the 1976 Code is amended by adding appropriately lettered items to read:

“( ) ‘Consumer data’ has the same meaning as ‘nonpublic personal information,’ as defined in 15 U.S.C. Section 6809(4), and that is collected by a dealer and provided directly to a manufacturer or third party acting on behalf of a manufacturer. ‘Consumer data’ does not include the same or similar data obtained by a manufacturer from any source other than the dealer or dealer’s data management system.

( ) (1) ‘Data management system’ means a computer hardware or software system that:

(a) is owned, leased, or licensed by a dealer, including a system of web-based applications, computer software, or computer hardware;

(b) is located at the dealership or hosted remotely; and

(c) stores and provides access to consumer data collected or stored by a dealer.

(2) ‘Data management system’ includes, but shall not be limited to, dealership management systems and customer relations management systems.

( ) ‘New motor vehicle dealer’ means a dealer that:

(1) buys, sells, exchanges, offers, or attempts to negotiate a sale or exchange of an interest in new, or new and used, motor vehicles; or

(2) engages, wholly or in part, in the business of selling new, or new and used, motor vehicles.

( ) ‘Relevant market area’ means:

(1) an area within a ten mile radius around an existing dealer, for purposes of the relocation of an existing dealership; and

(2) an area within a fifteen mile radius around an existing dealer, for purposes of the addition of a new dealer to the market.

( ) ‘Stop-Sale Order’ means a notification issued by a manufacturer to its franchised new motor vehicle dealers stating that certain used vehicles in inventory may not be sold or leased, at either retail or

**TUESDAY, MARCH 2, 2021**

wholesale, due to a federal safety recall for a defect or noncompliance, or a federal emissions recall.”

SECTION 3. Article 1, Chapter 15, Title 56 of the 1976 Code is amended by adding:

“Section 56-15-35. (A) If a franchisor, manufacturer, distributor, or third party acting on behalf of a franchisor, manufacturer, or distributor handles consumer data, then the franchisor, manufacturer, distributor, or third party:

(1) must comply with and shall not cause a dealer to violate applicable restrictions regarding reuse or consumer data disclosure established by federal or state law;

(2) upon a dealer’s written request, must provide a statement to the dealer describing procedures that meet or exceed any federal or state consumer data protection requirements;

(3) upon a dealer’s written request, must provide a written list of the consumer data obtained from the dealer and all persons to whom any consumer data has been furnished during the preceding six months. The dealer may make such a request no more than once every six months. The list must indicate the specific fields of consumer data that were provided to each person. Notwithstanding the foregoing, such a list may not be required to include:

(a) a person to whom consumer data was provided, or the specific consumer data provided to such person, if the person was, at the time the consumer data was provided, a service provider or subcontractor acting in the course of performance of services on behalf of or for the benefit of the franchisor, manufacturer, or distributor, provided that the franchisor, manufacturer, or distributor has entered into an agreement with the person requiring that the person comply with the safeguard requirements of applicable state and federal law including, but not limited to, those established in the Gramm-Leach-Bliley Act, 15 U.S.C. Section 6801, et seq.; or

(b) a person to whom consumer data was provided, or the specific consumer data provided to the person, if the dealer has previously consented in writing to the person receiving the consumer data and the dealer has not withdrawn the consent in writing;

(4)(a) may not require a dealer to provide direct or indirect access to the dealer’s data management system for obtaining consumer data. A dealer may furnish consumer data in a widely accepted file format, such as comma delimited, and through a third-party vendor selected by the dealer;

**TUESDAY, MARCH 2, 2021**

(b) may directly access or obtain consumer data from a dealer's data management system with the express written consent from the dealer. The consent must be a separate document executed by the dealer principal and may be withdrawn by the dealer upon providing a thirty-day written notice to the manufacturer or distributor. Consent is not required as a condition of a new motor vehicle dealer's participation in an incentive program, unless consent is necessary to obtain consumer data to implement the program; and

(5) must indemnify the dealer for any third-party claims or damages incurred by the dealer to the extent the damage is caused by access to, use of, or disclosure of consumer data in violation of this section by the franchisor, manufacturer, distributor, or a third party to whom the franchisor, manufacturer, or distributor has provided consumer data.

(B) This section is not a limitation on a franchisor, manufacturer, or distributor's ability to require the dealer to provide or use customer information exclusively related to the manufacturer or distributor's own vehicle makes to the extent necessary to:

(1) satisfy safety, recall, warranty, or other legal notice obligations required of the manufacturer;

(2) complete the sale and delivery of a new motor vehicle to a customer;

(3) validate and pay customer or dealer incentives;

(4) submit claims for any services supplied by the dealer for any claim for warranty parts or repair;

(5) perform market analysis;

(6) perform sales or service consumer satisfaction surveys; or

(7) perform reasonable marketing that benefit the dealer."

SECTION 4. Section 56-15-40 of the 1976 Code is amended to read:

"Section 56-15-40. (A) For the purposes of this section:

(1) 'Goods' does not include moveable displays, brochures, or promotional materials containing information subject to a manufacturer or distributor's intellectual property rights; special tools as reasonably required by the manufacturer; or repair parts under a manufacturer or distributor's warranty obligations.

(2) 'Financial services company' or 'captive finance source' means any finance source that provides automotive-related loans, or purchases retail installment contracts or lease contracts for motor vehicles and is, directly or indirectly, owned, operated, or controlled, in whole or in part, by a manufacturer, a distributor, a wholesaler, a

TUESDAY, MARCH 2, 2021

distributor branch or division, a factory branch or division, or a wholesale branch or division.

~~(1)(B)~~ It shall be deemed a violation of ~~paragraph (a)~~ of Section 56-15-30~~(a)~~ for any manufacturer, factory branch, factory representative, distributor, or wholesaler, distributor branch, distributor representative or motor vehicle dealer to engage in any action which is arbitrary, in bad faith, or unconscionable and which causes damage to any of the parties or to the public.

~~(2)(C)~~ It shall be deemed a violation of ~~subsection (a)~~ of Section 56-15-30~~(a)~~ for a manufacturer, a distributor, a wholesaler, a distributor branch or division, a factory branch or division, or a wholesale branch or division, or an officer, agent or other representative, to require, coerce, or attempt to coerce, any motor vehicle dealer:

~~(a)(1)~~ to order or accept delivery of any motor vehicle or vehicles, appliances, equipment, parts or accessories, or any other commodity or commodities which such motor vehicle dealer has not voluntarily ordered;

~~(b)(2)~~ to order or accept delivery of any motor vehicle with special features, appliances, accessories, or equipment not included in the list price of said motor vehicles as publicly advertised by the manufacturer thereof;

~~(c)(3)~~ to order for any person any parts, accessories, equipment, machinery, tools, appliances, or any commodity whatsoever;

~~(d)(4)~~ to offer to sell or to sell any extended service contract, extended maintenance plan, financial product, or insurance product offered, sold, or sponsored by the manufacturer, distributor, or wholesaler. Nothing in this item shall prohibit a manufacturer or distributor or financial arm from providing functionally available incentive programs to a motor vehicle dealer who voluntarily offers to sell or sells any extended service contract, extended maintenance plan, financial product, or insurance product offered, sold, or sponsored by the manufacturer or distributor or financial arm to coerce, require, threaten, measure performance, or take any adverse action against a dealer for offering or declining to offer or promote, service contracts, debt cancellation agreements, maintenance agreements, or other similar products. This does not prohibit a manufacturer, distributor, affiliate, or captive finance source from offering voluntary incentives to the motor vehicle dealer;

~~(e)(5)~~ to sell, assign, or transfer any retail installment sales contract or lease obtained by the motor vehicle dealer in connection with the sale or lease of a new motor vehicle manufactured by the manufacturer to a

**TUESDAY, MARCH 2, 2021**

specified finance company, class of finance companies, leasing company, class of leasing companies, or to any other specified person.

~~(3)~~(D) It shall be deemed a violation of ~~paragraph (a) of~~ Section 56-15-30(a) for a manufacturer, a distributor, a wholesaler, a distributor branch or division, a factory branch or division, or a wholesale branch or division, or officer, agent or other representative thereof:

~~(a)~~(1) to refuse to deliver in reasonable quantities and within a reasonable time after receipt of dealer's order, to any motor vehicle dealer having a franchise or contractual arrangement for the retail sale of new motor vehicles sold or distributed by such manufacturer, distributor branch or division, factory branch or division or wholesale branch or division, any such motor vehicles as are covered by such franchise or contract specifically publicly advertised by such manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division to be available for immediate delivery; provided, however, the failure to deliver any motor vehicle shall not be considered a violation of this chapter if such failure be due to an act of God, work stoppage or delay due to a strike or labor difficulty, shortage of materials, freight embargo or other cause over which the manufacturer, distributor, or wholesaler, or any agent thereof, shall have no control;

~~(b)~~(2) to coerce, or attempt to coerce, any motor vehicle dealer to enter into any agreement with such manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division, or officer, agent or other representative thereof, or to do any other act prejudicial to such dealer by threatening to cancel any franchise or any contractual agreement existing between such manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division, and such dealer; provided, however, that notice in good faith to any motor vehicle dealer of such dealer's violation of any terms or provisions of such franchise or contractual agreement shall not constitute a violation of this chapter;

~~(c)~~(3) to terminate or cancel the franchise or selling agreement of any such dealer without due cause. The nonrenewal of a franchise or selling agreement, without due cause, shall constitute an unfair termination or cancellation, regardless of the terms or provisions of such franchise or selling agreement. Such manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division, or officer, agent or other representatives thereof shall notify a motor vehicle dealer in writing of the termination

**TUESDAY, MARCH 2, 2021**

or cancellation of the franchise or selling agreement of such dealer at least ~~sixty~~ ninety days before the effective date thereof, stating the specific grounds for such termination or cancellation, except that such notification may not be provided less than fifteen days before the effective date of the termination, cancellation, or nonrenewal with respect to any of the following: (a) insolvency of the new motor vehicle dealer, or filing of any petition by or against the new motor vehicle dealer under any bankruptcy or receivership law; (b) failure of the new motor vehicle dealer to conduct its customary sales and service operations during its customary business hours for seven consecutive business days, except for acts of God or circumstances beyond the direct control of the new motor vehicle dealer; (c) revocation of any license which the new motor vehicle dealer is required to have to operate a dealership; or (d) conviction of a felony involving moral turpitude, under the laws of this State or any other state, territory, or the District of Columbia; and such manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division, or officer, agent or other representative thereof shall notify a motor vehicle dealer in writing by registered or certified mail with a return receipt requested at least ~~sixty~~ ninety days before the contractual term of his franchise or selling agreement expires that the same will not be renewed, stating the specific grounds for such nonrenewal in those cases where there is no intention to renew, and in no event shall the contractual term of any such franchise or selling agreement expire, without the written consent of the motor vehicle dealer involved, prior to the expiration of at least ~~sixty~~ ninety days following such written notice, or before the expiration of at least fifteen days following written notice of termination, cancellation, or nonrenewal for any of the following: (a) insolvency of the new motor vehicle dealer, or filing of any petition by or against the new motor vehicle dealer under any bankruptcy or receivership law; (b) failure of the new motor vehicle dealer to conduct its customary sales and service operations during its customary business hours for seven consecutive business days, except for acts of God or circumstances beyond the direct control of the new motor vehicle dealer; (c) revocation of any license which the new motor vehicle dealer is required to have to operate a dealership; or (d) conviction of a felony involving moral turpitude, under the laws of this State or any other state, territory, or the District of Columbia. During a termination, cancellation, or nonrenewal requiring the ~~sixty-day~~ ninety-day notification period, either party may in appropriate circumstances petition a court to modify such ~~sixty-day~~ ninety-day stay or to extend it pending a final determination of such

