

## Session 116 - (2005-2006)

### H 4913 General Bill, By Kirsh

*Similar (S 1065, S 1245, H 4530)*

**Summary:** Alcoholic liquor sold by the drink

A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12-37-717 SO AS TO PROVIDE FOR A THREE PERCENT SURCHARGE ON A RENTAL CONTRACT FOR THE RENTING OF HEAVY EQUIPMENT AND TO DEFINE "HEAVY EQUIPMENT" FOR THIS PURPOSE; BY ADDING SECTION 12-54-126 SO AS TO PROVIDE FOR THE RETURN BY A BUSINESS OF A LICENSE ISSUED BY THE DEPARTMENT OF REVENUE AND PAYMENT OF TAXES DUE UPON THE CLOSING OR TRANSFER OF THE BUSINESS; BY ADDING SECTION 12-54-196 SO AS TO PROVIDE FOR A PENALTY FOR A RETAILER COLLECTING AN EXCESSIVE STATE OR LOCAL SALES TAX AND TO PROVIDE FOR MITIGATION OF THE PENALTY; BY REDESIGNATING SECTION 12-4-780, RELATING TO ACCEPTANCE BY THE DEPARTMENT OF REVENUE OF PAYMENT OF TAXES BY CREDIT CARD; TO AMEND SECTION 12-4-395, SO AS TO CORRECTLY REFLECT IT AS A GENERAL POWER OF THE DEPARTMENT; TO AMEND SECTION 12-6-40, AS AMENDED, RELATING TO APPLICATION OF THE FEDERAL INTERNAL REVENUE CODE TO THIS STATE'S TAX LAWS, SO AS TO REFER TO THE IRC AS AMENDED THROUGH DECEMBER 31, 2005; TO AMEND SECTION 12-6-545, RELATING TO INCOME TAX RATES FOR ACTIVE TRADE OR BUSINESS INCOME OF A PASS-THROUGH BUSINESS, SO AS TO PROVIDE FOR ROYALTIES TREATED AS PERSONAL HOLDING COMPANY INCOME AND AMOUNTS PAID AS GUARANTEED PAYMENTS REASONABLY RELATED TO PERSONAL SERVICES, TO DESCRIBE INCOME REASONABLY RELATED TO PERSONAL SERVICES, AND TO PROVIDE FOR ELECTIONS AS TO TREATMENT OF INCOME FOR PERSONAL SERVICES; TO AMEND SECTION 12-6-3350, RELATING TO TAX CREDIT FOR A STATE CONTRACTOR USING MINORITY SUBCONTRACTORS, SO AS TO CONFORM THE TERM "MINORITY FIRM" TO LANGUAGE USED ELSEWHERE IN THE SOUTH CAROLINA CODE OF LAWS AND TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 12-6-3360, AS AMENDED, RELATING TO THE JOB TAX CREDIT, SO AS TO DELETE THE REQUIREMENT THAT THE TAXPAYER HAVE ONE HUNDRED OR MORE EMPLOYEES, AND TO REVISE THE DEFINITION OF "DISTRIBUTION FACILITY"; TO AMEND SECTION 12-37-220, AS AMENDED, RELATING TO PROPERTY TAX EXEMPTIONS, SO AS TO CONFORM THE DEFINITION OF DISTRIBUTION FACILITY TO THE REVISED DEFINITION PROVIDED BY THE AMENDMENT TO THE TARGETED JOBS TAX CREDIT IN THIS ACT; TO AMEND SECTION 12-6-3375, RELATING TO CREDITS AGAINST THE STATE INCOME TAX FOR AN INCREASE IN PORT CARGO VOLUME, SO AS TO PROVIDE FOR DETERMINATION OF THE BASE PORT CARGO VOLUME, THAT THE TAXPAYER APPLY TO THE COORDINATING COUNCIL FOR ECONOMIC DEVELOPMENT TO QUALIFY, THAT THE COUNCIL DETERMINE THE AMOUNT OF THE CREDIT UP TO A MAXIMUM OF EIGHT MILLION DOLLARS FOR ALL TAXPAYERS FOR EACH CALENDAR YEAR, THAT THE ENTIRE MAXIMUM AMOUNT BE PRORATED AMONG QUALIFYING TAXPAYERS IN A CALENDAR YEAR, AND FOR CARRYOVER OF EXCESS CREDIT FOR THE NEXT FIVE YEARS; TO AMEND SECTION 12-54-240, AS AMENDED, RELATING TO PERMITTED DISCLOSURES OF INFORMATION BY THE DEPARTMENT OF REVENUE, SO AS TO ALLOW THE EXCHANGE OF INFORMATION BETWEEN THE DEPARTMENT AND THE DEPARTMENT OF COMMERCE IN CONNECTION WITH THE CREDIT FOR INCREASED PORT CARGO VOLUME; TO AMEND SECTION 12-6-3385, RELATING TO A REFUNDABLE INCOME TAX CREDIT FOR A TUITION PAYMENT, SO AS TO SUSPEND THE FOUR-YEAR CREDIT PERIOD IF A STUDENT IS DEPLOYED BY THE MILITARY ON ACTIVE DUTY DURING THE PERIOD AND RE-ENROLLS UPON DEMOBILIZATION; TO AMEND SECTION 12-6-3535, AS AMENDED, RELATING TO THE STATE INCOME TAX CREDIT ALLOWED A TAXPAYER MAKING QUALIFIED REHABILITATION EXPENDITURES FOR A CERTIFIED HISTORIC STRUCTURE IN THIS STATE, SO AS TO ADD TECHNICAL REFERENCES AND TO DEFINE "PARTNER" FOR PURPOSES OF THE APPLICATION OF THE CREDIT TO PASS-THROUGH ENTITIES; TO AMEND SECTION 12-6-5030, AS AMENDED, RELATING TO THE FILING OF A COMPOSITE CORPORATE INCOME TAX RETURN, SO AS TO FURTHER PROVIDE FOR THE COMPUTATION OF A NONRESIDENT PARTICIPANT'S PRO RATA SHARE OF SOUTH CAROLINA INCOME TAX; TO AMEND SECTION 12-10-80, AS AMENDED, RELATING TO JOB DEVELOPMENT TAX CREDITS, SO AS TO DELETE UNNECESSARY REFERENCES AND TO CORRECT A REFERENCE; TO AMEND SECTIONS 12-23-810, 12-23-830, AND 12-23-840, RELATING TO TAX ON LICENSED HOSPITALS FOR INDIGENT HEALTH CARE, SO AS TO PROVIDE FOR AN INITIAL TAX AND FOR TAXES FOR SECOND AND SUCCESSIVE FISCAL YEARS, TO PROVIDE FOR CALCULATION OF THE TAX, AND TO PROVIDE THAT THE MONIES BE USED FOR HEALTH CARE COVERAGE FOR CERTAIN POPULATIONS IN THIS STATE; TO AMEND SECTION 12-28-110, AS AMENDED, RELATING TO DEFINITIONS FOR PURPOSES OF THE USER FEE FOR MOTOR FUELS, SO AS TO FURTHER DEFINE "DIESEL FUEL" TO INCLUDE BIODIESEL FUEL AND "MOTOR FUEL" TO INCLUDE SUBSTITUTE FUEL, TO DEFINE "SUBSTITUTE FUEL", "BIODIESEL", AND "BIODIESEL

