

2018 REGULAR SESSION

**Acts and Joint Resolutions**

of the

GENERAL ASSEMBLY  
OF THE STATE OF SOUTH CAROLINA

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Ashley Harwell-Beach, Acting Code Commissioner, P.O. Box 11489,  
Columbia, S.C. 29211

**ACTS**

**AND**

**JOINT RESOLUTIONS**

**OF THE**

**General Assembly**

**OF THE**

**State of South Carolina**

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**HENRY D. MCMASTER, Governor; KEVIN L. BRYANT, Lieutenant Governor and ex officio President of the Senate; HUGH K. LEATHERMAN, SR., President Pro Tempore of the Senate; JAMES H. LUCAS, Speaker of the House of Representatives; THOMAS E. POPE, Speaker Pro Tempore of the House of Representatives; JEFFREY S. GOSSETT, Clerk of the Senate; CHARLES F. REID, Clerk of the House of Representatives.**

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**PART I**

**GENERAL AND PERMANENT LAWS**

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## No. 127

(R131, S456)

AN ACT TO AMEND SECTION 56-1-50, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO BEGINNER'S PERMITS, SO AS TO PROVIDE THAT A PERSON WHO HOLDS A MOTORCYCLE BEGINNER'S PERMIT WHO HAS FAILED THE MOTORCYCLE DRIVER'S LICENSE TEST THREE OR MORE TIMES MUST COMPLETE SUCCESSFULLY A SOUTH CAROLINA TECHNICAL COLLEGE MOTORCYCLE SAFETY COURSE, OR ITS EQUIVALENT, IN LIEU OF PASSING THE MOTORCYCLE DRIVER'S LICENSE TEST, IN ORDER TO OBTAIN A MOTORCYCLE LICENSE; AND TO AMEND SECTION 56-1-770, RELATING TO POINTS REDUCED FOR COMPLETING A DEFENSIVE DRIVING COURSE, SO AS TO PROVIDE THAT ANY DRIVER WITH A CLASS M (MOTORCYCLE) ENDORSEMENT WHO HAS ACCUMULATED POINTS UNDER THE PROVISIONS OF THIS ARTICLE SHALL HAVE THE NUMBER OF HIS POINTS REDUCED BY FOUR UPON PROVING TO THE SATISFACTION OF THE DEPARTMENT OF MOTOR VEHICLES THAT HE HAS COMPLETED SUCCESSFULLY A SOUTH CAROLINA TECHNICAL COLLEGE MOTORCYCLE SAFETY COURSE OR ITS EQUIVALENT, TO PROVIDE FOR THE SPECIFICATIONS OF THE COURSE, AND TO PROVIDE THAT NO PERSON'S POINTS MAY BE REDUCED MORE THAN ONE TIME IN ANY THREE-YEAR PERIOD.

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

**Beginners' permits**

SECTION 1. Section 56-1-50 of the 1976 Code, as last amended by Act 89 of 2017, is further amended by adding an appropriately lettered new subsection to read:

“( ) A person who holds a motorcycle beginner's permit who has failed the motorcycle driver's license test three or more times must successfully complete a South Carolina technical college motorcycle safety course, or its equivalent, in lieu of passing the motorcycle driver's

license test, in order to obtain a motorcycle license. All courses must be at least eight hours in length and be taught by an instructor accredited through a training program in which the procedures for accreditation are equivalent to those set forth in 'Manual of Rules and Procedures' published by the National Safety Council. All courses must include successful completion of an examination equivalent to the Department of Motor Vehicles motorcycle skills test. These programs are subject to Section 56-1-15."

### **Defensive driving course**

SECTION 2. Section 56-1-770 of the 1976 Code is amended to read:

"Section 56-1-770. (A) Any driver who has accumulated points under the provisions of this article shall have the number of his points reduced by four upon proving to the satisfaction of the Department of Motor Vehicles that he has completed the National Safety Council's 'Defensive Driving Course' or its equivalent, if the course is completed after the points have been assessed. The course must be taught by an instructor accredited by the National Safety Council whose procedures for accreditation are set forth in the 'Manual of Rules and Procedures' published by the National Safety Council or equivalent accreditation procedures. The department shall establish procedures by which driver training schools may apply to the department for approval of a defensive driving course which will qualify those successfully completing the course for a reduction in points pursuant to this section. The department shall approve the National Safety Council's 'Defensive Driving Course' or its equivalent when offered by driver training schools and taught by an instructor accredited by the National Safety Council or equivalent accreditation procedures.

(B) Any driver with a Class M (motorcycle) endorsement who has accumulated points under the provisions of this article shall have the number of his points reduced by four upon proving to the satisfaction of the Department of Motor Vehicles that he has successfully completed a South Carolina technical college motorcycle safety course or its equivalent. All courses offered for point reduction must be at least eight hours in length and be taught by an instructor accredited through a training program in which the procedures for accreditation are equivalent to those set forth in 'Manual of Rules and Procedures' published by the National Safety Council.

(C) No person's points may be reduced more than one time in any three-year period, pursuant to the provisions contained in this section."

