**South Carolina General Assembly**

118th Session, 2009-2010

**H. 3003**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Cooper, Harrell, Cato, Loftis, Gambrell, Thompson, Huggins, Sandifer, Owens, Littlejohn, Stringer, G.M. Smith, Kelly, Hardwick, Willis, Duncan, Herbkersman, Haley, Bedingfield, Rice, Spires, White, J.R. Smith, Parker, G.R. Smith, D.C. Smith, Lowe, Umphlett, Nanney, M.A. Pitts, Merrill, Wylie, Hamilton, A.D. Young and E.H. Pitts

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Introduced in the House on January 13, 2009

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

Summary: Weapons

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/9/2008 House Prefiled

12/9/2008 House Referred to Committee on **Judiciary**

1/13/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\01-13-09.docx)‑16

1/13/2009 House Referred to Committee on **Judiciary** [HJ](file:///h:\HJ%20Archive\2009\01-13-09.docx)‑17

1/28/2009 House Member(s) request name added as sponsor: E.H.Pitts

2/10/2009 House Member(s) request name added as sponsor: Skelton

2/17/2009 House Member(s) request name removed as sponsor: Skelton

3/5/2009 House Member(s) request name removed as sponsor: Toole

**VERSIONS OF THIS BILL**

[12/9/2008](file:///p:\pprever\2009-10\3003_20081209.docx)

**A** **BILL**

TO AMEND SECTION 16‑23‑460, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CONCEALED WEAPONS AND THE FORFEITURE OF WEAPONS WHEN A VIOLATION OCCURS, SO AS TO INCREASE THE FINE FOR A VIOLATION; TO AMEND SECTION 16‑23‑50, AS AMENDED, RELATING TO PENALTIES FOR WEAPONS VIOLATIONS AND FORFEITURE OF HANDGUNS, SO AS TO DELETE OBSOLETE REFERENCES TO SECTION 16‑23‑20; TO AMEND SECTION 23‑31‑215, AS AMENDED, RELATING TO THE ISSUANCE OF CONCEALED WEAPON PERMITS, SO AS TO SPECIFICALLY ENUMERATE THOSE PERSONS NOT REQUIRED TO OBTAIN A CONCEALED WEAPON PERMIT; TO AMEND SECTION 23‑31‑220, RELATING TO THE RIGHT TO ALLOW CONCEALED WEAPONS UPON CERTAIN PREMISES, SO AS TO SPECIFICALLY ENUMERATE THOSE PERSONS THAT ARE EXEMPTED FROM THE PURVIEW OF THE STATUTE; TO AMEND SECTION 63‑19‑1210, RELATING TO TRANSFER OF JURISDICTION FOR CERTAIN JUVENILE OFFENSES, SO AS TO CORRECT A REFERENCE; AND TO REPEAL SECTION 16‑23‑20 RELATING TO THE UNLAWFUL CARRYING OF A HANDGUN AND SECTION 23‑31‑217 RELATING TO THE EFFECT OF SECTION 16‑23‑20.

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

SECTION 1. Section 16‑23‑460 of the 1976 Code, as last amended by Act 337 of 2008, is further amended to read:

“Section 16‑23‑460. (A) A person carrying a deadly weapon usually used for the infliction of personal injury concealed about his person is guilty of a misdemeanor, must forfeit to the county, or, if convicted in a municipal court, to the municipality, the concealed weapon, and, upon conviction, must be fined not less than ~~two~~five hundred dollars ~~nor more than five hundred dollars~~or imprisoned not less than thirty days nor more than ninety days, or both.

(B) The provisions of this section do not apply to:

(1) A person carrying a concealed weapon upon his own premises or pursuant to and in compliance with Article 4, Chapter 31 of Title 23; or

(2) peace officers in the actual discharge of their duties.

(C) The provisions of this section also do not apply to rifles, shotguns, dirks, slingshots, metal knuckles, knives, or razors unless they are used with the intent to commit a crime or in furtherance of a crime.”

SECTION 2. Section 16‑23‑50(A) of the 1976 Code is amended to read:

“(A)~~(1)~~ A person, including a dealer, who violates the provisions of this article~~, except Section 16‑23‑20,~~ is guilty of a felony and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than five years, or both.

~~(2)~~ ~~A person violating the provisions of Section 16‑23‑20 is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.~~”

SECTION 3. Section 23‑31‑215(O) of the 1976 Code is amended to read:

“(O) A permit issued pursuant to this article is not required for~~a person~~:

(1) ~~specified in Section 16‑23‑20, items (1) through (5) and items (7) through (11)~~regular, salaried law enforcement officers, and reserve police officers of a state agency, municipality, or county of the State, uncompensated Governor’s constables, law enforcement officers of the federal government or other states when they are carrying out official duties while in this State, deputy enforcement officers of the Natural Resources Enforcement Division of the Department of Natural Resources, and retired commissioned law enforcement officers employed as private detectives or private investigators;

(2) members of the Armed Forces of the United States, the National Guard, organized reserves, or the State Militia when on duty;