**TUESDAY, MARCH 2, 2021**

proceedings on the merits. The court shall have authority to grant preliminary and final injunctive relief. A dealer who receives notice of franchise termination, cancellation, or nonrenewal as provided herein shall continue to have the right to assign, sell, or transfer the franchise to a third party under the franchise and pursuant to Section 56-15-70 unless otherwise ordered by a court and until franchise termination, cancellation, or nonrenewal are effective;

~~(d)~~(4) to resort to or use any false or misleading advertisement in connection with his business as such manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division, or officer, agent or other representative thereof;

~~(e)~~(5) to offer to sell or to sell any new motor vehicle to any motor vehicle dealer at a lower actual price therefor than the actual price offered to any other motor vehicle dealer for the same model vehicle similarly equipped or to utilize any device including, but not limited to, a sales promotion ~~plans plan~~ or ~~programs a program~~ which ~~result results~~ in such lesser actual price; provided, however, the provisions of this paragraph shall not apply to sales to a motor vehicle dealer for resale to any unit of the United States Government, the State or any of its political subdivisions; and provided, further, the provisions of this paragraph shall not apply to sales to a motor vehicle dealer of any motor vehicle ultimately sold, donated or used by such dealer in a driver education program; and provided, further, that the provisions of this paragraph shall not apply so long as a manufacturer, distributor, or wholesaler, or any agent thereof, offers to sell or sells new motor vehicles to all motor vehicle dealers at an equal price. This provision shall not apply to sales by manufacturer, distributor, or wholesaler to the United States Government or any agency thereof;

~~(f)~~(6) to wilfully discriminate, either directly or indirectly, in price between different purchasers of a commodity of like grade or quality where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly or to injure or destroy the business of a competitor;

~~(g)~~(7) to offer to sell or to sell parts or accessories to any new motor vehicle dealer for use in his own business for the purpose of repairing or replacing the same on a comparable part or accessory, at a lower actual price therefor than the actual price charged to any other new motor vehicle dealer for similar parts or accessories for use in his own business; provided, however, in those cases where motor vehicle dealers operate and serve as wholesalers of parts and accessories to retail outlets or other



**TUESDAY, MARCH 2, 2021**

dealers, whether or not such dealer is regularly designated as a wholesaler, nothing herein contained shall be construed to prevent a manufacturer, distributor, or wholesaler, or any agent thereof, from selling to such motor vehicle dealer who operates and services as a wholesaler of parts and accessories, such parts and accessories as may be ordered by such motor vehicle dealer for resale to retail outlets, at a lower actual price than the actual price charged a motor vehicle dealer who does not operate or serve as a wholesaler of parts and accessories;

~~(h)~~(8) to prevent or attempt to prevent by contract or otherwise, any motor vehicle dealer from changing the capital structure of his dealership or the means by or through which he finances the operation of his dealership, provided the dealer at all times meets any reasonable capital standards agreed to between the dealership and the manufacturer, distributor or wholesaler, and provided such change by the dealer does not result in a change in the executive management of the dealership;

~~(i)~~(9) to prevent or attempt to prevent by contract or otherwise, any motor vehicle dealer or any officer, partner or stockholder of any motor vehicle dealer from selling or transferring any part of the interest of any of them to any other person or persons or party or parties; provided, however, that no dealer, officer, partner or stockholder shall have the right to sell, transfer or assign the franchise or power of management or control thereunder without the consent of the manufacturer, distributor or wholesaler except that such consent shall not be unreasonably withheld. If a manufacturer or distributor objects, then the objection must state the reasons for the denial of the request. A copy must be provided to the motor vehicle dealer by certified mail, return receipt requested, within forty-five days of the receipt of the dealer candidate's application and all documents reasonably required by the manufacturer, distributor, or wholesaler;

~~(j)~~(10) to obtain money, goods, services, anything of value, or any other benefit from any other person with whom the motor vehicle dealer does business, on account of or in relation to the transactions between the dealer and such other person, unless such benefit is promptly accounted for and transmitted to the motor vehicle dealer;

~~(k)~~(11) to require a motor vehicle dealer to assent to a release, assignment, novation, waiver or estoppel which would relieve any person from liability imposed by this chapter;

(12) to refuse to pay, or claim reimbursement from, a dealer for sales, incentives, or payments related to a motor vehicle sold by the dealer because the purchaser exported or resold the motor vehicle in violation of the manufacturer's policy, unless the manufacturer can show

**TUESDAY, MARCH 2, 2021**

that the dealer knew or reasonably should have known at the time of the sale that the purchaser intended to export or resell the motor vehicle. There is a rebuttable presumption that the dealer did not know or should not have reasonably known that the vehicle would be exported if the vehicle is titled and registered in any state of the United States;

(13) to allocate its products within this State in a manner that provides any of its franchised dealers an unfair, unreasonable, and inequitable supply of products and vehicles by series, product line, and model, based on each dealer's historical selling pattern as compared to other same line-make dealers. Additionally, a manufacturer or distributor may not establish a specific sales performance standard that does not take into account the actual vehicle allocation offered to the dealer by the manufacturer or distributor, as well as the dealer's inventory levels relevant to achieve any minimum performance standards to which the manufacturer or distributor holds the dealer accountable; provided, however, the failure to provide allocation of any products or vehicles, including by series, product line, or model, may not be considered a violation of this chapter if such failure is due to an act of God, natural disaster, force majeure, work stoppage or delay due to a strike or labor difficulty, shortage of materials, production limitation, freight embargo, or other cause over which the manufacturer, distributor, or wholesaler, or any agent thereof, has no control, including the dealer's refusal or declination to accept product allocation offered; or

(14) to require, coerce, or attempt to coerce a dealer that is constructing, renovating, or substantially altering its dealership facility to purchase goods or services from a vendor selected, identified, or designated by a manufacturer, distributor, affiliate, or captive finance source if the dealer may obtain goods or services, that are of substantially similar material, quality, and design to those required by the manufacturer, distributor, affiliate, or captive finance source from a vendor selected by the dealer. Prior to selecting a vendor, the dealer must obtain approval from the manufacturer, distributor, affiliate, or captive finance source. Approval may not be unreasonably withheld. If the manufacturer, distributor, affiliate, or captive finance source claims that a vendor selected by the dealer cannot supply substantially similar goods or services, then the dealer may file a protest with the court of common pleas. The court shall conduct a hearing on the merits of the protest within ninety days following the filing of a response to the protest. The manufacturer, distributor, affiliate, or captive finance source shall bear the burden of proving that the goods or services chosen by the dealer are not of substantially similar material, quality, and design to those required

TUESDAY, MARCH 2, 2021

by the manufacturer, distributor, affiliate, or captive finance source. Nothing in this item may be construed to allow a dealer to impair or eliminate a manufacturer, distributor, affiliate, or captive finance source's intellectual property or trademark rights and trade dress usage guidelines or impair other intellectual property interests owned or controlled by the manufacturer, distributor, affiliate, or captive finance source, including the design and use of signs. This section does not apply to any facility or premise improvement or alteration that is voluntarily agreed to by the new motor vehicle dealer and for which the dealer receives facilities-related compensation from the manufacturer or distributor for the facility improvement or alteration equivalent to at least a majority of the cost incurred by the dealer for the facility improvement or alteration.

~~(4)(E)~~ It shall be deemed a violation of ~~paragraph (a)~~ of Section 56-15-30(a) for a motor vehicle dealer:

~~(a)(1)~~ To require a purchaser of a new motor vehicle, as a condition of sale and delivery thereof, to also purchase special features, appliances, equipment, parts or accessories not desired or requested by the purchaser; provided, however, that this prohibition shall not apply as to special features, appliances, equipment, parts or accessories which are already installed on the car when received by the dealer; provided, further, that the motor vehicle dealer prior to the consummation of the purchase reveals to the purchaser the substance of this ~~paragraph item~~.

~~(b)(2)~~ To represent and sell as a new motor vehicle any motor vehicle which has been used and operated for demonstration purposes or which is otherwise a used motor vehicle.

~~(c)(3)~~ To resort to or use any false or misleading advertisement in connection with his business as such motor vehicle dealer.

~~(5)(F)~~ There is hereby created the Office of Administrator, within the Attorney General's office, and he shall appoint such personnel within his office for the purpose of regulating this chapter. The Administrator shall have the power to investigate, issue cease and desist orders and injunctive relief on any valid abuse connected with the sale, rental or leasing of a new or used motor vehicle; provided, however, this power shall only apply after reasonable attempts by the consumer have been made with the seller, dealer, manufacturer or lessor of the motor vehicle to alleviate the complaint.

~~(6)(a)(G)~~ For purposes of this subsection, a 'financial services company' means any finance source that provides automotive-related loans, or purchases retail installment contracts or lease contracts for motor vehicles and is, directly or indirectly, owned, operated, or

**TUESDAY, MARCH 2, 2021**

~~controlled, in whole or in part, by a manufacturer, a distributor, a wholesaler, a distributor branch or division, a factory branch or division, or a wholesale branch or division.~~ A manufacturer or distributor may not use any financial services company, captive finance source, or leasing company owned or controlled by the manufacturer or distributor to accomplish what would otherwise be illegal conduct on the part of the manufacturer or distributor pursuant to ~~subitem (2)(4)~~ subsection (C)(4) or ~~(e)(5).~~”

SECTION 5. Section 56-15-45(A)(3) and (D) of the 1976 Code are amended to read:

“(3) at the same location at which the manufacturer or franchisor has been continuously engaged in the retail sale of new motor vehicles as the owner, operator, or controller of the dealership ~~for a continuous two-year period of time immediately before~~ since January 1, ~~1998~~ 2000, ~~where there is no prospective new motor vehicle dealer available to own or operate the dealership in a manner consistent with the public interest.~~

(D) Except as may be provided otherwise in subsections (A) and (B) of this section, a manufacturer or franchisor may not sell, or lease, directly or indirectly, a motor vehicle to a consumer in this State, except through a new motor vehicle dealer holding a franchise for the line make that includes the motor vehicle. This subsection does not apply to manufacturer or franchisor sales of new motor vehicles to the federal government, nor to manufacturer or franchisor leases of new motor vehicles to employees of the manufacturer or franchisor. Nothing in this subsection prohibits a manufacturer or franchisor or any parent, affiliate, wholly or partially owned subsidiary, officer, or representative of a manufacturer or franchisor operating as a motor vehicle lessor from selling a motor vehicle to the lessee at the conclusion of a lease agreement between the two parties. Nothing in this subsection prevents a manufacturer or franchisor from establishing an e-commerce website for the purpose of referring prospective customers to motor vehicle dealers holding a franchise for the same line make of the manufacturer or franchisor.”

SECTION 6. Section 56-15-46(A) and (B) of the 1976 Code are amended to read:

“Section 56-15-46. (A) A franchisor that intends to establish a new dealership or to relocate a current dealership for a particular line-make motor vehicle within ~~a ten-mile radius~~ the relevant market area of an existing dealership of the same line-make motor vehicle shall give at least sixty-days’ prior written notice of that intent by certified mail to the existing dealership. The notice must include the:

**TUESDAY, MARCH 2, 2021**

- (1) specific location of the additional or relocated dealership;
- (2) date of commencement of operation of the additional or relocated dealership at the new location;
- (3) identities of all existing dealerships located in the market area of the new or relocated dealership; and
- (4) names and addresses of the dealer and principals in the new or relocated dealership.