**Time effective**

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

Ratified the 1<sup>st</sup> day of February, 2018.

Approved the 5<sup>th</sup> day of February, 2018.

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**No. 128**

(R132, S680)

**AN ACT TO AMEND SECTION 7-7-260, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN FLORENCE COUNTY, SO AS TO REDESIGNATE THE MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE REVENUE AND FISCAL AFFAIRS OFFICE AND TO CORRECT OUTDATED REFERENCES TO THE REVENUE AND FISCAL AFFAIRS OFFICE.**

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

**Florence County Voting Precincts Map Number Redesignated**

SECTION 1. Section 7-7-260(B) of the 1976 Code, as last amended by Act 23 of 1999, is further amended to read:

“(B) The precinct lines defining the precincts in subsection (A) are as shown on the official map designated as document P-41-17 and on file with the Revenue and Fiscal Affairs Office and as shown on certified copies provided to the State Election Commission and the Board of Voter Registration and Elections of Florence County by the Revenue and Fiscal Affairs Office.”

**Time effective**

SECTION 2. This act takes effect July 1, 2017.

Ratified the 1<sup>st</sup> day of February, 2018.

Approved the 5<sup>th</sup> day of February, 2018.

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**No. 129**

(R133, S882)

**AN ACT TO ADOPT REVISED CODE VOLUMES 15A AND 18 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO THE EXTENT OF THEIR CONTENTS, AS THE ONLY GENERAL PERMANENT STATUTORY LAW OF THE STATE; AND TO ADOPT THE 2017 CUMULATIVE SUPPLEMENTS TO THE CODE OF LAWS AS PART OF THE CODE AND PROVIDE THAT THESE SUPPLEMENTS, VOLUMES AS SUPPLEMENTED BY THEM, AND THE REPLACEMENT VOLUMES CONSTITUTE THE ONLY GENERAL PERMANENT STATUTORY LAW OF THE STATE AS OF JANUARY 1, 2018.**

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

**Revised Code volumes, authorization**

SECTION 1. (A) Section 2-13-90 of the 1976 Code authorizes the Legislative Council and the Code Commissioner to contract to be prepared and published under their supervision and direction revised volumes of the Code of Laws.

(B) The Legislative Council and the Code Commissioner have determined that Volumes 15A and 18 are appropriate for revision.

(C) Section 2-13-90 of the 1976 Code also provides that the revised volumes must be submitted to the General Assembly for its consideration.

**Revised Code volumes, adopted**

SECTION 2. (A) Revised Volume 15A containing Title 44 of the Code of Laws of South Carolina, 1976, is substituted for original Volume 15A containing the same title.

(B) Revised Volume 18 containing Titles 56 and 57 of the Code of Laws of South Carolina, 1976, is substituted for original Volume 18 containing the same titles.

(C) Revised Volumes 15A and 18 are adopted as part of the Code of Laws and, to the extent of their contents, are the only general permanent statutory law of the State as of January 1, 2018.

### **Cumulative Supplements, adopted**

SECTION 3. The 2017 Cumulative Supplements to the Code of Laws of South Carolina, 1976, are adopted as part of the Code of Laws. These supplements, volumes as supplemented by them, and the replacement volumes referred to in Section 2 of this act, constitute the only general permanent statutory law of the State as of January 1, 2018.

### **Time effective**

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 1<sup>st</sup> day of February, 2018.

Approved the 5<sup>th</sup> day of February, 2018.

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### **No. 130**

(R134, H4180)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTIONS 4-3-75 AND 4-3-325 SO AS TO ALTER THE BOUNDARY LINES OF BEAUFORT AND JASPER COUNTIES BY ANNEXING A CERTAIN PORTION OF JASPER COUNTY TO BEAUFORT COUNTY AND A CERTAIN PORTION OF BEAUFORT COUNTY TO JASPER COUNTY AND MAKE PROVISIONS FOR LEGAL RECORDS.**

Whereas, the governing bodies of Beaufort and Jasper counties have no objection to a change in the county lines of both counties by transferring certain property in Beaufort County to Jasper County and by transferring certain property in Jasper County to Beaufort County; and

Whereas, the governing bodies of both counties by resolution have consented to and approved these adjustments of the boundary lines and attendant annexations; and

Whereas, Section 7, Article VII of the Constitution of South Carolina, 1895, requires before any county line is altered the question must be submitted to the qualified electors of the territory proposed to be taken from one county and given to another; and

Whereas, at this time there are no inhabitants in the territory proposed to be taken from either county and given to the other county; and

Whereas, the South Carolina Attorney General has issued an opinion, Op. Atty. Gen., 90-67 (November 21, 1990), which concludes that when there are no inhabitants and therefore no qualified electors in the territory being moved from one county to another no election is required to move a county line between two counties. Now, therefore,

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

### **Transfer of property to Beaufort County**

SECTION 1. Chapter 3, Title 4 of the 1976 Code is amended by adding:

“Section 4-3-75. (A)(1) The following described portion of Jasper County is transferred and annexed to Beaufort County:

All that area consisting of approximately 5.95 acres of land more specifically identified and described on those certain plats of survey prepared by Cornerstone Surveying and Engineering, Inc. for the South Carolina Geodetic Survey, R. David Branton, Professional Land Surveyor, entitled ‘A Plat of a Portion of the Beaufort-Jasper County Line’ dated June 15, 2016, and being on file in the South Carolina Revenue and Fiscal Affairs Office and recorded in the Beaufort County Register of Deeds Office in Plat Book 145, pages 162-173, and in the Jasper County Register of Deeds Office in Plat Book 0035, page 0083.