(3) members, or their invited guests, of organizations authorized by law to purchase or receive firearms from the United States or this State or regularly enrolled members, or their invited guests, of clubs organized for the purpose of target shooting or collecting modern and antique firearms while these members, or their invited guests, are at or going to or from their places of target practice or their shows and exhibits;

(4) licensed hunters or fishermen who are engaged in hunting or fishing or going to or from their places of hunting or fishing while in a vehicle or on foot;

(5) a person regularly engaged in the business of manufacturing, repairing, repossessing, or dealing in firearms, or the agent or representative of this person, while possessing, using, or carrying a handgun in the usual or ordinary course of the business;

(6) guards authorized by law to possess handguns and engaged in protection of property of the United States or any agency of the United States;

(7) members of authorized military or civil organizations while parading or when going to and from the places of meeting of their respective organizations;

(8) a person in his home or upon his real property or a person who has the permission of the owner or the person in legal possession or the person in legal control of the home or real property;

(9) a person in a vehicle if the handgun is secured in a closed glove compartment, closed console, closed trunk, or in a closed container secured by an integral fastener and transported in the luggage compartment of the vehicle; however, this item is not violated if the glove compartment, console, or trunk is opened in the presence of a law enforcement officer for the sole purpose of retrieving a driver’s license, registration, or proof of insurance;

(10) a person carrying a handgun unloaded and in a secure wrapper from the place of purchase to his home or fixed place of business or while in the process of changing or moving one’s residence or changing or moving one’s fixed place of business;

(11) a prison guard while engaged in his official duties;

(12) a person engaged in firearms‑related activities while on the premises of a fixed place of business which conducts, as a regular course of its business, activities related to sale, repair, pawn, firearms training, or use of firearms, unless the premises is posted with a sign limiting possession of firearms to holders of permits issued pursuant to this article;

(13) a person while transferring a handgun directly from or to a vehicle and a location specified by law where one may legally possess the handgun; (14) a person on a motorcycle when the pistol is secured in a closed saddlebag or other similar closed accessory container attached, whether permanently or temporarily, to the motorcycle.

~~(2)~~(15) a person carrying a self‑defense device generally considered to be nonlethal including the substance commonly referred to as ‘pepper gas’; or

~~(3)~~(16) a person carrying a concealable weapon in a manner not prohibited by law.”

SECTION 4. Section 23‑31‑220 of the 1976 Code is amended to read:

“Section 23‑31‑220. (A) ~~Nothing contained in this~~This article ~~shall in any way~~may not be construed to limit, diminish, or otherwise infringe upon the right of a:

(1) ~~the right of a~~public or private employer to prohibit a person who is licensed ~~under~~pursuant to this article from carrying a concealable weapon upon the premises of the business or work place or while using any machinery, vehicle, or equipment owned or operated by the business; or

(2) ~~the right of a~~private property owner or person in legal possession or control to allow or prohibit the carrying of a concealable weapon upon his premises.

(B) The posting by the employer, owner, or person in legal possession or control of a sign stating ‘No Concealable Weapons Allowed’ ~~shall constitute~~constitutes notice to a person holding a permit issued pursuant to this article that the employer, owner, or person in legal possession or control requests that concealable weapons not be brought upon the premises or into the work place. A person who brings a concealable weapon onto the premises or work place in violation of the provisions of this ~~paragraph~~subsection may be charged with a violation of Section 16‑11‑620. In addition to the penalties provided in Section 16‑11‑620, a person convicted of a second or subsequent violation of the provisions of this ~~paragraph~~subsection must have his permit revoked for a period of one year.

(C) The prohibition contained in ~~this section~~subsection (B) does not apply to: ~~persons specified in Section 16‑23‑20, item (1)~~

(1) regular, salaried law enforcement officers, and reserve police officers of a state agency, municipality, or county of the State;

(2) uncompensated Governor’s constables;

(3) law enforcement officers of the federal government or other states when they are carrying out official duties while in this State;

(4) deputy enforcement officers of the Natural Resources Enforcement Division of the Department of Natural Resources; and

(5) retired commissioned law enforcement officers employed as private detectives or private investigators.”

SECTION 5. Section 63‑19‑1210(9) of the 1976 Code, as added by Act 361 of 2008, is amended to read:

“(9) If a child fourteen years of age or older is charged with a violation of Article 4, Chapter 31, Title 23, Section 16‑23‑430(1), ~~Section 16‑23‑20,~~assault and battery of a high and aggravated nature, or Section 44‑53‑445, the court, after full investigation and hearing, if it considers it contrary to the best interest of the child or the public to retain jurisdiction, acting as committing magistrate, may bind over the child for proper criminal proceedings to a court which would have trial jurisdiction of the offenses if committed by an adult.”

SECTION 6. Sections 16‑23‑20 and 23‑31‑217 of the 1976 Code are repealed.

SECTION 7. The repeal or amendment by this act of any law, whether temporary or permanent or 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 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 8. This act takes effect upon approval by the Governor.

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