(B) If a franchisor intends to establish a new dealership or to relocate ~~a current~~ an existing dealership within ~~a ten-mile radius~~ the relevant market area of an existing dealership, then that existing dealership may petition the court, within sixty days of the receipt of the notice, to enjoin or prohibit the establishment of the new or relocated dealership within a ~~ten-mile radius~~ the relevant market area of the existing dealership. The court shall enjoin or prohibit the establishment of the new or relocated dealership within a ~~ten-mile radius~~ the relevant market area of the protesting dealership unless the franchisor shows by a preponderance of the evidence that the existing dealership is not providing adequate representation of the line-make motor vehicle and that the new or relocated dealership is necessary to provide the public with reliable and convenient sales and service within that area. The burden of proof in establishing adequate representation is on the franchisor. In determining if the existing dealership is providing adequate representation and if the new or relocated dealership is necessary, the court may consider, but is not limited to considering:

- (1) the impact the establishment of the new or relocated dealership will have on consumers, the public interest, and the protesting dealership, except that financial impact may be considered only with respect to the protesting dealership;
- (2) the size and permanency of investment reasonably made and the reasonable obligations incurred by the protesting dealership to perform its obligation pursuant to the dealership's franchise agreement;
- (3) the reasonably expected market penetration of the line-make motor vehicle, after consideration of all factors which may affect the penetration including, but not limited to, demographic factors such as age, income, education, size class preference, product popularity, retail lease transactions, and other factors affecting sales to consumers;
- (4) actions by the franchisor in denying its existing dealership of the same line make the opportunity for reasonable growth, market expansion, or relocation, including the availability of line-make motor vehicles in keeping with reasonable expectations of the franchisor in providing an adequate number of dealerships;

**TUESDAY, MARCH 2, 2021**

(5) attempts by the franchisor to coerce the protesting dealership into consenting to an additional or relocated dealership of the same line make within a ten-mile radius of the protesting dealership;

(6) distance, travel time, traffic patterns, and accessibility between the protesting dealership of the same line make and the location of the proposed new or relocated dealership;

(7) the likelihood of benefits to consumers from the establishment or relocation of the dealership, which benefits may not be obtained by other geographic or demographic changes or other expected changes within a ten-mile radius of the protesting dealership;

(8) if the protesting dealership is in substantial compliance with its franchise agreement;

(9) if there is adequate interbrand and intrabrand competition with respect to the line-make motor vehicles, including the adequacy of sales and service facilities;

(10) if the establishment or relocation of the proposed dealership appears to be warranted and justified based on economic and market conditions pertinent to dealerships competing within a ten-mile radius of the protesting dealership, including anticipated changes; and

(11) the volume of registrations and service business transacted by the protesting dealership.

(C) This section does not apply to the:

(1) ~~addition of a new dealership at a location that is~~ relocation of an existing new motor vehicle dealer within a three-mile radius of a former dealership of the same line make and that has been closed for less than two years two miles of the existing site of the new motor vehicle dealership if the franchise has been operating on a regular basis from the existing site for a minimum of three years immediately preceding the relocation; or

(2) ~~relocation of an existing dealership to a new location that is further away from the protesting dealer's location than the relocated dealer's previous location; or~~ new motor vehicle dealer if the proposed site of the relocated new motor vehicle dealership is further away from all other new motor vehicle dealers of the same line make in that relevant market area

(3) ~~relocation of an existing dealership to a new location that is within a three-mile radius of the dealership's current location, when it has been at the current location at least ten years."~~

SECTION 7. Section 56-15-50 of the 1976 Code is amended to read:

"Section 56-15-50. (A) Every manufacturer shall specify to the dealer the delivery and preparation obligations of its motor vehicle

**TUESDAY, MARCH 2, 2021**

dealers prior to delivery of new motor vehicles to retail buyers. A copy of the delivery and preparation obligations of its motor vehicle dealers and a schedule or statement of the compensation to be paid or credited to its motor vehicle dealers for the work and services they shall be required to perform in connection with such delivery and preparation obligations shall be filed with the Department of Motor Vehicles by every motor vehicle manufacturer and shall constitute any such dealer's only responsibility for product liability as between such dealer and such manufacturer. The compensation as set forth on such schedule or statement shall be reasonable and paid or credited as set out in Section 56-15-60.

(B) Every manufacturer and franchisor shall indemnify and hold harmless its franchised dealers licensed in this State against any judgment for damages or settlements agreed to by the manufacturer or franchisor including, but not limited to, court costs and reasonable attorneys' fees of the motor vehicle dealer arising out of complaints, claims, or lawsuits including, but not limited to, strict liability, negligence, misrepresentation, express or implied warranty, or rescission or revocation of acceptance of the sale of a motor vehicle to the extent that the judgment or settlement relates to the alleged defective negligent manufacture, assembly, or design of new motor vehicles, parts, or accessories or other functions by the manufacturer or franchisor, but excluding any judgment or settlement that is the result, in whole or in part, of the dealer's negligence or wrong doing."

SECTION 8. Section 56-15-60 of the 1976 Code is amended to read:

~~"Section 56-15-60. (A)(1) Every — manufacturer, — distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division must fulfill properly a warranty agreement and compensate adequately and fairly each of its motor vehicle dealers for labor and parts. All warranty claims, service claims, or incentive claims made by motor vehicle dealers pursuant to this section and Section 56-15-50 for labor and parts must be paid within thirty days following their approval. All claims must be either approved or disapproved within thirty days after their receipt. Any claim not specifically disapproved in writing within thirty days of receipt shall be construed as approved and payment must follow within thirty days. The motor vehicle dealer who submits a disapproved claim must be notified in writing of its disapproval within that period, and the notice must state the specific grounds upon which the disapproval is based.~~

~~(2) A claim disapproval must be based on a material defect. A manufacturer shall not disapprove claims:~~

TUESDAY, MARCH 2, 2021

~~(a) for which the motor vehicle dealer has received preauthorization from the manufacturer or its representative; or~~

~~(b) based on the motor vehicle dealer's incidental failure to comply with a specific claim processing requirement that results in a clerical or administrative error.~~

~~(3) In the event of neglect, oversight, or mistake by the motor vehicle dealer, the dealer may submit an amended claim for labor and parts up to sixty days from the date on which the manufacturer provided written notice to the motor vehicle dealer of the material defect or deviation. The motor vehicle dealer must substantiate the claim in accordance with the manufacturer's reasonable written procedures.~~

~~(4) Any special handling of claims required by the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division, but not uniformly required of all dealers of that make, may be enforced only after thirty days' notice in writing of good and sufficient reason.~~

~~(B) An audit for sales incentives, service incentives, rebates, or other forms of incentive compensation may include only the twelve month period immediately following the date of the termination of the incentive compensation program. This limitation is not effective in the case of fraudulent claims.~~

~~(C) If an audit or other authorized means of review by the manufacturer or franchisor discloses a material defect in the claim, the manufacturer or franchisor may demand reimbursement for funds previously paid to a dealer for warranty service provided the audit is completed within twelve months of filing a claim. It is unlawful for a new motor vehicle manufacturer to recover any portion of its costs for compensating dealers for recalls or warranty parts and service, either by reduction in the amount due to the dealer, or by separate charge, surcharge, or other imposition.~~

~~(B) A manufacturer or distributor shall specify in writing to each of its dealers operating in this State the dealer's obligations for preparation, delivery, and warranty services related to the manufacturer or distributor's products. The manufacturer or distributor shall compensate the dealer for the warranty services the manufacturer or distributor requires the dealer to provide, including warranty and recall obligations related to repairing and servicing motor vehicles of the manufacturer or distributor and all parts and components authorized by the manufacturer to be installed in or manufactured for installation in such motor vehicles.~~

~~(C)(1) The manufacturer or distributor shall provide to the dealer a schedule of compensation that specifies reasonable compensation the~~



**TUESDAY, MARCH 2, 2021**

manufacturer or distributor will pay to the dealer for the warranty services, including for parts, labor, and diagnostics. For parts and labor warranty reimbursement, reasonable compensation shall not be less than the rate charged by the dealer for like services to nonwarranty customers for nonwarranty parts, service, and repairs if the dealer has submitted a request for retail reimbursement pursuant to item (4).

(2) If the dealer has requested retail reimbursement pursuant to item (4), the schedule of compensation for parts must be determined by multiplying the price paid by the dealer for warranty parts by the sum of one and the dealer's average percentage markup. The dealer's average percentage markup is calculated by subtracting one from the result of dividing the total amounts charged by the dealer for parts used in warranty-like repairs by the total cost to the dealer for the parts in the retail service orders submitted pursuant to item (4).

(3) If the dealer has requested retail reimbursement pursuant to item (4), the schedule of compensation for labor-related warranty services must be determined by dividing the total amount of retail sales attributable to labor for warranty-like services by the number of hours of labor spent to generate the retail sales in the retail service orders submitted pursuant to item (4).

(4)(a) The dealer may establish its retail average percentage markup for parts or its labor rate by submitting to the manufacturer copies of one hundred sequential retail service orders paid by the dealer's customers, or all of the dealer's retail service orders paid by the dealer's customers in a ninety-day period, whichever is less, for services provided within the previous one hundred eighty-day period. The manufacturer or distributor may not consider retail service orders or portions of retail service orders attributable to the following types of repairs:

(i) repairs to motor vehicles owned by the dealer;

(ii) repairs made pursuant to manufacturer special events and manufacturer discounted service campaigns;

(iii) parts sold at wholesale or discounted by a dealer for repairs made to government vehicles or insurance work for which volume discounts have been negotiated;

(iv) tires;

(v) routine maintenance such as alignments, flushes, oil changes, brake pads or rotors, lightbulbs, fluids, filters, batteries, belts, and hoses;

(vi) nuts, bolts, fasteners, and similar items that do not have an individual part number.

TUESDAY, MARCH 2, 2021

(b) Within thirty days of receiving the dealer's submission, the manufacturer or distributor may request additional necessary documentation to support the submitted orders. If the manufacturer or distributor requests additional documentation to support the submission, then the time period in which the manufacturer or distributor must approve or deny the establishment of the franchise motor vehicle dealer's average percentage markup must be extended by thirty days. The manufacturer or distributor then shall approve or deny the establishment of the dealer's average percentage markup or labor rate. If the manufacturer or distributor approves the establishment of the dealer's average percentage markup or labor rate, the markup or rate calculated under this subitem goes into effect thirty days after the date of the manufacturer or distributor's approval.

(c) A manufacturer or distributor may not require a dealer to establish an average percentage markup or labor rate by a methodology, or by requiring the submission of information, that is unduly burdensome or time-consuming to the dealer including, but not limited to, requiring part-by-part or transaction-by-transaction calculations.

(d) A dealer may not request a change in the dealer's average percentage markup or labor rate more than once in any twelve-month period.

(D)(1) If a manufacturer or distributor provides a part or component to a dealer at reduced or no cost for repairs completed because of a recall, campaign service action, or warranty repair, then the manufacturer or distributor shall compensate the dealer for the part or component in the same manner as compensation for warranty parts based on the dealer's average markup less the cost for the part or component as listed in the manufacturer's or distributor's price schedule.

(2) A manufacturer may not take or threaten to take any adverse action against a dealer seeking to obtain compensation pursuant to this subsection including, but not limited to, creating or implementing an obstacle or process that is inconsistent with the manufacturer's obligations to the dealer.

(3) Within thirty days of receiving a manufacturer's notice of denial of the dealer's parts or labor submission, a new motor vehicle dealer may file a protest with the court of common pleas to protest a manufacturer's denial. If a protest is filed, then the manufacturer possesses the burden of proof to establish that the dealer's submission did not meet the respective submission requirements contained within this subsection or is inaccurate or unreasonable. If a dealer prevails in a protest filed under this subsection, then the dealer's increased parts or

**TUESDAY, MARCH 2, 2021**

labor reimbursement must be provided retroactively as of the date the submission would have been effective but for the manufacturer's denial.

(E) It is a violation of this section for any new motor vehicle manufacturer to fail to:

(1) perform any warranty obligations; or

(2) compensate any new motor vehicle dealer for repairs effected by a recall.

(F)(1) All claims made by a new motor vehicle dealer pursuant to this section for labor and parts shall be paid within thirty days following approval; provided, however, that the manufacturer may audit claims for up to one year after payment and charge the dealer for fraudulent claims, work done unnecessarily, or work not properly performed. All claims must be approved or disapproved within thirty days after receipt on forms and in the manner specified by the manufacturer. Any claim not specifically disapproved in writing within thirty days after receipt shall be construed to be approved and payment must follow within thirty days.