BLEND", AND TO MAKE CERTAIN CLARIFICATIONS; TO AMEND SECTION 12-28-310, AS AMENDED, RELATING TO THE IMPOSITION OF THE USER FEE, SO AS TO INCLUDE BLENDED, SUBSTITUTED, AND ALTERNATIVE FUELS; TO AMEND SECTION 12-28-790, AS AMENDED, RELATING TO REFUNDS OF THE USER FEE, SO AS TO DELETE THE CREDIT ALLOWANCE TO A SUPPLIER; TO AMEND SECTION 12-28-970, AS AMENDED, RELATING TO THE IMPOSITION OF A BACKUP USER FEE ON MOTOR FUEL USED BY AN END USER, SO AS TO INCLUDE THE USE OF A SUBSTITUTE FUEL AND TO ADD A TAX ON A LIQUID OR GAS THAT IS NOT OTHERWISE SUBJECT TO THE MOTOR FUEL USER FEE, BY PROVIDING FOR A BACKUP TAX EQUAL TO THE USER FEE PAYABLE BY THE FIRST PERSON WHO RECEIVES THE PRODUCT INTO THIS STATE AND PAYABLE BY THE PRODUCER UPON THE FIRST SALE OR FIRST USE IN THIS STATE; TO AMEND SECTION 12-28-975, AS AMENDED, RELATING TO THE DIVERSION OF MOTOR FUEL FROM AN OUT-OF-STATE DESTINATION, SO AS TO REQUIRE NOTIFICATION AND PAYMENT OF THE USER FEE; TO AMEND SECTION 12-28-990, AS AMENDED, RELATING TO THE LIABILITY OF A BLENDER OF FUELS, SO AS TO PROVIDE FOR A USER FEE AGAINST BLENDED FUELS, PAYABLE BY THE BLENDER OR MANUFACTURER; TO AMEND SECTION 12-28-1120, AS AMENDED, RELATING TO A TRANSPORTER OF MOTOR FUEL SUBJECT TO THE USER FEE, SO AS TO REQUIRE A TRANSPORTER'S LICENSE; TO AMEND SECTION 12-28-1370, AS AMENDED RELATING TO A LICENSED TRANSPORTER, SO AS TO CLARIFY THE REPORTABLE TRANSPORTS; TO AMEND SECTION 12-33-245, AS AMENDED, RELATING TO THE IMPOSITION OF AN EXCISE TAX ON THE PROCEEDS OF THE SALE OF ALCOHOLIC LIQUOR BY THE DRINK, SO AS TO PROVIDE FOR SALES MADE AT A LOCATION HOLDING A TEMPORARY LICENSE OR PERMIT, AND TO FURTHER DEFINE THE TERM "GROSS PROCEEDS OF SALE" TO INCLUDE THE VALUE OF COMPLIMENTARY ALCOHOLIC LIQUOR, ICE, AND MIXERS; TO AMEND SECTION 12-36-90, AS AMENDED, RELATING TO THE DEFINITION OF "GROSS PROCEEDS OF SALE" FOR PURPOSES OF THE STATE SALES AND USE TAX, SO AS TO PROVIDE THAT THE TERM DOES NOT INCLUDE THE PROCEEDS OF THE SALE OF PERSONAL PROPERTY PURCHASED PURSUANT TO A WARRANTY, MAINTENANCE, OR SIMILAR SERVICE CONTRACT UNDER CERTAIN CONDITIONS; TO AMEND SECTION 12-36-910, AS AMENDED, RELATING TO APPLICATION OF THE FIVE PERCENT SOUTH CAROLINA SALES TAX, SO AS TO PROVIDE THAT THE TAX APPLIES TO THE GROSS PROCEEDS OF THE SALE OF A WARRANTY, MAINTENANCE, OR OTHER SERVICE CONTRACTS FOR TANGIBLE PERSONAL PROPERTY; TO AMEND SECTION 12-36-2120, AS AMENDED, RELATING TO EXEMPTIONS FROM THE SALES TAX, SO AS TO CLARIFY