**South Carolina General Assembly**

125th Session, 2023-2024

**A211, R212, H4248**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Rose and Robbins

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Introduced in the House on April 4, 2023

Introduced in the Senate on April 10, 2024

Last Amended on May 9, 2024

Currently residing in the Senate

Summary: Conditional discharge

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 4/4/2023 House Introduced and read first time (House Journal‑page 9)

 4/4/2023 House Referred to Committee on **Judiciary** (House Journal‑page 9)

 3/20/2024 House Member(s) request name added as sponsor: Robbins

 3/20/2024 House Committee report: Favorable with amendment **Judiciary** (House Journal‑page 11)

 3/26/2024 House Debate adjourned until Tues., 4-9-24 (House Journal‑page 31)

 4/9/2024 House Requests for debate-Rep(s). W. Newton, Hiott, Pope, Felder, Carter, Nutt, Guest, Brittain, Schuessler, BL Cox, Thayer, Whitmire, Sandifer, Gilliam, Hager (House Journal‑page 40)

 4/9/2024 House Amended (House Journal‑page 76)

 4/9/2024 House Read second time (House Journal‑page 76)

 4/9/2024 House Roll call Yeas-80 Nays-23 (House Journal‑page 78)

 4/10/2024 House Read third time and sent to Senate (House Journal‑page 19)

 4/10/2024 Senate Introduced and read first time (Senate Journal‑page 3)

 4/10/2024 Senate Referred to Committee on **Judiciary** (Senate Journal‑page 3)

 4/23/2024 Senate Referred to Subcommittee: Hutto (ch), Adams,
 Garrett, Gustafson, Tedder

 5/1/2024 Senate Committee report: Favorable **Judiciary** (Senate Journal‑page 11)

 5/8/2024 Senate Amended (Senate Journal‑page 123)

 5/8/2024 Senate Read second time (Senate Journal‑page 123)

 5/8/2024 Senate Roll call Ayes-32 Nays-12 (Senate Journal‑page 123)

 5/9/2024 Senate Read third time and returned to House with amendments (Senate Journal‑page 123)

 5/9/2024 House Senate amendment amended (House Journal‑page 102)

 5/9/2024 House Roll call Yeas-104 Nays-0 (House Journal‑page 103)

 5/9/2024 House Returned to Senate with amendments (House Journal‑page 102)

 5/9/2024 Senate Concurred in House amendment and enrolled (Senate Journal‑page 123)

 5/15/2024 Ratified R 212

 5/21/2024 Vetoed by Governor

 6/26/2024 House Veto overridden by originating body Yeas-98 Nays-11

 6/26/2024 Senate Veto overridden Ayes-33 Nays-5 (Senate Journal‑page 17)

 7/1/2024 Effective date 06/26/24

 7/17/2024 Act No. 211

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**VERSIONS OF THIS BILL**

[04/04/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/4248_20230404.docx)

[03/20/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4248_20240320.docx)

[04/09/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4248_20240409.docx)

[05/01/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4248_20240501.docx)

[05/08/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4248_20240508.docx)

[05/09/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4248_20240509.docx)

(A211, R212, H4248)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 61‑4‑50, RELATING TO THE SALE OF BEER, ALE, PORTER, OR WINE TO UNDERAGED PERSONS, SO AS TO PROVIDE FOR A CONDITIONAL DISCHARGE; AND BY AMENDING SECTION 61‑6‑4080, RELATING TO THE SALE OF ALCOHOLIC LIQUORS TO AN UNDERAGED PERSON, SO AS TO PROVIDE FOR A CONDITIONAL DISCHARGE.

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

Conditional discharge

SECTION 1. Section 61‑4‑50 of the S.C. Code is amended by adding:

 (D)(1) Whenever any person who has not previously been convicted of any offense under this section, pleads guilty to or is found guilty of a sale in violation of this section, the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions as it requires provided that one such condition must be that he complete the merchant education program described in subsection (C). Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section must be without court adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions. However, a nonpublic record must be forwarded to and retained by the South Carolina Law Enforcement Division for the purpose of use by the courts in determining whether or not a person has committed a subsequent offense under this section. The South Carolina Law Enforcement Division must produce this record upon subpoena or court order. Discharge and dismissal under this section may occur only once with respect to any person.