(2) The manufacturer or distributor shall not disapprove a reimbursement claim if the dealer can substantiate the claim, in accordance with the manufacturer's reasonable policies and procedures. A claim may not be denied or charged back due to a dealer's unintentional administrative error if the claim meets the requirements of this subsection. The one-year limitation on the manufacturer's right to audit a claim shall not be in effect in the case of fraudulent claims.

(G)(1) Any audit for warranty or recall parts, service compensation, or compensation for a qualifying used motor vehicle in accordance with subsection (I) only may be conducted once within any twelve-month period and only must be for the twelve-month period immediately following the date of the payment of the claim by the manufacturer, factory branch, distributor, or distributor branch.

(2) Any audit for sales incentives, service incentives, rebates, or other forms of incentive compensation only may be conducted once within any twelve-month period and only must be for the twelve-month period immediately following the date of the payment of the claim by the manufacturer, factory branch, distributor, or distributor branch pursuant to a sales incentives program, service incentives program, rebate program, or other form of incentive compensation program.

(3) The limitations of this subsection do not apply to fraudulent claims.

(H) A manufacturer or distributor shall not charge a dealer back for sales incentives, service incentives, rebates, or other forms of incentive compensation subsequent to the payment of the claim unless it can be

**TUESDAY, MARCH 2, 2021**

shown that the claim was false, fraudulent, or that the dealer failed to reasonably substantiate the claim in accordance with the manufacturer's reasonable written procedures.

(1)(1) A manufacturer shall compensate its new motor vehicle dealers for all labor and parts required by the manufacturer to perform recall repairs. Compensation for recall repairs must be reasonable. If parts or a remedy are not reasonably available to perform a recall service or repair on a used vehicle held for sale by a dealer authorized to sell and service new vehicles of the same line-make within thirty days of the manufacturer issuing the initial notice of recall, and the manufacturer has issued a Stop-Sale or Do-Not-Drive order on the vehicle, the manufacturer shall compensate the dealer at a prorated rate of at least one percent of the value of the vehicle each month beginning on the date that is thirty days after the date on which the Stop-Sale or Do-Not-Drive order was provided to the dealer until the earlier of either of the following:

(a) The date the recall or remedy parts are made available.

(b) The date the dealer sells, trades, or otherwise disposes of the affected used motor vehicle.

(2) The value of a used vehicle must be the average trade-in value for used vehicles as indicated in an independent third-party guide for the year, make, and model of the recalled vehicle.

(3) This subsection only applies to used vehicles subject to safety or emissions recalls pursuant to and recalled in accordance with federal law and regulations and where a Stop-Sale or Do-Not-Drive order has been issued and repair parts or remedy remain unavailable for thirty days or longer. This subsection further applies only to new motor vehicle dealers holding an affected used vehicle for sale:

(a) in inventory at the time the Stop-Sale or Do-Not-Drive order was issued;

(b) which was taken in the used vehicle inventory of the dealer as a consumer trade-in incident to the purchase of a new vehicle from the dealer after the Stop-Sale or Do-Not-Drive order was issued; and

(c) that is a line-make that the dealer is franchised to sell or on which the dealer is authorized to perform recall repairs.

(4) Subject to the audit provisions of subsection (G)(1), it is a violation of this section for a manufacturer to reduce the amount of compensation otherwise owed to an individual new motor vehicle dealer, whether through a chargeback, removal of the individual dealer from an incentive program, or reduction in amount owed under an incentive program solely because the new motor vehicle dealer has submitted a

TUESDAY, MARCH 2, 2021

claim for reimbursement under this section. This item does not apply to an action by a manufacturer that is applied uniformly among all dealers of the same line-make in the State.

(5) All reimbursement claims made by new motor vehicle dealers pursuant to this section for recall remedies or repairs, or for compensation where no part or repair is reasonably available and the vehicle is subject to a Stop-Sale or Do-Not-Drive order, is subject to the same limitations and requirements as a warranty reimbursement claim made under this section. In the alternative, a manufacturer may compensate its franchised dealers under a national recall compensation program, provided the compensation under the program is equal to or greater than that provided under this subsection; or as the manufacturer and dealer otherwise agree.

(6) A manufacturer may direct the manner and method in which a dealer shall demonstrate the inventory status of an affected used motor vehicle to determine eligibility under this section, provided that the manner and method may not be unduly burdensome and may not require information that is unduly burdensome to provide.

(7) Nothing in this section requires a manufacturer to provide total compensation to a dealer which would exceed the total average trade-in value of the affected used motor vehicle as originally determined under item (2).

(8) Any remedy provided to a dealer under this subsection is exclusive and may not be combined with any other state or federal recall compensation remedy.”

SECTION 9. Section 56-15-65 of the 1976 Code is amended to read:

“Section 56-15-65. (A) It is unlawful for any manufacturer, distributor, factory representative, or distributor representative to require, coerce, or attempt to coerce any motor vehicle dealer to change the location of the motor vehicle dealership or to make any substantial alterations to the dealer's premises or facilities unless:

(1) the manufacturer demonstrates that such change or alteration is reasonable in light of the current market and economic conditions; and

(2) the motor vehicle dealer has been provided written assurance from the manufacturer or distributor of a sufficient supply of motor vehicles to justify such change or alteration.

(B)(1) It is unlawful for any manufacturer, distributor, factory representative, or distributor representative to require, coerce, or attempt to coerce any motor vehicle dealer to change the location of the dealership, or to make any substantial alterations to its dealership premises or facilities if:

TUESDAY, MARCH 2, 2021

(a) the dealer changed the location of the dealership or made substantial alterations to the same signs, franchisor image elements, or other improvements to its premises or facilities within the preceding ten years; and

(b) the change in location or alteration was made pursuing compliance with a facility initiative or program that was sponsored or supported by the manufacturer, factory branch, distributor, or distributor branch, with the approval of the manufacturer, factory branch, distributor, or distributor branch.

(2) This subsection does not apply if the required facility alteration or improvement is necessary to comply with health and safety requirements or are necessary in order to sell and service a motor vehicle offered for sale by the dealer.”

SECTION 10. Section 56-15-70 of the 1976 Code is amended to read:

“Section 56-15-70. It ~~shall be unlawful~~ is unlawful directly or indirectly ~~to~~ impose unreasonable restrictions on the motor vehicle dealer or franchisee relative to transfer, sale, relocation, right to renew, termination, discipline, noncompetition covenants, site-control (whether by sublease, collateral pledge of lease, or otherwise), or to exercise a right of first refusal to purchase, option to purchase, or compliance with subjective standards and assertion of legal or equitable rights.”

SECTION 11. Section 56-15-90 of the 1976 Code is amended to read:

“Section 56-15-90. (A) ~~Anything to the contrary notwithstanding, it shall be~~ It is unlawful for the a manufacturer, wholesaler, distributor, or franchisor, without due cause, to fail to renew on terms then equally available to all its motor vehicle dealers of the same line-make, to terminate a franchise or to unreasonably restrict the transfer of a franchise ~~unless the franchisee~~. In the event of a termination for due cause, the dealer must shall receive fair and reasonable compensation for the value of the business and compensation for its dealership facilities or location as provided in subsection (C).

(B)(1) In determining the fair and reasonable compensation for a business, pursuant to subsection (A) or (D), the value of the business shall include, but not be limited to:

~~(1)(a)~~ (a) the dealer cost for all new untitled, undamaged, and unaltered motor vehicles in the dealer's inventory with less than one thousand miles on the odometer, purchased from the manufacturer or from another same line-make dealer in the ordinary course of business within ~~eighteen~~ twenty-four months of termination;

**TUESDAY, MARCH 2, 2021**

~~(2)~~(b) the dealer cost for all new, unused, and undamaged parts and motor vehicle supplies listed in the manufacturer's or distributor's current price parts catalog and still in the original, resalable merchandising package and in unbroken lots, purchased from the manufacturer or distributor;

~~(3)~~(c) the fair market value of equipment, furnishings, and signage bearing a trademark or trade name of the manufacturer or line-make purchased from and which are in useable and good condition, normal wear and tear excepted, that have not been substantially altered or damaged, required by the manufacturer or distributor and purchased from the manufacturer, distributor, or their approved sources, provided the manufacturer is entitled to an offset for any monetary compensation provided to the dealer at the original purchase of the items;

~~(4)~~(d) the fair market value of special tools and automotive service equipment owned by the dealer that were designated as special tools or equipment required by and purchased from the manufacturer or distributor, if the tools and equipment are in useable and good condition, normal wear and tear excepted; and

~~(5)~~(e) the reasonable cost of return shipping and handling charges incurred as a result of returning such items.

(2) Provided ~~the~~ that a new motor vehicle dealer has clear title to the inventory and other items and is in a position to convey that title to the manufacturer, the payments required under this section shall be paid by the manufacturer, wholesaler, distributor, or franchisor within ninety days of the effective date of the termination, nonrenewal, or cancellation of a franchise. If the inventory or other items are subject to a security interest, the manufacturer, wholesaler, distributor, or franchisor may make payment jointly to the dealer and the holder of the security interest.

(C)(1) Within ninety days of the termination, cancellation, or nonrenewal of a franchise by a manufacturer, wholesaler, distributor, or franchisor, due to a dealer's poor sales and service performance, or due to the discontinuation of a line-make, the party shall pay the franchisee an amount equal to:

~~(1)~~(a) the franchisee's reasonable cost to rent or lease its dealership facility or location for one year or the unexpired term of the lease or rental period, whichever is less; or

~~(2)~~(b) the reasonable rental value of the facilities or location for one year if the franchisee owns the facility or location.

(2) If more than one franchise is being terminated, canceled, or not renewed, then the reimbursement shall be prorated equally among the different manufacturers, wholesalers, distributors, and franchisors. If the

**TUESDAY, MARCH 2, 2021**

facility is used for the operations of more than one franchise and only one is being terminated, then the reasonable rent shall be paid based upon the prorated portion of new vehicle sales for the previous year attributable to the line-make being terminated, canceled, or nonrenewed for the prior one-year period.

(D) In the event a franchisee terminates the franchise agreement with the manufacturer, wholesaler, distributor, or franchisor, it is unlawful for the manufacturer, wholesaler, distributor, or franchisor to not abide by the provisions included in subsection (B) in determining fair and reasonable compensation to the dealer. However, the requirements of subsection (B) do not apply to a termination, cancellation, or nonrenewal due to the sale of the assets or stock of a motor vehicle franchisee.

(E)(1) In the case of a franchise for motor homes as defined in Section 56-15-10(q), subsections (B), (C), and (D) do not apply. If a termination, cancellation, or nonrenewal occurs pursuant to item (2), then the manufacturer or distributor shall compensate the dealer in an amount at least equivalent to the fair market value of the franchise as of:

(a) the date the franchisor announces the action that results in termination, cancellation, or nonrenewal;

(b) the date the action that results in termination, cancellation, or nonrenewal first became general knowledge; or

(c) the day eighteen months before the date on which the notice of termination, cancellation, or nonrenewal is issued, whichever amount is higher.

(2) The provisions of this subsection apply if a termination, cancellation, or nonrenewal occurs as a result of:

(a) any change in ownership, operation, or control of all or any part of the business of the manufacturer or distributor, whether by sale or transfer of assets, corporate stock or other equity interest, assignment, merger, consolidation, combination, joint venture, redemption, operation of law or otherwise;

(b) the termination, suspension, or cessation of a part or all of the business operations of the manufacturer or distributor; or

(c) the discontinuance of the sale of the line-make or brand, or a change in distribution system by the manufacturer, whether through a change in distributors or the manufacturer's decision to cease conducting business through a distributor altogether.”