(2) The proper proportion of the existing Jasper County indebtedness of the area transferred must be assumed by Beaufort County.

(B) Upon application, the clerk of court, register of deeds, sheriff, and probate judge of Jasper County shall furnish certified copies of any judgment roll, entry on abstract of judgment book, will, record,



execution, decree, deed, mortgage, or other papers signed or recorded in the office of such officers, upon payment of proper fees and when this certified copy is filed or recorded in the proper office of Beaufort County, it has the same force and effect in Beaufort County that it had in Jasper County and any record not transferred continues in force and effect, and each has the same force and effect in Beaufort County as if it had been transferred and made a record in the proper office in Beaufort County.”

### **Transfer of property to Jasper County**

SECTION 2. Chapter 3, Title 4 of the 1976 Code is amended by adding:

“Section 4-3-325. (A)(1) The following described portion of Beaufort County is transferred and annexed to Jasper County:

All that area consisting of approximately 22.34 acres of land more specifically identified and described on those certain plats of survey prepared by Cornerstone Surveying and Engineering, Inc. for the South Carolina Geodetic Survey, R. David Branton, Professional Land Surveyor, entitled ‘A Plat of a Portion of the Beaufort-Jasper County Line’ dated June 15, 2016, and being on file in the South Carolina Revenue and Fiscal Affairs Office and recorded in the Beaufort County Register of Deeds Office in Plat Book 145, pages 162-173, and in the Jasper County Register of Deeds Office in Plat Book 0035, page 0083.

(2) The proper proportion of the existing Beaufort County indebtedness of the area transferred must be assumed by Jasper County.

(B) Upon application, the clerk of court, register of deeds, sheriff, and probate judge of Beaufort County shall furnish certified copies of any judgment roll, entry on abstract of judgment book, will, record, execution, decree, deed, mortgage, or other papers signed or recorded in the office of such officers, upon payment of proper fees and when this certified copy is filed or recorded in the proper office of Jasper County, it has the same force and effect in Jasper County that it had in Beaufort County and any record not transferred continues in force and effect, and each has the same force and effect in Jasper County as if it had been transferred and made a record in the proper office in Jasper County.”

**Time effective**

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

Ratified the 1<sup>st</sup> day of February, 2018.

Approved the 7<sup>th</sup> day of February, 2018.

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**No. 131**

(R135, S297)

**AN ACT TO AMEND SECTION 40-18-80, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SECURITY OFFICER REGISTRATION CERTIFICATES AND QUALIFICATIONS OF APPLICANTS, SO AS TO PROVIDE THAT, PENDING ISSUANCE OF A REGISTRATION CERTIFICATE, A SECURITY OFFICER MAY PERFORM THE DUTIES OF A SECURITY OFFICER FOR UP TO THIRTY DAYS AFTER RECEIPT BY SLED OF HIS APPLICATION FOR REGISTRATION.**

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

**Permitted practice time between application filing and certificate issuance extended**

SECTION 1. Section 40-18-80(A)(2) of the 1976 Code is amended to read:

“(2) Pending issuance of a registration certificate, a security officer may perform the duties of a security officer for up to thirty days after receipt by SLED of his application for registration; however, a person authorized to perform duties under this section has no arrest authority and must not carry a firearm until SLED issues a registration certificate. If SLED does not issue a registration certificate within thirty days of receipt of the application, a security officer must cease performing all security-related activities.”

**Time effective**

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

Ratified the 8<sup>th</sup> day of February, 2018.

Approved the 12<sup>th</sup> day of February, 2018.

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**No. 132**

(R136, H3653)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 24 TO TITLE 31 SO AS TO PROVIDE THE OPERATIONS OR EXPANSIONS OF MANUFACTURING OR INDUSTRIAL FACILITIES MAY NOT BE CONSIDERED PUBLIC OR PRIVATE NUISANCES IN CERTAIN CIRCUMSTANCES; TO PROVIDE THIS PROTECTED STATUS IS TRANSFERABLE IN CERTAIN CIRCUMSTANCES; TO PROVIDE THIS PROTECTED STATUS IS NOT WAIVABLE BY TEMPORARILY CEASING OPERATIONS FOR A PERIOD NOT TO EXCEED TWO YEARS OR BY DIMINISHING THE SIZE OF OPERATIONS; TO PROVIDE THAT THE PROVISIONS OF THIS ACT MAY NOT BE CONSTRUED TO MODIFY OR AFFECT STATUTORY EMINENT DOMAIN LAWS, STATUTORY ENVIRONMENTAL LAWS, OR COMMON LAW CLAIMS OF TRESPASS AND NEGLIGENT OPERATION; AND TO PROVIDE THE PROVISIONS OF THIS ACT DO NOT APPLY TO NUISANCE ACTIONS COMMENCED WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS CHAPTER.**

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

**Nuisance suits related to manufacturing and industrial uses of real property**

SECTION 1. Title 31 of the 1976 Code is amended by adding:

## “CHAPTER 24

Nuisance Suits Related to Manufacturing and Industrial Uses of Real  
Property

Section 31-24-110. (A) ‘Manufacturing sector’ means establishments engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products, including, but not limited to, plants, factories, or mills, and characteristically use power-driven machines and materials-handling equipment.