 (2) Upon the dismissal of the person and discharge of the proceedings against him pursuant to item (1), the person may apply to the court for an order to expunge from all official records, other than the nonpublic records to be retained as provided in item (1), all recordation relating to his arrest, indictment or information, trial, finding of guilt, and dismissal and discharge pursuant to this section. If the court determines, after the hearing, that the person was dismissed and the proceedings against him discharged, it shall enter the order. The effect of the order is to restore the person, in the contemplation of the law, to the status he occupied before the arrest or indictment or information. No person as to whom the order has been entered may be held pursuant to another provision of law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge the arrest, or indictment or information, or trial in response to an inquiry made of him for any purpose, except when the person is providing sworn statements or giving testimony under oath. A conditional discharge granted pursuant to this section does not preclude a person from availing themselves of subsequent pre‑trial diversion options provided by law.

 (3) Before a person may be discharged and the proceedings dismissed pursuant to this subsection, the person must pay a fee of three hundred fifty dollars if the person is in a general sessions court and one hundred fifty dollars if the person is in a summary court. No portion of the fee may be waived, reduced, or suspended, except in cases of indigency. If the court determines that a person is indigent, the court may partially or totally waive, reduce, or suspend the fee. The revenue collected pursuant to this item must be retained by the jurisdiction that heard or processed the case and paid to the State Treasurer within thirty days of receipt. The State Treasurer shall transmit these funds to the Prosecution Coordination Commission which shall then apportion these funds among the sixteen judicial circuits on a per capita basis equal to the population in that circuit compared to the population of the State as a whole based on the most recent official United States census. The funds must be used for drug treatment court programs only. The amounts generated by this subsection are in addition to any amounts presently being provided for drug treatment court programs and may not be used to supplant funding already allocated for these services. The State Treasurer may request the State Auditor to examine the financial records of a jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer pursuant to this subsection. The State Auditor is further authorized to conduct these examinations and the local jurisdiction is required to participate in and cooperate fully with the examination.

 (4) Conditional discharge may only be granted by the court in accordance with the provisions of this section upon approval of the circuit solicitor or prosecuting officer.

Conditional discharge

SECTION 2. Section 61‑6‑4080 of the S.C. Code is amended by adding:

 (D)(1) Whenever any person who has not previously been convicted of any offense under this section, pleads guilty to or is found guilty of a sale in violation of this section, the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions as it requires provided that one such condition must be that he complete the merchant education program described in subsection (C). Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section must be without court adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions. However, a nonpublic record must be forwarded to and retained by the South Carolina Law Enforcement Division solely for the purpose of use by the courts in determining whether or not a person has committed a subsequent offense under this section. The South Carolina Law Enforcement Division must produce this record upon subpoena or court order. Discharge and dismissal under this section may occur only once with respect to any person.

 (2) Upon the dismissal of the person and discharge of the proceedings against him pursuant to item (1), the person may apply to the court for an order to expunge from all official records, other than the nonpublic records to be retained as provided in item (1), all recordation relating to his arrest, indictment or information, trial, finding of guilt, and dismissal and discharge pursuant to this section. If the court determines, after the hearing, that the person was dismissed and the proceedings against him discharged, it shall enter the order. The effect of the order is to restore the person, in the contemplation of the law, to the status he occupied before the arrest or indictment or information. No person as to whom the order has been entered may be held pursuant to another provision of law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge the arrest, or indictment or information, or trial in response to an inquiry made of him for any purpose, except when the person is providing sworn statements or giving testimony under oath. A conditional discharge granted pursuant to this section does not preclude a person from availing themselves of subsequent pre‑trial diversion options provided by law.

 (3) Before a person may be discharged and the proceedings dismissed pursuant to this subsection, the person must pay a fee of three hundred fifty dollars if the person is in a general sessions court and one hundred fifty dollars if the person is in a summary court. No portion of the fee may be waived, reduced, or suspended, except in cases of indigency. If the court determines that a person is indigent, the court may partially or totally waive, reduce, or suspend the fee. The revenue collected pursuant to this item must be retained by the jurisdiction that heard or processed the case and paid to the State Treasurer within thirty days of receipt. The State Treasurer shall transmit these funds to the Prosecution Coordination Commission which shall then apportion these funds among the sixteen judicial circuits on a per capita basis equal to the population in that circuit compared to the population of the State as a whole based on the most recent official United States census. The funds must be used for drug treatment court programs only. The amounts generated by this subsection are in addition to any amounts presently being provided for drug treatment court programs and may not be used to supplant funding already allocated for these services. The State Treasurer may request the State Auditor to examine the financial records of a jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer pursuant to this subsection. The State Auditor is further authorized to conduct these examinations and the local jurisdiction is required to participate in and cooperate fully with the examination.

 (4) Conditional discharge may only be granted by the court in accordance with the provisions of this section upon approval of the circuit solicitor or prosecuting officer.

Time effective

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

Ratified the 15th day of May, 2024.

Vetoed by the Governor -- 5/21/24.

Veto overridden by House -- 6/26/24.

Veto overridden by Senate -- 6/26/24.

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