SECTION 12. Section 56-15-140 of the 1976 Code is amended to read:



**TUESDAY, MARCH 2, 2021**

“Section 56-15-140. In an action brought pursuant to this article, venue is in the state courts of South Carolina. A provision of a franchise or other agreement with contrary provisions is void and unenforceable.”

SECTION 13. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, then such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 14. This act takes effect upon approval by the Governor and applies to all current and future franchises and other agreements in existence between any franchisee located in this State and a franchisor as of the effective date of this act. /

Renumber sections to conform.

Amend title to conform.

Senator BENNETT explained the amendment.

The amendment was adopted.

The question being the second reading of the Bill.

The "ayes" and "nays" were demanded and taken, resulting as follows:

**Ayes 44; Nays 0; Abstain 1**

**AYES**

Adams	Alexander	Allen
Bennett	Campsen	Cash
Climer	Corbin	Cromer
Davis	Fanning	Gambrell
Garrett	Goldfinch	Grooms
Gustafson	Harpootlian	Hembree
Hutto	Jackson	<i>Johnson, Kevin</i>
<i>Johnson, Michael</i>	Kimbrell	Kimpson
Leatherman	Loftis	Malloy
Massey	McElveen	McLeod
Peeler	Rankin	Rice

**TUESDAY, MARCH 2, 2021**

Sabb	Scott	Senn
Setzler	Shealy	Stephens
Talley	Turner	Verdin
Williams	Young	

**Total--44**

**NAYS**

**Total--0**

**ABSTAIN**

Martin

**Total--1**

There being no further amendments, the Bill as amended, was read the second time, passed and ordered to a third reading.

**CARRIED OVER**

S. 475 -- Senators Rankin, Grooms, Williams, Scott, Hembree, McElveen, Senn, Talley, Adams, Harpootlian, Hutto, Goldfinch, Matthews and Gambrell: A JOINT RESOLUTION TO REQUIRE NEXTERA ENERGY, INC. TO PROVIDE CERTAIN DOCUMENTS RELATED TO THE PUBLIC SERVICE AUTHORITY TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE PRESIDENT OF THE SENATE, THE CHAIRMAN OF THE SENATE FINANCE COMMITTEE, THE CHAIRMAN OF THE HOUSE WAYS AND MEANS COMMITTEE, THE CHAIRMAN OF THE SENATE JUDICIARY COMMITTEE AND THE CHAIRMAN OF THE HOUSE JUDICIARY COMMITTEE.

On motion of Senator MASSEY, the Resolution was carried over.

**OBJECTION**

S. 227 -- Senators Shealy, McElveen and Matthews: A BILL TO ENACT THE "MASSAGE THERAPY PRACTICE ACT"; TO AMEND CHAPTER 30, TITLE 40 OF THE 1976 CODE, RELATING TO MASSAGE THERAPY PRACTICE, TO PROVIDE THAT IT IS IN THE INTEREST OF PUBLIC HEALTH, SAFETY, AND WELFARE TO REGULATE THE PRACTICE OF MASSAGE THERAPY, TO PROVIDE FOR THE COMPOSITION AND DUTIES

**TUESDAY, MARCH 2, 2021**

OF THE BOARD OF MASSAGE THERAPY, TO PROVIDE THAT THE DEPARTMENT OF LABOR, LICENSING AND REGULATION SHALL PUBLISH A ROSTER OF LICENSED MASSAGE THERAPISTS AND ESTABLISHMENTS, TO PROVIDE FOR LICENSURE FEES, TO REMOVE THE REQUIREMENT FOR AN ANNUAL REPORT ON THE ADMINISTRATION OF THE MASSAGE THERAPY PRACTICE ACT BY THE DEPARTMENT, TO PROVIDE FOR EXEMPTIONS TO THE MASSAGE THERAPY PRACTICE ACT, TO PROVIDE CERTAIN REQUIREMENTS FOR THE TEMPORARY PRACTICE OF MASSAGE THERAPY, TO PROVIDE THAT NO PERSON MAY PRACTICE OR OFFER TO PRACTICE MASSAGE THERAPY WITHOUT A LICENSE, TO PROVIDE THAT NO PERSON OR ENTITY MAY OPEN, OPERATE, MAINTAIN, USE, OR ADVERTISE AS A MASSAGE THERAPY ESTABLISHMENT OR A SOLE PRACTITIONER ESTABLISHMENT WITHOUT OBTAINING A LICENSE, TO PROVIDE PENALTIES, TO CLARIFY LICENSURE REQUIREMENTS FOR A MASSAGE THERAPIST LICENSE, TO PROVIDE LICENSURE REQUIREMENTS FOR A MASSAGE THERAPY ESTABLISHMENT OR SOLE PRACTITIONER ESTABLISHMENT, TO PROVIDE THAT THE BOARD MAY GRANT A LICENSE BY ENDORSEMENT TO A MASSAGE THERAPIST WHO HOLDS AN ACTIVE MASSAGE THERAPIST LICENSE AND IS IN GOOD STANDING IN ANOTHER STATE, THE DISTRICT OF COLUMBIA, OR ANY OTHER UNITED STATES TERRITORY, TO CLARIFY REQUIREMENTS RELATED TO APPLYING FOR AND OBTAINING A LICENSE, TO PROVIDE FOR PERIODIC INSPECTIONS OF MASSAGE THERAPY ESTABLISHMENTS AND SOLE PRACTITIONER ESTABLISHMENTS, TO PROVIDE THAT CERTAIN REQUIREMENTS RELATING TO LICENSES SHALL BE COMPLETED BIENNIALLY, TO PROVIDE THAT RENEWAL OF LICENSES SHALL BE COMPLETED IN A MANNER PROVIDED BY THE BOARD, TO PROVIDE THAT CONTINUING EDUCATION REPORTS ARE SUBJECT TO AUDITS, TO CLARIFY CERTAIN REQUIREMENTS RELATED TO LAPSED LICENSES, TO PROVIDE THAT A LICENSEE MAY PROVIDE A WRITTEN REQUEST TO THE BOARD TO PLACE A LICENSE IN INACTIVE STATUS, TO PROVIDE THAT A LICENSEE MUST BIENNIALLY RENEW ITS LICENSE TO REMAIN IN INACTIVE STATUS, TO PROVIDE THAT A LICENSE MAY BE REACTIVATED IN A

**TUESDAY, MARCH 2, 2021**

MANNER PROVIDED BY THE BOARD, TO PROVIDE THAT INACTIVE STATUS DOES NOT STAY ANY DISCIPLINARY ACTIONS FOR VIOLATIONS THAT OCCURRED DURING THE COURSE OF AN ACTIVE LICENSE, TO CLARIFY REGULATIONS THAT SHALL BE PROMULGATED BY THE BOARD, TO PROVIDE THAT THE DEPARTMENT SHALL INVESTIGATE COMPLAINTS AND VIOLATIONS, TO PROVIDE THAT THE PRESIDING OFFICER OF THE BOARD MAY ADMINISTER OATHS, TO PROVIDE FOR APPEALS OF THE BOARD'S DECISIONS, TO PROVIDE THAT SERVICE OF A NOTICE OF AN APPEAL DOES NOT STAY THE BOARD'S OR THE DEPARTMENT'S DECISION PENDING COMPLETION OF THE APPELLATE PROCESS, TO CLARIFY GROUNDS FOR DENYING A LICENSE, TO CLARIFY THE INVESTIGATION PROCESS AND CERTAIN DISCIPLINARY ACTIONS, TO PROVIDE THAT AN INDIVIDUAL OR ESTABLISHMENT THAT VOLUNTARILY SURRENDERS A LICENSE MAY NOT PRACTICE AS A MASSAGE THERAPIST OR OPERATE AS A MASSAGE THERAPY ESTABLISHMENT OR SOLE PRACTITIONER ESTABLISHMENT UNTIL THE BOARD REINSTATES THE LICENSE, TO PROVIDE THAT SERVICE OF NOTICE MAY BE MADE BY LEAVING A COPY OF THE NOTICE WITH THE DIRECTOR OF THE DEPARTMENT OR HIS DESIGNEE IN CERTAIN CIRCUMSTANCES, TO PROVIDE THAT COSTS AND FINES IMPOSED ARE DUE AND PAYABLE AS REQUIRED BY THE BOARD, TO PROVIDE THAT A LICENSEE FOUND IN VIOLATION OF THE MASSAGE THERAPY PRACTICE ACT OR RELATED REGULATIONS MAY BE REQUIRED TO PAY COSTS ASSOCIATED WITH THE INVESTIGATION OF HIS CASE, TO MAKE CONFORMING CHANGES, AND TO DEFINE NECESSARY TERMS.

Senator SENN objected to further consideration of the Bill.

**COMMITTEE AMENDMENT ADOPTED  
READ THE SECOND TIME**

S. 38 -- Senators Grooms, Rice, Hembree, Verdin, Kimbrell, Corbin, Loftis and Campsen: A BILL TO ENACT THE "REINFORCING COLLEGE EDUCATION ON AMERICA'S CONSTITUTIONAL HERITAGE ACT" OR THE "REACH ACT"; TO AMEND SECTION 59-29-120(A), RELATING TO THE STUDY OF THE UNITED STATES CONSTITUTION REQUISITE FOR GRADUATION, TO

**TUESDAY, MARCH 2, 2021**

PROVIDE THAT EACH PUBLIC HIGH SCHOOL MUST PROVIDE INSTRUCTION CONCERNING THE UNITED STATES CONSTITUTION, THE FEDERALIST PAPERS, AND THE DECLARATION OF INDEPENDENCE TO EACH STUDENT FOR AT LEAST ONE YEAR; TO AMEND SECTION 59-29-130, RELATING TO THE DURATION OF INSTRUCTION IN THE ESSENTIALS OF THE UNITED STATES CONSTITUTION, TO PROVIDE THAT EACH INSTITUTION OF HIGHER LEARNING MUST PROVIDE INSTRUCTION CONCERNING THE UNITED STATES CONSTITUTION, THE FEDERALIST PAPERS, AND THE DECLARATION OF INDEPENDENCE TO EACH UNDERGRADUATE STUDENT FOR THREE SEMESTER CREDIT HOURS; AND TO REPEAL SECTION 59-29-140, RELATING TO THE ENFORCEMENT OF THE PROGRAM OF STUDY OF THE UNITED STATES CONSTITUTION BY THE STATE SUPERINTENDENT OF EDUCATION.

The Senate proceeded to a consideration of the Bill.

The Committee on Education proposed the following amendment (WAB\38C001.RT.WAB21), which was adopted:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Section 59-29-120(A) of the 1976 Code is amended to read:

“Section 59-29-120. (A)(1) All public high schools, colleges, and universities in this State that are sustained or in any manner supported by public funds shall must give instruction in the essentials of the United States Constitution, the Declaration of Independence, the Emancipation Proclamation, and the Federalist Papers, including the study of and devotion to American institutions and ideals, and no. No student in any such school, ~~college, or university~~ may receive a certificate of graduation without previously passing a satisfactory examination upon course that includes instruction in the provisions and principles of the United States Constitution, the Declaration of Independence, the Emancipation Proclamation, and the Federalist Papers, and, if a citizen of the United States, satisfying the examining power of his loyalty thereto.”

SECTION 2. A. Section 59-29-130 of the 1976 Code is amended to read:

“Section 59-29-130. (A)(1)(a) ~~The instruction provided for in Section 59-29-120 shall be given for at least one year of the high school, college and university grades, respectively. A public institution of higher~~

TUESDAY, MARCH 2, 2021

learning, as defined in Section 59-103-5 shall require each undergraduate student, except a student eligible for the exemption provided in item (2), to complete no fewer than three semester credit hours or their equivalent in American History, American Government, or another equivalent course of instruction that provides a comprehensive overview of the major events and turning points of American history and government which includes, at a minimum, reading:

- (i) the United States Constitution in its entirety;
- (ii) the Declaration of Independence in its entirety;
- (iii) the Emancipation Proclamation in its entirety; and
- (iv) a minimum of five essays in their entirety from the

Federalist Papers as selected by an instructor.