(B) ‘Transportation and warehousing sector’ means industries providing transportation of passengers and cargo, warehousing and storage for goods, scenic and sightseeing transportation, and support activities related to modes of transportation by air, rail, water, road, and pipeline.

(C) ‘Manufacturing or industrial facility’ means any facility that operates in a manufacturing sector or transportation and warehousing sector, including, but not limited to, any land, building, structure, pond, impoundment, appurtenance, machinery, or equipment used for manufacturing, processing, distribution, warehousing, and technology intensive operations. Facilities that are covered under Chapter 45, Title 46 of the 1976 Code are not manufacturing or industrial facilities for the purposes of this chapter.

(D) ‘Reasonably expand’ or ‘reasonable expansion’ means any change in operations or facilities that does not result in a material and substantial change in the affected landowner’s use and enjoyment of property.

Section 31-24-120. (A) A manufacturing or industrial facility, or expansion of such a facility, may not be found to be a public or private nuisance by reason of the operation of that facility if the manufacturing or industrial facility:

(1) is operating pursuant to and in compliance with the requisite licenses, permits, certifications, or authorizations under the applicable federal and state environmental laws and county and municipal zoning and nuisance ordinances; and

(2) commenced operations before the landowner alleging the nuisance acquired, moved onto, or improved the affected property.

(B) If a manufacturing or industrial facility protected pursuant to the provisions of this section seeks to expand its operations or facility and maintain its protected status, then the manufacturing or industrial facility

may reasonably expand its operation or facilities without losing its protected status if it is in compliance with all county, municipal, state, and federal environmental codes, laws, or regulations at the time of expansion. This protected status of a manufacturing or industrial facility, once acquired:

(1) is assignable, alienable, and inheritable, provided the manufacturing or industrial facility is operating for the same use as when it commenced operations as provided in subsection (A)(2) or a reasonable expansion thereof as provided in this subsection; and

(2) may not be waived by the temporary cessation of operation for a period not to exceed two years or by diminishing the size of the operation.

Section 31-24-130. The provisions of this chapter may not be construed as modifying a provision of existing statutory eminent domain or environmental law nor as affecting common law claims of trespass or negligent operation.

Section 31-24-140. The provisions of this chapter do not apply to nuisance actions commenced within one year after the effective date of this chapter.”

### **Severability**

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, 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.

### **Time effective**

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

Ratified the 8<sup>th</sup> day of February, 2018.

Approved the 12<sup>th</sup> day of February, 2018.

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**No. 133**

(R137, H4268)

**AN ACT TO AMEND SECTION 7-7-320, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN HORRY COUNTY, SO AS TO REDESIGNATE VARIOUS PRECINCTS AND REDESIGNATE THE MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE REVENUE AND FISCAL AFFAIRS OFFICE.**

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

**Horry County voting precincts and map number redesignated**

SECTION 1. Section 7-7-320 of the 1976 Code, as last amended by Act 38 of 2015, is further amended to read:

“Section 7-7-320. (A) In Horry County there are the following voting precincts:

Adrian  
Allsbrook  
Atlantic Beach  
Aynor  
Bayboro-Gurley  
Brooksville #1  
Brooksville #2  
Brownway  
Burgess #1  
Burgess #2  
Burgess #3  
Burgess #4  
Carolina Bays  
Carolina Forest #1  
Carolina Forest #2  
Cedar Grove  
Cherry Grove #1

Cherry Grove #2  
Coastal Carolina  
Coastal Lane #1  
Coastal Lane #2  
Cool Springs  
Crescent  
Daisy  
Deerfield  
Dog Bluff  
Dogwood  
Dunes #1  
Dunes #2  
Dunes #3  
East Conway  
East Loris  
Ebenezer  
Emerald Forest #1  
Emerald Forest #2  
Emerald Forest #3  
Enterprise  
Forestbrook  
Four Mile  
Galivants Ferry  
Garden City #1  
Garden City #2  
Garden City #3  
Garden City #4  
Glenns Bay  
Green Sea  
Hickory Grove  
Hickory Hill  
Homewood  
Horry  
Inland  
Jackson Bluff  
Jamestown  
Jernigans X Roads  
Jet Port #1  
Jet Port #2  
Jordanville  
Joyner Swamp  
Juniper Bay

