**South Carolina General Assembly**

121st Session, 2015-2016

**H. 4843**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Spires, Rutherford and Kennedy

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Introduced in the House on February 4, 2016

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

Summary: Search warrants

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/4/2016 House Introduced and read first time ([House Journal‑page 8](file:///h:\HJ%20Archive\2016\02-04-16.docx))

2/4/2016 House Referred to Committee on **Judiciary** ([House Journal‑page 8](file:///h:\HJ%20Archive\2016\02-04-16.docx))

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**VERSIONS OF THIS BILL**

[2/4/2016](file:///p:\pprever\2015-16\4843_20160204.docx)

**A** **BILL**

TO AMEND SECTION 17‑13‑140, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ISSUANCE, EXECUTION, AND RETURN OF SEARCH WARRANTS FOR PROPERTY CONNECTED WITH THE COMMISSION OF A CRIME AND THE SEIZURE OF PROPERTY UNDER CERTAIN CIRCUMSTANCES CONNECTED WITH THE COMMISSION OF A CRIME, SO AS TO PROVIDE THAT THE OWNER OF A MOTOR VEHICLE MAY NOT BE CHARGED MOTOR VEHICLE REGISTRATION AND LICENSE FEES WHEN A MOTOR VEHICLE IS SEIZED PURSUANT TO THE PROVISIONS OF THIS SECTION OR ANY OTHER PROVISION OF LAW, INCLUDING FEDERAL OR STATE DRUG LAWS, WHILE THE OWNER IS NOT IN POSSESSION OF THE VEHICLE, THE SEIZING LAW ENFORCEMENT AGENCY MUST RETURN THE LICENSE PLATE OF THE SEIZED VEHICLE TO THE DEPARTMENT OF MOTOR VEHICLES WITHIN THIRTY DAYS AFTER SEIZURE, AND IF THE OWNER IS ABLE TO RECLAIM POSSESSION OF THE MOTOR VEHICLE, THE OWNER IS ONLY RESPONSIBLE FOR THOSE REGISTRATION AND LICENSE FEES DUE AFTER THE DATE OF SEIZURE AND THE RETURN OF THE VEHICLE TO HIS POSSESSION WITH AN EXCEPTION FOR PAST DUE FEES.

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

SECTION 1. Section 17‑13‑140 of the 1976 Code is amended to read:

“Section 17-13-140. (A) Any magistrate ~~or~~, recorder, or city judge having the powers of magistrates, or any judge of any court of record of the State having jurisdiction over the area where the property sought is located, may issue a search warrant to search for and seize (1) stolen or embezzled property; (2) property, the possession of which is unlawful; (3) property which is being used or has been used in the commission of a criminal offense or is possessed with the intent to be used as the means for committing a criminal offense or is concealed to prevent a criminal offense from being discovered; (4) property constituting evidence of crime or tending to show that a particular person committed a criminal offense; (5) any narcotic drugs, barbiturates, amphetamines or other drugs restricted to sale, possession, or use on prescription only, which are manufactured, possessed, controlled, sold, prescribed, administered, dispensed or compounded in violation of any of the laws of this State or of the United States. Narcotics, barbiturates, or other drugs seized hereunder ~~shall~~ must be disposed of as provided ~~by~~ in Section 44‑53‑520.

(B) The property described in this section, or any part thereof, may be seized from any place where ~~such~~ the property may be located, or from the person, possession or control of any person who ~~shall be~~ is found to have ~~such~~ the property in his possession or under his control.

(C) A warrant issued ~~hereunder shall~~ pursuant to this section may be issued only upon affidavit sworn to before the magistrate, municipal judicial officer, or judge of a court of record establishing the grounds for the warrant. If the magistrate, municipal judge, or other judicial officer ~~abovementioned~~ as provided in this section is satisfied that the grounds for the application exist or that there is probable cause to believe that they exist, he shall issue a warrant identifying the property and naming or describing the person or place to be searched. In the case of a warrant issued by a magistrate or a judge of a court of record, it ~~shall~~ must be directed to any peace officer having jurisdiction in the county where issued, including members of the South Carolina Law Enforcement Division, and ~~shall be~~ is returnable to the issuing magistrate. In case of a warrant issued by a judge of a court of record, it ~~shall be~~ is returnable to a magistrate having jurisdiction of the area where the property is located or the person to be searched is found. If ~~any~~ a warrant is issued by any municipal judicial officer to municipal police officers, the return ~~shall~~ must be made to the issuing municipal judicial officer. ~~Any~~ A warrant issued ~~shall~~ must command the officer to whom it is directed to forthwith search the person or place named for the property specified.

(D) ~~Any~~ A warrant issued ~~hereunder shall~~ pursuant to this section must be executed and return made only within ten days after it is dated. The officer executing the warrant shall make and deliver a signed inventory of any articles seized by virtue of the warrant, which ~~shall~~ must be delivered to the judicial officer to whom the return is to be made, and if a copy of the inventory is demanded by the person from whose person or premises the property is taken, a copy of the inventory ~~shall~~ must be delivered to him.

(E) This section is not intended to and does not either modify or limit any statute or other law regulating search, seizure, and the issuance and execution of search warrants in circumstances for which special provision is made.

(F) When a law enforcement agency seizes a motor vehicle pursuant to the provisions of this section, applicable federal or state drug laws, or any other provision of law allowing for seizure of a motor vehicle, the owner of the motor vehicle may not be charged motor vehicle registration and license fees pursuant to Chapter 3, Title 56, while the owner is not in possession of the motor vehicle. The law enforcement agency that seized the motor vehicle pursuant to applicable law shall return the license plate of the seized vehicle to the Department of Motor Vehicles within thirty days after seizure. If the owner of the motor vehicle is able to reclaim possession of the motor vehicle at any time in the future, he is responsible for the payment of only those registration and license fees due after the date of the seizure and the return of the vehicle to his possession. However, those fees which were due prior to the date of a motor vehicle’s seizure remain payable to the Department of Motor Vehicles but no interest or late fees may continue to accrue during the time period that the motor vehicle was under seizure.”

SECTION 2. This act takes effect upon approval by the Governor.

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