(b) No public institution of higher learning may grant a certificate of graduation for a baccalaureate degree program to a student unless he successfully completes the requirements of this subsection.

(2) A public institution of higher learning may exempt a student who has completed three semester credit hours, or their equivalent, in an Advanced Placement, International Bacclaureate (IB), or dual-credit course with a passing grade in the subject of American government or American history, provided the completed three semester credit hours, or their equivalent, in an Advanced Placement, International Bacclaureate, or dual-credit course must satisfy the requirements of item (1).

(B) A public institution of higher learning shall ensure that the requirements of this section are incorporated into the degree requirements of all undergraduate degree programs in a manner that does not:

- (1) add to the total number of credit hours for any degree; and
- (2) conflict with any school accreditation process.

(C) The Commission on Higher Education shall ensure the compliance of each public institution of higher learning with all provisions of this section. The commission annually shall collect information necessary to ensure that a public institution of higher learning is in compliance with this section. This information annually must be reported to the Chairman of the House of Representatives Ways and Means Committee, the Chairman of the House of Representatives Education and Public Works Committee, the Chairman of the Senate Finance Committee, and the Chairman of the Senate Education Committee.”

B. Section 59-29-130, as amended by this act, applies to the first incoming undergraduate freshman class entering a public institution of

**TUESDAY, MARCH 2, 2021**

higher learning after the effective date of this act and each subsequent undergraduate class thereafter. Nothing contained in Section 59-29-130 may be construed to prevent an undergraduate student enrolled in a public institution of higher learning on the effective date of this act from receiving a certificate of graduation.

SECTION 3. The Commission on Higher Education shall submit the provisions of Section 59-29-130, as amended by this act, to the Southern Association of Colleges and Schools Commission on Colleges and request an advisory opinion as to whether such provisions can be incorporated into degree requirements without infringing on the accreditation process, as required by Section 59-29-130(C)(2).

SECTION 4. Section 59-29-140 of the 1976 Code, relating to the enforcement of the program of study of the United States Constitution by the State Superintendent, is repealed.

SECTION 5. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, then such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 6. This act takes effect beginning with the 2021-2022 School Year. /

Renumber sections to conform.

Amend title to conform.

Senator HEMBREE explained the amendment.

The amendment was adopted.

The question being the second reading of the Bill.

The "ayes" and "nays" were demanded and taken, resulting as follows:

**Ayes 45; Nays 0**

**AYES**

Adams	Alexander	Allen
Bennett	Campsen	Cash

**TUESDAY, MARCH 2, 2021**

Climer	Corbin	Cromer
Davis	Fanning	Gambrell
Garrett	Goldfinch	Grooms
Gustafson	Harpootlian	Hembree
Hutto	Jackson	<i>Johnson, Kevin</i>
<i>Johnson, Michael</i>	Kimbrell	Kimpson
Leatherman	Loftis	Malloy
Martin	Massey	McElveen
McLeod	Peeler	Rankin
Rice	Sabb	Scott
Senn	Setzler	Shealy
Stephens	Talley	Turner
Verdin	Williams	Young

**Total--45**

**NAYS**

**Total--0**

There being no further amendments, the Bill was read the second time, passed and ordered to a third reading.

**CARRIED OVER**

S. 376 -- Senators Talley, Hembree and Setzler: A BILL TO ENACT THE "STATE INSTITUTION OF HIGHER EDUCATION EFFICIENCY ACT"; TO AMEND TITLE 59 OF THE 1976 CODE, RELATING TO EDUCATION, BY ADDING CHAPTER 157, TO ALLOW THE BOARD OF TRUSTEES OF AN INSTITUTION OF HIGHER EDUCATION TO ESTABLISH BY RESOLUTION AN AUXILIARY DIVISION AS PART OF THE COLLEGE OR UNIVERSITY, TO PROVIDE THAT THE AUXILIARY DIVISION IS EXEMPT FROM VARIOUS STATE LAWS, TO REQUIRE THAT CERTAIN PERMANENT IMPROVEMENT PROJECTS MUST BE SUBMITTED TO THE JOINT BOND REVIEW COMMITTEE AND THE EXECUTIVE BUDGET OFFICE, TO PROVIDE THAT A BOARD OF TRUSTEES MAY ADOPT FOR AN AUXILIARY DIVISION A PROCUREMENT POLICY, AND TO PROVIDE REPORTING REQUIREMENTS; TO AMEND SECTION 8-11-260 OF THE 1976 CODE, RELATING TO EXEMPTIONS FROM CERTAIN REQUIREMENTS FOR STATE OFFICERS AND



**TUESDAY, MARCH 2, 2021**

EMPLOYEES, TO PROVIDE THAT EMPLOYEES OF CERTAIN RESEARCH UNIVERSITIES AND NON-RESEARCH, FOUR-YEAR COLLEGES AND UNIVERSITIES ARE EXEMPT; TO AMEND SECTION 11-35-710(A)(6) OF THE 1976 CODE, RELATING TO EXEMPTIONS FROM THE SOUTH CAROLINA CONSOLIDATED PROCUREMENT CODE, TO PROVIDE THAT THE STATE FISCAL ACCOUNTABILITY AUTHORITY MAY EXEMPT PRIVATE GIFTS, AUXILIARY DIVISIONS, AND OTHER SALES AND SERVICES; AND TO DEFINE NECESSARY TERMS.

The Senate proceeded to a consideration of the Bill.

The Committee on Education proposed the following amendment (WAB\376C001.RT.WAB21):

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. This act must be known and may be cited as the “State Institution of Higher Education Efficiency Act”.

SECTION 2. Title 59 of the 1976 Code is amended by adding:

“CHAPTER 157

Efficiency of State Institutions of Higher Education

Section 59-157-10. As used in this chapter:

(1) ‘Board of trustees’ means the boards of trustees of the colleges and universities listed in Section 59-101-10.

(2) ‘Capital project’ means the construction, improvement, equipment, renovation, or repair of any buildings, structure, facility, or other permanent improvement project; the acquisition of land to construct or establish a building, structure, or facility; or a permanent improvement project as defined in Section 2-47-50.

(3) ‘Institution’ means a research university identified in Section 11-51-30(5) or a nonresearch, four-year college or university described in Section 59-103-15(B)(2), (B)(3) and (B)(4).

Section 59-157-30. (A) Notwithstanding any other provision of the law, any permanent improvement project, as defined in Section 2-47-50, that costs more than five million dollars for research universities as identified in Section 11-51-30(5) and more than two and one half million dollars for all other institutions as described in Section 59-103-15(B)(2), (B)(3) and (B)(4), that requires the use of lease-purchase agreements, state institution bond funds, capital improvement bond funds, capital reserve funds, state general-appropriated funds, or state infrastructure bond funds or student tuition and fee funds for its funding must be submitted to the Commission on Higher Education and the Joint Bond

## TUESDAY, MARCH 2, 2021

Review Committee for review and the State Fiscal Accountability Authority for approval after full architecture and engineering design work is completed but prior to execution of a construction contract, and thereafter to the Executive Budget Office for publication upon approval.

(B) The Chairman of the Joint Bond Review Committee may, on behalf of the committee, request to review and comment on any other permanent improvement project, as defined in Section 2-47-50, that costs more than five million dollars for research universities as identified in Section 11-51-30(5) and more than two and one half million dollars for all other institutions as described in Section 59-103-15(B)(2), (B)(3) and (B)(4).

Section 59-157-40. Institutions are exempt from the requirements of Section 2-47-50 for permanent improvement projects that cost less than five million dollars for research universities as identified in Section 11-51-30(5) and less than two and one half million dollars for all other institutions as described in Section 59-103-15(B)(2), (B)(3) and (B)(4). However, such projects that exceed one million dollars are subject to Joint Bond Review Committee staff review, and may be referred to the committee if staff, after consultation with the chairman, determines necessary. Nothing in this section may be construed to approve such a project without an institution's governing board having first voted to approve the project in a public session. Institutions shall provide a report of projects approved by their governing boards pursuant to this subsection to the Chairman of the Commission on Higher Education, the Joint Bond Review Committee, and the State Fiscal Accountability Authority by September thirtieth of each year

Section 59-157-50. The board of trustees shall provide on an annual basis a fiscal year report of property acquired and any capital projects which cost less than five million dollars for research universities and less than two and one half million dollars for all other institutions, commenced under the authority granted in this chapter, to the Governor, the Senate Finance Committee, and the House of Representatives Ways and Means Committee. The report must be submitted annually by September thirtieth."

SECTION 3. The repeal or amendment by this act of any law, whether temporary, permanent, 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

**TUESDAY, MARCH 2, 2021**

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 4. This act takes effect upon approval by the Governor. /  
Renumber sections to conform.  
Amend title to conform.

Senator HEMBREE explained the amendment.

On motion of Senator LEATHERMAN, the Bill was carried over.

**COMMITTEE AMENDMENT ADOPTED  
READ THE SECOND TIME**

S. 430 -- Senator Alexander: A BILL TO AMEND SECTION 43-25-10 OF THE 1976 CODE, RELATING TO THE COMMISSION FOR THE BLIND, TO PROVIDE THAT MEETINGS SHALL BE HELD AT LEAST ONCE A QUARTER.

The Senate proceeded to a consideration of the Bill.

The Committee on Family and Veterans' Services proposed the following amendment (430R001.KMM.KS), which was adopted:

Amend the bill, as and if amended, on page 1, by striking line 34 and inserting:

/commission to be held at least once each ~~month~~ year. The /  
Renumber sections to conform.  
Amend title to conform.

Senator GAMBRELL explained the amendment.

The amendment was adopted.

The question being the second reading of the Bill.

The "ayes" and "nays" were demanded and taken, resulting as follows:

**Ayes 45; Nays 0**

**AYES**

Adams	Alexander	Allen
Bennett	Campsen	Cash

**TUESDAY, MARCH 2, 2021**

Climer	Corbin	Cromer
Davis	Fanning	Gambrell
Garrett	Goldfinch	Grooms
Gustafson	Harpootlian	Hembree
Hutto	Jackson	<i>Johnson, Kevin</i>
<i>Johnson, Michael</i>	Kimbrell	Kimpson
Leatherman	Loftis	Malloy
Martin	Massey	McElveen
McLeod	Peeler	Rankin
Rice	Sabb	Scott
Senn	Setzler	Shealy
Stephens	Talley	Turner
Verdin	Williams	Young

**Total--45**

**NAYS**

**Total--0**

There being no further amendments, the Bill as amended, was read the second time, passed and ordered to a third reading.

**OBJECTION**

S. 605 -- Fish, Game and Forestry Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF NATURAL RESOURCES, RELATING TO REGULATIONS FOR SPOTTED TURTLE; AND EXCHANGE AND TRANSFER FOR CERTAIN NATIVE REPTILES AND AMPHIBIANS, DESIGNATED AS REGULATION DOCUMENT NUMBER 5007, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

The Senate proceeded to a consideration of the Resolution.

Senator CAMPSSEN explained the Joint Resolution.

Senator CAMPSSEN objected to further consideration of the Resolution.

**TUESDAY, MARCH 2, 2021**

**OBJECTION**

S. 606 -- Fish, Game and Forestry Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, RELATING TO STATEMENT OF POLICY; AND SPECIFIC PROJECT STANDARDS FOR TIDELANDS AND COASTAL WATERS, DESIGNATED AS REGULATION DOCUMENT NUMBER 4995, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

The Senate proceeded to a consideration of the Resolution.

Senator CAMPSSEN explained the Joint Resolution.

Senator CAMPSSEN objected to further consideration of the Resolution.

**CARRIED OVER**

S. 611 -- Education Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE COMMISSION ON HIGHER EDUCATION, RELATING TO SOUTH CAROLINA NATIONAL GUARD COLLEGE ASSISTANCE PROGRAM, DESIGNATED AS REGULATION DOCUMENT NUMBER 4970, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

The Senate proceeded to a consideration of the Resolution.