Lake Park #1  
Lake Park #2  
Lake Park #3  
Leon  
Little River #1  
Little River #2  
Little River #3  
Live Oak  
Maple  
Marlowe #1  
Marlowe #2  
Marlowe #3  
Methodist-Mill Swamp  
Mt. Olive  
Mt. Vernon  
Myrtle Trace  
Myrtlewood #1  
Myrtlewood #2  
Myrtlewood #3  
Nixons X Roads #1  
Nixons X Roads #2  
Nixons X Roads #3  
North Conway #1  
North Conway #2  
Ocean Drive #1  
Ocean Drive #2  
Ocean Forest #1  
Ocean Forest #2  
Ocean Forest #3  
Palmetto Bays  
Pawley's Swamp  
Pleasant View  
Poplar Hill  
Port Harrelson  
Race Path #1  
Race Path #2  
Red Bluff  
Red Hill #1  
Red Hill #2  
River Oaks  
Salem  
Sea Oats #1



Sea Oats #2  
Sea Winds  
Shell  
Socastee #1  
Socastee #2  
Socastee #3  
Socastee #4  
Spring Branch  
Surfside #1  
Surfside #2  
Surfside #3  
Surfside #4  
Sweet Home  
Taylorsville  
Tilly Swamp  
Toddville  
Wampee  
West Conway  
West Loris  
White Oak  
Wild Wing  
Windy Hill #1  
Windy Hill #2

(B) Precinct lines defining the precincts provided for in subsection (A) are as shown on maps filed with the Board of Voter Registration and Elections of Horry County as provided and maintained by the Revenue and Fiscal Affairs Office designated as document P-51-17.

(C) Polling places for the precincts listed in subsection (A) must be determined by the Board of Voter Registration and Elections of Horry County with the approval of a majority of the Horry County Legislative Delegation.”

### **Time effective**

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

Ratified the 8<sup>th</sup> day of February, 2018.

Approved the 12<sup>th</sup> day of February, 2018.

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## No. 134

( R138, S105)

**AN ACT TO AMEND SECTION 1-23-600, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO HEARINGS AND PROCEEDINGS IN CONTESTED CASES IN THE ADMINISTRATIVE LAW COURT, SO AS TO FURTHER PROVIDE FOR THE IMPOSITION AND DURATION OF STAYS INVOLVING CONTESTED CASES BEFORE THE ADMINISTRATIVE LAW COURT, THE MANNER IN WHICH AND REQUIREMENTS UNDER WHICH THESE STAYS MAY BE LIFTED, EXCEPTIONS TO THE GENERAL PROVISION REGARDING THE LIFTING OF STAYS, AND WHEN THE COURT MUST RENDER A FINAL DECISION ON THE MERITS OF THE CONTESTED CASE; AND TO AMEND SECTION 1-23-670, RELATING TO FILING FEES AND RELATED MATTERS BEFORE THE ADMINISTRATIVE LAW COURT, SO AS TO FURTHER PROVIDE FOR THE SANCTIONS WHICH MAY BE IMPOSED REGARDING FRIVOLOUS CASES.**

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

**Stays and final decisions on contested cases**

SECTION 1. Section 1-23-600(H) of the 1976 Code is amended to read:

“(H)(1) This subsection applies to timely requests for a contested case hearing pursuant to this section of decisions by departments governed by a board or commission authorized to exercise the sovereignty of the State.

(2) A request for a contested case hearing for an agency order stays the order. A request for a contested case hearing for an order to revoke or suspend a license stays the revocation or suspension. A request for a contested case hearing for a decision to renew a license for an ongoing activity stays the renewed license, the previous license remaining in effect pending completion of administrative review. A request for a contested case hearing for a decision to issue a new license stays all actions for which the license is a prerequisite; however, matters not affected by the request may not be stayed by the filing of the request. If the request is filed for a subsequent license related to issues

substantially similar to those considered in a previously licensed matter, the license may not be automatically stayed by the filing of the request. If the requesting party asserts in the request that the issues are not substantially similar to those considered in a previously licensed matter, then the license must be stayed until further order of the Administrative Law Court. Requests for contested case hearings challenging only the amount of fines or penalties must be considered not to affect those portions of such orders imposing substantive requirements.

(3) The general rule of item (2) does not stay emergency actions taken by an agency pursuant to an applicable statute or regulation.

(4)(a) Ninety days after a contested case is initiated before the Administrative Law Court, a party may move before the presiding administrative law judge to lift the stay imposed pursuant to this subsection or for a determination of the applicability of the automatic stay. A hearing must be held within thirty days after any party files a motion with the court and serves the motion upon the parties. The court shall lift the stay unless the party that requested a contested case hearing proves: (i) the likelihood of irreparable harm if the stay is lifted, (ii) the substantial likelihood that the party requesting the contested case and stay will succeed on the merits of the case, (iii) the balance of equities weigh in favor of continuing the stay, and (iv) continuing the stay serves the public interest. The judge must issue an order no later than fifteen business days after the hearing is concluded. If the stay is lifted, action undertaken by the permittee or licensee does not moot and is not otherwise considered an adjudication of the issues raised by the request for a contested case hearing. Notwithstanding the provisions of this item, the process to lift a stay as provided in this item does not apply to a contested case concerning a permit or license involving hazardous waste as defined in Section 44-56-20(6), and a stay in such a contested case must not be lifted until the contested case is concluded and the Administrative Law Court has filed its final order in the matter.