THE TYPE OF MATERIAL HANDLING SYSTEMS AND EQUIPMENT INCLUDED IN THE EXEMPTIONS, AND TO EXEMPT THE GROSS PROCEEDS FROM A SALE OF A WARRANTY, MAINTENANCE, OR OTHER SERVICE CONTRACT FOR TANGIBLE PERSONAL PROPERTY IF THE GROSS PROCEEDS FROM THE SALE OF THE SUBJECT TANGIBLE PERSONAL PROPERTY IS EXEMPT; TO AMEND SECTION 12-37-2740, RELATING TO SUSPENSION OF A DRIVER'S LICENSE AND VEHICLE REGISTRATION FOR FAILURE TO PAY PERSONAL PROPERTY TAX, SO AS TO CHANGE REFERENCES FROM THE "DEPARTMENT" TO THE "DEPARTMENT OF MOTOR VEHICLES", AND TO PROVIDE FOR A MAXIMUM PENALTY FOR A THIRD AND SUBSEQUENT OFFENSE TO A FIVE HUNDRED-DOLLAR FINE OR THIRTY DAYS IN PRISON, OR BOTH; TO AMEND SECTION 12-37-2890, RELATING TO SUSPENSION OF THE DRIVER'S LICENSE AND VEHICLE REGISTRATION OF A PERSON WHO FAILS TO PAY THE MOTOR CARRIER PROPERTY TAX ON A VEHICLE, SO AS TO PROVIDE THAT THE SUSPENSION BE MADE BY THE DEPARTMENT OF MOTOR VEHICLES AFTER ELECTRONIC NOTICE AND FOR SPECIFIC PENALTIES FOR FIRST AND SUBSEQUENT OFFENSES; TO AMEND SECTION 12-43-335, AS AMENDED, RELATING TO THE CLASSIFICATION OF ASSESSED PROPERTY FOR PURPOSES OF EQUALIZATION AND REASSESSMENT, SO AS TO CHANGE A REFERENCE TO CERTAIN SECTOR 22 CLASSIFICATIONS; TO AMEND SECTION 12-54-155, RELATING TO PENALTIES FOR SUBSTANTIAL UNDERSTATEMENT OF TAXES, SO AS TO CLARIFY THAT THE PROVISION REFERS TO AN UNDERPAYMENT OF TAXES BASED ON AN UNDERSTATEMENT OF TAX OR A MISSTATEMENT OF VALUATION, TO PROVIDE THAT CERTAIN PENALTIES DO NOT APPLY TO UNDERPAYMENTS ATTRIBUTABLE TO FRAUD, BUSINESS-RELATED PROPERTY, OR A TAX SHELTER, WHICH ARE PENALIZED ELSEWHERE, TO DEFINE "SUBSTANTIAL VALUATION MISSTATEMENT", AND TO PROVIDE FOR REASONABLENESS AND GOOD FAITH ON THE PART OF THE TAXPAYER AND IN CONNECTION WITH CHARITABLE DEDUCTION PROPERTY; TO AMEND SECTION 12-60-30, AS AMENDED, RELATING TO DEFINITIONS IN CONNECTION WITH THE REVENUE PROCEDURES ACT, SO AS TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 12-60-470, AS AMENDED, RELATING TO REFUND CLAIMS BY A STATE TAXPAYER, SO AS TO FURTHER PROVIDE FOR THE LIMITED CIRCUMSTANCES UNDER WHICH A PERSON OTHER THAN THE TAXPAYER LEGALLY LIABLE FOR THE TAX MAY CLAIM OR RECEIVE A REFUND, INCLUDING THE REQUIREMENT THAT AN ASSIGNMENT OF THE CLAIM OR REFUND BE IN WRITING, THE REFUND CLAIM OF A FOREIGN MISSION OR DIPLOMAT, THE APPLICATION OF SECTION 12-60-490, AND THE DISCLOSURE TO ANOTHER PERSON OF THE EFFECT OF OTHER TAX LIABILITIES OF THE TAXPAYER ON THE AMOUNT OF THE