Senator HEMBREE explained the Resolution.

On motion of Senator HEMBREE, the Resolution was carried over.

**POINT OF ORDER**

S. 105 -- Senator Campsen: A BILL TO AMEND SECTION 29-5-130, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ENFORCEMENT OF CERTAIN LIENS BEFORE A MAGISTRATES COURT, SO AS TO INCREASE THE AMOUNT OF A LIEN THAT MAY BE ENFORCED BY A PETITION TO A MAGISTRATE.

**TUESDAY, MARCH 2, 2021**

**Point of Order**

Senator MARTIN raised a Point of Order under Rule 39 that the Bill had not been on the desks of the members at least one day prior to second reading.

The PRESIDENT sustained the Point of Order.

**POINT OF ORDER**

S. 467 -- Senators Cromer, Kimbrell and Bennett: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 34-1-150 SO AS TO PROVIDE REQUIREMENTS FOR AN APPLICANT SEEKING PERMISSION TO ORGANIZE A BANK; BY ADDING SECTION 34-1-160 SO AS TO PROVIDE CONDITIONS THAT MUST BE MET IN ORDER TO AUTHORIZE THE ORGANIZATION OF A PROPOSED BANK; BY ADDING SECTION 34-1-170 SO AS TO PROVIDE FOR THE REQUIREMENTS OF THE ARTICLES OF INCORPORATION OF A PROPOSED BANK; BY ADDING SECTION 34-1-180 SO AS TO PROVIDE THE REQUIREMENTS FOR THE BOARD OF FINANCIAL INSTITUTIONS TO APPROVE A CHARTER FOR A PROPOSED BANK; BY ADDING SECTION 34-1-190 SO AS TO PROVIDE THAT THE BOARD SHALL DECIDE WHETHER TO UPHOLD OR OVERTURN ITS APPROVAL OR DENIAL OF AN APPLICATION; BY ADDING SECTION 34-1-200 SO AS TO PROVIDE THE REQUIREMENTS FOR ISSUING A BANK CHARTER; BY ADDING SECTION 34-1-210 SO AS TO PROVIDE THAT A REMOTE SERVICE UNIT IS NOT CONSIDERED A BRANCH OF A BANK; BY ADDING SECTION 34-1-220 SO AS TO ALLOW CERTAIN DELEGATIONS TO THE COMMISSIONER OF BANKING, TO AMEND SECTION 34-3-350, RELATING TO THE REVIEW OF REPORTS OF EXAMINATIONS, SO AS TO PROVIDE THAT THE COMMISSIONER OF BANKING SHALL FORWARD A COPY OF THE REPORT TO THE CHIEF EXECUTIVE; TO AMEND SECTION 34-3-360, RELATING TO THE FORM OF NOTICE TO A CASHIER, SO AS TO REPLACE "STATE BOARD OF BANK CONTROL" WITH "COMMISSIONER OF BANKING" AND TO REPLACE "CASHIER" WITH "CHIEF EXECUTIVE"; TO AMEND SECTION 34-3-370, RELATING TO THE FORM OF REPORT TO THE STATE BOARD, SO AS TO REPLACE "STATE BOARD OF BANK CONTROL" WITH "COMMISSIONER OF BANKING" AND TO REPLACE "PRESIDENT OR CASHIER" WITH "CHIEF EXECUTIVE"; TO AMEND SECTION 34-3-380, RELATING TO

**TUESDAY, MARCH 2, 2021**

REPORTS OF CONDITION, SO AS TO REPLACE “PRESIDENT OR CASHIER” WITH “CHIEF EXECUTIVE OR CHIEF FINANCIAL OFFICER” AND TO PROVIDE THAT TWO DIRECTORS SHALL VERIFY THE REPORT; TO AMEND SECTION 34-3-810, RELATING TO THE CONVERSION OF A NATIONAL BANK OR NON-SOUTH CAROLINA STATE BANK INTO A SOUTH CAROLINA STATE BANK, SO AS TO PERMIT ANOTHER STATE’S BANK TO CONVERT INTO A SOUTH CAROLINA STATE BANK AND TO REQUIRE BOARD APPROVAL AND TO REQUIRE A NATIONAL OR OTHER STATE BANKING CORPORATION TO FILE AN APPLICATION OF CONVERSION; TO AMEND SECTION 34-3-820, RELATING TO THE TIMING OF THE CORPORATE EXISTENCE OF THE STATE BANK, SO AS TO INCLUDE REFERENCES TO A NON-SOUTH CAROLINA STATE BANK CONVERTING TO A SOUTH CAROLINA STATE BANK; TO AMEND SECTION 34-3-830, RELATING TO THE TRANSFER OF ASSETS TO THE SOUTH CAROLINA STATE BANK, SO AS TO INCLUDE REFERENCES TO A NON-SOUTH CAROLINA STATE BANK CONVERTING TO A SOUTH CAROLINA STATE BANK; TO AMEND SECTION 34-3-840, RELATING TO THE DIRECTORS AND ORGANIZATION OF A NATIONAL BANKING CORPORATION OR STATE BANKING CORPORATION, SO AS TO PROVIDE THAT UNLESS OTHERWISE ELECTED BY THE SHAREHOLDERS OF THE NATIONAL BANKING CORPORATION OR STATE BANKING CORPORATION, THE DIRECTORS AND OFFICERS IN OFFICE AT THE TIME OF ITS DISSOLUTION ARE THE DIRECTORS AND OFFICERS OF THE BANK CREATED; TO AMEND SECTION 34-9-10, RELATING TO THE AMOUNT OF CAPITAL STOCK TO BE PAID IN CASH, SO AS TO PROVIDE PAYMENT OF UNITED STATES CURRENCY AND TO DELETE A PROVISION THAT REQUIRES NO AUTHORIZED BUT UNISSUED CAPITAL STOCK MAY BE ISSUED WITHOUT APPROVAL BY THE BOARD; TO AMEND SECTION 34-9-40, RELATING TO MINIMUM CAPITAL STOCK REQUIREMENTS, SO AS TO PROVIDE THAT A BANKING COMPANY OR CORPORATION MUST HAVE MINIMUM CAPITAL IN THE AMOUNT REQUIRED BY THE STATE BOARD OF FINANCIAL INSTITUTIONS; TO AMEND SECTION 34-11-60, RELATING TO FRAUDULENT CHECKS, SO AS TO REMOVE THE REQUIREMENT THAT A HOME TELEPHONE NUMBER IS NECESSARY TO ESTABLISH PRIMA FACIE EVIDENCE

**TUESDAY, MARCH 2, 2021**

AGAINST A DEFENDANT; TO AMEND SECTION 34-13-140, RELATING TO THE RESTRICTIONS ON LOAN OR DISCOUNT ON OR PURCHASE OF A BANK'S OWN STOCK, SO AS TO PROVIDE AN EXCEPTION TO THE RESTRICTION IF THE PURCHASE IS APPROVED BY THE BOARD OF FINANCIAL INSTITUTIONS OR IF THE BANKING ASSOCIATION HOLDS THE OUTSTANDING SHARES AS TREASURY STOCK; TO AMEND SECTION 34-26-350, RELATING TO THE PRINCIPAL PLACE OF BUSINESS OF A CREDIT UNION, SO AS TO PROVIDE THAT THE MAINTENANCE OF THE FACILITY MUST BE REASONABLY NECESSARY TO FURNISH SERVICE TO ITS MEMBERS OR POTENTIAL MEMBERS; TO AMEND SECTION 34-26-530, RELATING TO AN APPLICATION FOR MEMBERSHIP TO A CREDIT UNION, SO AS TO REMOVE A REQUIREMENT FOR MEMBERSHIP OFFICERS TO APPROVE APPLICATIONS; TO AMEND SECTION 34-26-640, RELATING TO BOARD MEETINGS, SO AS TO PROVIDE THAT THE BOARD MUST MEET AT LEAST QUARTERLY; TO AMEND SECTION 34-26-645, RELATING TO THE DUTIES OF THE BOARD, SO AS TO REMOVE THE DUTY TO ESTABLISH TITLES FOR SENIOR MANAGEMENT POSITIONS; TO AMEND SECTION 34-26-1220, RELATING TO THE CONVERSION OF A CREDIT UNION, SO AS TO PROVIDE THAT THE ASSETS AND LIABILITIES OF THE CREDIT UNION WILL VEST IN AND BECOME THE PROPERTY OF THE SUCCESSOR CREDIT UNION; TO REPEAL CHAPTERS 12 AND 27 OF TITLE 34 RELATING TO COUNTY AND MULTICOUNTY CHECK CLEARING HOUSES; TO REPEAL SECTION 34-1-70 RELATING TO THE APPROVAL OF CHARTERS OF BANKS, BUILDING AND LOAN ASSOCIATIONS, SAVINGS AND LOAN ASSOCIATIONS, AND SAVINGS BANKS; TO REPEAL SECTION 34-3-60 RELATING TO BRANCH BANK IDENTIFICATION; TO REPEAL SECTION 34-9-70 RELATING TO CERTAIN PAID-IN CAPITAL REQUIREMENTS AND EXCEPTIONS; TO REPEAL SECTION 34-9-80 RELATING TO THE ISSUANCE OF PREFERRED STOCK; TO REPEAL SECTION 34-11-40 RELATING TO THE DUPLICATE FOR LOST OR DESTROYED TIME CERTIFICATE OF DEPOSITS; AND TO REPEAL SECTION 34-11-50 RELATING TO THE DUPLICATE FOR ANY LOST OR DESTROYED CERTIFICATE OF DEPOSIT OR SAVINGS ACCOUNT BOOK.



**TUESDAY, MARCH 2, 2021**

**Point of Order**

Senator MARTIN raised a Point of Order under Rule 39 that the Bill had not been on the desks of the members at least one day prior to second reading.

The PRESIDENT sustained the Point of Order.

**POINT OF ORDER**

S. 617 -- Education Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE STATE BOARD OF EDUCATION, RELATING TO MINIMUM STANDARDS OF STUDENT CONDUCT AND DISCIPLINARY ENFORCEMENT PROCEDURES TO BE IMPLEMENTED BY LOCAL SCHOOL DISTRICTS, DESIGNATED AS REGULATION DOCUMENT NUMBER 4981, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

**Point of Order**

Senator MARTIN raised a Point of Order under Rule 39 that the Resolution had not been on the desks of the members at least one day prior to second reading.

The PRESIDENT sustained the Point of Order.

**POINT OF ORDER**

S. 618 -- Education Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE STATE BOARD OF EDUCATION, RELATING TO CREDENTIAL CLASSIFICATION, DESIGNATED AS REGULATION DOCUMENT NUMBER 4991, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

**Point of Order**

Senator MARTIN raised a Point of Order under Rule 39 that the Resolution had not been on the desks of the members at least one day prior to second reading.

The PRESIDENT sustained the Point of Order.