(b) Notwithstanding any other provision of law, in a contested case arising under this subsection, the Administrative Law Court shall file a final decision on the merits of the case no later than twelve months after the contested case is filed with the Clerk of the Administrative Law Court, unless all parties to the contested case consent to an extension or the court finds substantial cause otherwise.

(5) A final decision issued by the Administrative Law Court in a contested case may not be stayed except by order of the Administrative Law Court or the Court of Appeals.

(6) Nothing contained in this subsection constitutes a limitation on the authority of the Administrative Law Court to impose a stay as otherwise provided by statute or by rule of court.”

### **Sanctions for frivolous cases**

SECTION 2. Section 1-23-670 of the 1976 Code is amended to read:

“Section 1-23-670. Each request for a contested case hearing, notice of appeal, or request for injunctive relief before the Administrative Law Court must be accompanied by a filing fee equal to that charged in circuit court for filing a summons and complaint, unless another filing fee schedule is established by rules promulgated by the Administrative Law Court, subject to review as in the manner of rules of procedure promulgated by the Supreme Court pursuant to Article V of the Constitution of this State. This fee must be retained by the Administrative Law Court in order to help defray the costs of the proceedings. No filing fee is required in administrative appeals by inmates from final decisions of the Department of Corrections or the Department of Probation, Parole and Pardon Services. However, if an inmate files three administrative appeals during a calendar year, then each subsequent filing during that year must be accompanied by a twenty-five dollar filing fee. If the presiding administrative law judge determines at the conclusion of the proceeding that the case was frivolous or taken solely for the purpose of delay, the judge may impose such sanctions as the circumstances of the case and discouragement of like conduct in the future may require, including the sanctions authorized in the Frivolous Civil Proceedings Sanctions Act, Chapter 36, Title 15, and as otherwise provided by law.”

### **Time effective**

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

Ratified the 7<sup>th</sup> day of March, 2018.

Approved the 12<sup>th</sup> day of March, 2018.

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## No. 135

(R139, S185)

**AN ACT TO AMEND SECTION 40-19-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITIONS CONCERNING THE REGULATION OF FUNERAL SERVICE PROVIDERS, SO AS TO DEFINE NECESSARY TERMS; AND TO AMEND SECTION 40-19-110, RELATING TO THE PROHIBITED USE OF FALSE OR MISLEADING ADVERTISING BY FUNERAL SERVICE PROVIDERS, SO AS TO PROVIDE REQUIREMENTS FOR FUNERAL SERVICE ADVERTISEMENTS.**

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

**Definitions**

SECTION 1. Section 40-19-20 of the 1976 Code is amended to read:

“Section 40-19-20. As used in this chapter:

(1) ‘Advertisement’ means the publication, dissemination, circulation, or placing before the public an announcement or statement in a newspaper, magazine, or other publication in the form of a book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label, or tag, or over radio, television, or Internet. The term does not include funeral or death notices and obituaries.

(2) ‘Aiding and abetting’ means allowing or permitting an Internet service provider, unlicensed person, establishment, or entity to engage in the practice of funeral service, embalming, cremating, or conducting business as a funeral home, funeral establishment, crematory, or mortuary; provided, however, that ‘aiding and abetting’ does not include the publication, dissemination, circulation, or placing before the public by an Internet service provider of an advertisement prepared by an unaffiliated or unlicensed person or entity.

(3) ‘Apprentice’ means a person who is preparing to become licensed for the practice of embalming and funeral directing under the supervision and instruction of a person licensed for the practice in this State and who is registered with the board pursuant to Section 40-19-120.

(4) ‘Board’ means the South Carolina State Board of Funeral Service.

(5) 'Branch funeral home' means an establishment separate and apart from the licensed parent funeral home that has embalming facilities, a chapel, a lay-out room, or a sales room, or any combination of these.

(6) 'Cremation' means the reduction of the dead body by intense heat to residue.

(7) 'Crematory' means an establishment in which the dead body is reduced to residue by intense heat.

(8) 'Disposition' means the final disposal of the body whether by earth interment, aboveground burial, cremation, burial at sea, or delivery to a medical institution for lawful dissection and experimentation or removal from the State pursuant to obtaining a burial transit permit.

(9) 'Embalmer' means a person licensed by the board to disinfect and preserve or attempt to disinfect and preserve the dead human body, entirely or in part, by the use of application of chemicals, fluids, or gases, externally or internally, or both, by their introduction into the body by vascular or hypodermic injections, by direct application into the organs or cavities, or by other method and includes the restoration or attempted restoration of the appearance of the dead human body.

(10) 'Embalming' means the disinfection of the dead human body by replacing certain body fluids with preserving and disinfecting chemicals.

(11) 'Funeral director' means a person licensed by the board to engage for hire or profit in the profession of arranging, directing, or supervising funerals.