REFUND; AND TO REPEAL SECTION 12-4-770, RELATING TO PROCEDURES FOR APPEALING THE PROPOSED ASSESSMENT OF PROPERTY FOR TAXATION.

03/29/06	House	Introduced and read first time HJ-9
03/29/06	House	Referred to Committee on Ways and Means HJ-14
04/20/06	House	Committee report: Favorable with amendment Ways and Means HJ-14
04/26/06	House	Requests for debate-Rep(s). Cooper, Skelton, JE Smith, J Brown, Edge, Ott, Mahaffey, Rice, Duncan, Vaughn, Young, Owens, EH Pitts, Jefferson, Davenport, and Leach HJ-41
05/03/06	House	Amended HJ-64
05/03/06	House	Read second time HJ-106
05/03/06	House	Roll call Yeas-111 Nays-1 HJ-106
05/04/06	House	Read third time and sent to Senate HJ-113
05/08/06	Senate	Introduced and read first time SJ-19
05/08/06	Senate	Referred to Committee on Finance SJ-19
05/12/06	Senate	Referred to Subcommittee: O'Dell (ch), Peeler, Reese, Short, Fair, Verdin
05/17/06	Senate	Committee report: Favorable with amendment Finance SJ-19
05/18/06		Scrivener's error corrected
05/31/06	Senate	Amended SJ-166