**TUESDAY, MARCH 2, 2021**

**POINT OF ORDER**

H. 3585 -- Reps. Sandifer and Hardee: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38-61-80 SO AS TO PROVIDE THE PROCEDURE FOR AN INSURER TO CANCEL, NONRENEW, OR TERMINATE ALL OR SUBSTANTIALLY ALL OF AN ENTIRE LINE OR CLASS OF BUSINESS; BY ADDING SECTION 38-77-400 SO AS TO REQUIRE AN INSURER TO PROVIDE A LISTING OF UNDERWRITING RESTRICTIONS UPON THE REQUEST OF THE DIRECTOR; TO AMEND SECTION 38-13-30, RELATING TO ORDERS RESULTING FROM EXAMINATIONS, SO AS TO ALLOW THE DIRECTOR OR HIS DESIGNEE TO SERVE AN ORDER UPON THE INSURER BY ELECTRONIC MAIL; TO AMEND SECTION 38-53-110, RELATING TO FINANCIAL STATEMENT REQUIREMENTS, SO AS TO PROVIDE A DEADLINE FOR SUBMISSION; TO AMEND SECTION 38-71-340, RELATING TO REQUIRED POLICY PROVISIONS, SO AS TO ADD A TIME OF PAYMENT OF CLAIMS REQUIREMENT FOR HEALTH INSURANCE COVERAGE; TO AMEND SECTION 38-75-730, AS AMENDED, RELATING TO RESTRICTIONS ON THE CANCELLATION OF POLICIES, SO AS TO DISTINGUISH THE CANCELLATION PROVISIONS FOR WORKERS' COMPENSATION INSURANCE POLICIES; TO AMEND SECTION 38-75-740, RELATING TO RESTRICTIONS ON THE NONRENEWAL OF POLICIES, SO AS TO REMOVE SPECIFIC DEADLINES; TO AMEND SECTION 38-75-1160, RELATING TO THE NOTICE REQUIREMENT PRIOR TO CANCELLATION OR REFUSAL TO RENEW, SO AS TO REMOVE SPECIFIC DEADLINES; AND TO AMEND SECTION 38-75-1240, RELATING TO THE PROVISIONS TO THE DIRECTOR OF UNDERWRITING RESTRICTIONS BASED UPON GEOGRAPHY, SO AS TO REQUIRE AN INSURER TO PROVIDE A LIST OF UNDERWRITING RESTRICTIONS ONLY UPON THE REQUEST OF THE DIRECTOR REGARDLESS OF GEOGRAPHY.

**Point of Order**

Senator MARTIN raised a Point of Order under Rule 39 that the Bill had not been on the desks of the members at least one day prior to second reading.

The PRESIDENT sustained the Point of Order.

**TUESDAY, MARCH 2, 2021**

**POINT OF ORDER**

H. 3587 -- Reps. Sandifer and Hardee: A BILL TO AMEND SECTION 38-77-30, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITION OF "REDUCTION IN COVERAGE", SO AS TO PROHIBIT AN INSURER FROM TREATING A CORRECTION OF A TYPOGRAPHICAL OR SCRIVENER'S ERROR AS A REDUCTION IN COVERAGE AND TO AMEND SECTION 38-77-120, RELATING TO NOTICE REQUIREMENTS FOR CANCELLATION OR THE REFUSAL TO REVIEW A POLICY, SO AS TO MAKE CONFORMING CHANGES.

**Point of Order**

Senator MARTIN raised a Point of Order under Rule 39 that the Bill had not been on the desks of the members at least one day prior to second reading.

The PRESIDENT sustained the Point of Order.

**THE CALL OF THE UNCONTESTED CALENDAR HAVING BEEN COMPLETED, THE SENATE PROCEEDED TO THE MOTION PERIOD.**

**MADE SPECIAL ORDER**

S. 208 -- Senators Hembree, Bennett, Gustafson and Loftis: A BILL TO AMEND SECTION 59-19-350(A) OF THE 1976 CODE, RELATING TO SCHOOLS OF CHOICE, TO PROVIDE THAT SCHOOL DISTRICTS MAY INSTEAD CREATE MULTIPLE SCHOOLS OF INNOVATION, AND TO PROVIDE THAT EACH EXEMPTION FROM STATE STATUTES AND REGULATIONS BY SCHOOLS OF INNOVATION MUST BE APPROVED BY A TWO-THIRDS VOTE OF THE STATE BOARD OF EDUCATION.

Senator MASSEY moved that the Bill be made a Special Order.

The Bill was made a Special Order.

**MOTION ADOPTED**

At 1:06 P.M., on motion of Senator MASSEY, the Senate agreed to dispense with the balance of the Motion Period.

**TUESDAY, MARCH 2, 2021**

**THE SENATE PROCEEDED TO A CONSIDERATION OF THE VETOES.**

**CARRIED OVER**

(R3, S478) -- Senator K. Johnson: AN ACT TO AMEND SECTION 2 OF ACT 183 OF 2020, RELATING TO THE CONSOLIDATION OF CLARENDON COUNTY SCHOOL DISTRICTS ONE AND THREE INTO CLARENDON COUNTY SCHOOL DISTRICT NO. 4, SO AS TO INCREASE THE INITIAL MEMBERSHIP OF THE CLARENDON COUNTY SCHOOL DISTRICT BOARD OF TRUSTEES FROM SEVEN TO NINE MEMBERS, TO PROVIDE THAT THE BOARD OF TRUSTEES SHALL BE COMPRISED OF SEVEN MEMBERS BEGINNING WITH THE 2024 GENERAL ELECTION, AND TO MAKE CONFORMING CHANGES.

On motion of Senator MASSEY, the Veto was carried over.

**THE SENATE PROCEEDED TO A CALL OF THE CONTESTED STATEWIDE AND LOCAL CALENDAR.**

**AMENDED, READ THE SECOND TIME**

S. 200 -- Senators Hembree, Martin, Kimbrell, Shealy and Turner: A BILL TO AMEND SECTION 24-3-530 OF THE 1976 CODE, RELATING TO DEATH BY ELECTROCUTION OR LETHAL INJECTION, TO PROVIDE THAT A PERSON SENTENCED TO DEATH MAY ELECT FOR ELECTROCUTION OR LETHAL INJECTION IF LETHAL INJECTION IS AVAILABLE AT THE TIME OF ELECTION, TO PROVIDE THAT AN ELECTION EXPIRES AND MUST BE RENEWED IN WRITING IF THE CONVICTED PERSON RECEIVES A STAY OF EXECUTION OR THE EXECUTION DATE HAS PASSED, TO PROVIDE THAT A PENALTY MUST BE ADMINISTERED BY ELECTROCUTION FOR A PERSON WHO WAIVES HIS RIGHT OF ELECTION, TO PROVIDE THAT THE DEPARTMENT OF CORRECTIONS DIRECTOR SHALL DETERMINE AND CERTIFY TO THE SUPREME COURT WHETHER THE METHOD SELECTED IS AVAILABLE, TO PROVIDE THAT A CONVICTED PERSON'S SIGNATURE MUST BE WITNESSED, AND TO PROVIDE THAT THE MANNER OF INFLECTING A DEATH SENTENCE MUST BE ELECTROCUTION REGARDLESS OF THE METHOD ELECTED BY THE PERSON IF EXECUTION BY LETHAL INJECTION IS

**TUESDAY, MARCH 2, 2021**

UNAVAILABLE OR IS HELD TO BE UNCONSTITUTIONAL BY AN APPELLATE COURT OF COMPETENT JURISDICTION.

The Senate proceeded to a consideration of the Bill.

Senators HARPOOTLIAN and HEMBREE proposed the following amendment (200R003.SP.RAH), which was adopted:

Amend the bill, as and if amended, on page 2, by striking line 1 and inserting:

/penalty by electrocution\_or, at the election of the convicted person, by firing squad or /

Amend the bill further, as and if amended, on page 2, by striking line 4 and inserting:

/The election for death by electrocution, firing squad, or lethal injection must be /

Amend the bill further, as and if amended, on page 2, by striking line 19 and inserting:

/by firing squad or lethal injection, if it is available, in writing fourteen days before /

Amend the bill further, as and if amended, on page 2, at line 37, by adding an appropriately lettered new subsection to read:

/ ( ) The Department of Corrections shall promulgate regulations that establish protocols and procedures for carrying out executions pursuant to this section." /

Renumber sections to conform.

Amend title to conform.

Senator HEMBREE explained the amendment.

Senator HARPOOTLIAN spoke on the amendment.

The amendment was adopted.

Senator MALLOY spoke on the Bill.

Senator K. JOHNSON spoke on the Bill.

The question being the second reading of the Bill.

The "ayes" and "nays" were demanded and taken, resulting as follows:

**Ayes 32; Nays 11**

**AYES**

Adams

Alexander

Campsen

**TUESDAY, MARCH 2, 2021**

Cash	Climer	Corbin
Cromer	Davis	Gambrell
Garrett	Goldfinch	Grooms
Gustafson	Harpootlian	Hembree
<i>Johnson, Michael</i>	Kimbrell	Loftis
Martin	Massey	McElveen
Peeler	Rankin	Rice
Senn	Setzler	Shealy
Talley	Turner	Verdin
Williams	Young	

**Total--32**

**NAYS**

Allen	Bennett	Fanning
Hutto	Jackson	<i>Johnson, Kevin</i>
Kimpson	McLeod	Sabb
Scott	Stephens	

**Total--11**

There being no further amendments, the Bill as amended, was read the second time, passed and ordered to a third reading.

**Motion Adopted**

On motion of Senator MASSEY, with unanimous consent, the Senate agreed that, when the Senate adjourns today, it stand adjourned to meet at 11:45 A.M. tomorrow for the purpose of attending the Joint Assembly.

**Motion Adopted**

On motion of Senator MASSEY, the Senate agreed to stand adjourned.

**MOTION ADOPTED**

On motion of Senator ALLEN, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. Larry Drummond, Sr. of Greenville, S.C. Larry was a loving husband, devoted father and doting grandfather who will be dearly missed.

and

**TUESDAY, MARCH 2, 2021**

**MOTION ADOPTED**

On motion of Senator SETZLER, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. Bill Mooneyhan, Sr. of West Columbia, S.C. Bill was the owner of Mooneyhan's Auto Service. He was a member of the West Columbia Planning Commission, Cayce-West Columbia Lions Club and Chamber of Commerce. Bill was one of the founders of the Taste of the River and was the leader of the River District business organization. Bill was a loving husband, devoted father and doting grandfather who will be dearly missed.

and

**MOTION ADOPTED**

On motion of Senator SCOTT, with unanimous consent, the Senate stood adjourned out of respect to the memory of Vernon Jordan of Columbia, S.C. Vernon was a civil rights leader. He graduated from Howard University School of Law and became a law clerk where he worked on the case that desegregated the University of Georgia. He served as Georgia field director of the N.A.A.C.P., became the director of the Voter Education Project of the Southern Regional Council and was named executive director of the United Negro College Fund and was selected to head the National Urban League. Vernon was a loving husband, devoted father and doting grandson who will be dearly missed.

**ADJOURNMENT**

At 2:47 P.M., on motion of Senator MASSEY, the Senate adjourned to meet tomorrow at 11:45 A.M.

\* \* \*

**TUESDAY, MARCH 2, 2021**  
**SENATE JOURNAL INDEX**

S. 38.....	<b>43</b>	S. 622.....	<b>5</b>
S. 105.....	<b>52</b>	S. 623.....	<b>5</b>
S. 108.....	<b>13</b>	S. 624.....	<b>6</b>
S. 200.....	<b>59</b>	S. 625.....	<b>6</b>
S. 208.....	<b>58</b>	S. 626.....	<b>6</b>
S. 227.....	<b>41</b>	S. 627.....	<b>6</b>
S. 376.....	<b>47</b>	S. 628.....	<b>7</b>
S. 430.....	<b>50</b>	S. 629.....	<b>8</b>
S. 467.....	<b>53</b>	S. 630.....	<b>8</b>
S. 475.....	<b>41</b>	S. 631.....	<b>9</b>
S. 478.....	<b>59</b>	S. 632.....	<b>9</b>
S. 505.....	<b>13</b>	S. 633.....	<b>10</b>
S. 506.....	<b>14</b>	S. 634.....	<b>10</b>
S. 510.....	<b>14</b>	S. 635.....	<b>11</b>
S. 602.....	<b>5</b>	S. 636.....	<b>11</b>
S. 605.....	<b>51</b>	S. 637.....	<b>12</b>
S. 606.....	<b>52</b>		
S. 611.....	<b>52</b>	H. 3443.....	<b>12</b>
S. 617.....	<b>56</b>	H. 3585.....	<b>57</b>
S. 618.....	<b>56</b>	H. 3587.....	<b>58</b>
S. 621.....	<b>5</b>		