(12) 'Funeral home', 'funeral establishment', or 'mortuary' means an establishment where the practice of funeral service and embalming is practiced. All of these establishments must include the following facilities:

- (a) a chapel or parlor in which funeral services may be conducted;
- (b) a preparation room equipped with a sanitary floor and necessary drainage, ventilation, necessary approved tables, hot and cold running water, and a sink separate from table drainage, instruments, and supplies for the preparation and embalming of dead human bodies;
- (c) a room containing a displayed stock of at least six adult caskets and other necessary funeral supplies;
- (d) at least one motor hearse for transporting casketed human remains.

(13) 'Funeral merchandise' means that personal property used in connection with the conduct of funerals or with the transportation and final disposition of a dead human body including, but not limited to, caskets, cremation caskets, urns, and burial clothing. The term does not

mean mausoleum crypts, interment receptacles preset in a cemetery, and columbarium niches.

(14) 'Funeral service' or 'funeral' means a period following death in which there are religious services or other rites or ceremonies with the body of the deceased present.

(15) 'Graveside service' means a rite or ceremony held only at graveside, which is not generally construed as the committal service which follows a funeral.

(16) 'Inspector' means an inspector employed by the Department of Labor, Licensing and Regulation.

(17) 'Manager' means a licensed funeral director who has been licensed in this State for at least one year, who is a full-time regular employee, and who is responsible for and has the binding authority from the owner for the day-to-day management of funeral establishments or crematories including compliance with all applicable laws governed by this chapter and Chapters 7 and 8, Title 32.

(18) 'Memorial service' means a gathering of persons for a program in recognition of a death without the presence of the body of the deceased.

(19) 'Practice of funeral service' means:

(a) engaging in providing shelter, care, and custody of the human dead;

(b) the practice of preparing the human dead by embalming or other methods for burial or other disposition;

(c) arranging for the transportation of the human dead;

(d) making arrangements at or before the time of death, financial or otherwise, including arrangements for cremation, for providing these services, or the sale of funeral merchandise, whether for present or future use; provided, that no funeral director, embalmer, funeral company, cemetery, or related entity shall charge a fee for the assignment to the funeral director, embalmer, funeral company, cemetery, or related entity of an insurance policy providing burial expenses, excluding preneed contracts as provided in Section 32-7-35; and

(e) engaging in the practice or performing any functions of funeral directing or embalming as presently recognized by persons engaged in these functions.

(20) 'Retail sales outlet' means an establishment wherein funeral merchandise is sold or provided, or both, to the general public. A retail sales outlet may not contain lay-out or chapel facilities and is restricted solely to the sale of funeral merchandise and may not handle or arrange for the handling or disposition, or both, of dead human remains and may

not offer or execute preneed funeral contracts, except as authorized by Chapter 7, Title 32.

(21) 'Owner' means a sole proprietor, partnership, limited partnership, corporation, limited liability corporation, or any business entity possessing authority and control over a funeral establishment."

### **Unprofessional conduct, advertising, requirements**

SECTION 2. Section 40-19-110(2) of the 1976 Code is amended to read:

"(2) using false or misleading advertising or using the name of an unlicensed person in connection with that of a funeral establishment. An advertisement must include the physical address of the funeral home, funeral establishment, mortuary, or crematory where the advertised services will be provided. The board shall promulgate regulations establishing additional requirements for advertisements relating to providing funeral services, including Internet advertisements;"

### **Time effective**

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

Ratified the 7<sup>th</sup> day of March, 2018.

Approved the 12<sup>th</sup> day of March, 2018.

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### **No. 136**

(R140, S884)

**AN ACT TO AMEND SECTION 7-7-290, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN GREENWOOD COUNTY, SO AS TO RENAME CERTAIN PRECINCTS, AND TO REDESIGNATE THE MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE REVENUE AND FISCAL AFFAIRS OFFICE.**

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



**Designation of Greenwood County voting precincts and map number**

SECTION 1. Section 7-7-290 of the 1976 Code is amended to read:

“Section 7-7-290. (A) In Greenwood County there are the following voting precincts:

Angel Oaks Crossing  
Ashley River Run  
Bee’s Ferry  
Fairhope Ferry  
Graham’s Glen  
Grandiflora Glen  
Glendale  
Harris  
Hope’s Ferry  
Laco  
Livi’s Knoll  
Loblolly Pines  
Ninety Six  
Ninety Six Mill  
Pebble Stone Way  
Ware Shoals  
Hodges  
Cokesbury  
Coronaca  
Greenwood High  
Georgetown  
Sandridge  
Callison  
Bradley  
Troy  
Epworth  
Verdery  
New Market  
Emerald  
Airport  
Emerald High  
Civic Center  
Riley  
Shoals Junction

Greenwood Mill  
Stonewood  
Mimosa Crest  
Lower Lake  
Pinecrest  
Maxwellton Pike  
New Castle  
Rutherford Shoals  
Liberty  
Biltmore Pines  
Marshall Oaks  
Sparrows Grace  
Mountain Laurel  
Allie's Crossing  
Gideon's Way  
Parson's Mill

(B) The precinct lines defining the precincts in subsection (A) are as shown on the official map designated as document P-47-18 on file with the Revenue and Fiscal Affairs Office and as shown on copies provided to the Board of Voter Registration and Elections of Greenwood County. The official map may not be changed except by act of the General Assembly.

(C) The Board of Voter Registration and Elections of Greenwood County shall designate the polling places of each precinct.”

**Time effective**

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

Ratified the 7<sup>th</sup> day of March, 2018.

Approved the 12<sup>th</sup> day of March, 2018.

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**No. 137**

(R141, S885)

**AN ACT TO AMEND SECTION 7-7-420, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN NEWBERRY COUNTY, SO AS TO**

**ELIMINATE THE PROSPERITY PRECINCT, TO ADD THE PROSPERITY CITY PRECINCT AND THE PROSPERITY OUTSIDE PRECINCT, AND TO REDESIGNATE THE MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE REVENUE AND FISCAL AFFAIRS OFFICE.**

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

**Designation of Newberry County voting precincts and map number**

SECTION 1. Section 7-7-420 of the 1976 Code is amended to read:

“Section 7-7-420. (A) In Newberry County there are the following voting precincts:

Beth-Eden  
Bush River  
Chappells  
Fairview  
Hartford  
Helena  
Johnstone  
Kinards-Jalapa  
Little Mountain  
Maybinton  
Midway  
Mt.Bethel-Garmany  
Consolidated Number 5  
Newberry Ward 1  
Newberry Ward 2  
Newberry Ward 3  
Newberry Ward 4  
Newberry Ward 5  
Newberry Ward 6  
Oakland  
O’Neal  
Peak  
Pomaria  
Prosperity City  
Prosperity Outside  
St.Phillips-Jolly Street  
Silverstreet

Stoney Hill  
Wheeland  
Whitmire City  
Whitmire Outside

(B) The precinct lines defining the precincts provided in subsection (A) in Newberry County are as shown on the official map prepared by and on file with the Revenue and Fiscal Affairs Office designated as document P-71-18 and as shown on copies of the official map provided by the office to the State Election Commission and the Board of Voter Registration and Elections of Newberry County.

(C) The polling places for the precincts provided in this section must be established by the Board of Voter Registration and Elections of Newberry County subject to the approval of the majority of the Newberry County Delegation.”

**Time effective**

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

Ratified the 7<sup>th</sup> day of March, 2018.

Approved the 12<sup>th</sup> day of March, 2018.

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**No. 138**

(R143, H3649)

**AN ACT TO AMEND SECTION 40-3-60, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE BOARD OF ARCHITECTURAL EXAMINERS, SO AS TO PROVIDE THE BOARD MAY OFFER ADVICE AND RECOMMENDATIONS TO THE DEPARTMENT OF LABOR, LICENSING AND REGULATION CONCERNING THE DEVELOPMENT OF CERTAIN STATUTORY REVISIONS AND OTHER MATTERS AS THE DEPARTMENT REQUESTS; TO AMEND SECTION 40-3-115, RELATING TO JURISDICTION OF THE BOARD, SO AS TO REVISE THIS JURISDICTION; AND TO AMEND SECTION 40-22-280, RELATING TO EXEMPTIONS FOR CERTAIN PLANS AND SPECIFICATIONS FROM PROVISIONS REGULATING ENGINEERS AND SURVEYORS,**

**SO AS TO EXEMPT SUCH PLANS AND SPECIFICATIONS FOR CERTAIN BUILDINGS AND STRUCTURES LESS THAN THREE STORIES HIGH AND LESS THAN FIVE THOUSAND SQUARE FEET IN AREA.**

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

**Board of Architectural Examiners, powers and duties**

SECTION 1. Section 40-3-60 of the 1976 Code is amended to read:

“Section 40-3-60. (A) The board may adopt rules governing its proceedings and shall elect a chairman, vice chairman, and secretary who shall serve a term of one year. The board may promulgate regulations necessary to carry out the provisions of this chapter and shall adopt a seal with which all of its official documents must be sealed.

(B) The board may advise and recommend action to the department in the development of statutory revisions and other matters as the department may request in regard to the administration of this chapter.”

**Board of Architectural Examiners, jurisdiction**

SECTION 2. Section 40-3-115 of the 1976 Code is amended to read:

“Section 40-3-115. The board has jurisdiction:

(1) over practice undertaken by nonlicensed individuals and firms and the actions committed or omitted by current and former licensees during the entire period of licensure; and

(2) to act on any matter that arises during the practice authorization period of licensed practitioners and firms, as provided for in Section 40-1-115.”

**Engineers and surveyors, exemptions**

SECTION 3. Section 40-22-280(B)(2) of the 1976 Code is amended to read:

“(2) buildings and structures less than three stories high and less than five thousand square feet in area, except that buildings and structures classified as assembly, educational, high hazard, institutional, or uses as defined by the International Code Series, as adopted by the State of

South Carolina, regardless of size or area, are not exempt from the provisions of this chapter.”

**Time effective**

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 7<sup>th</sup> day of March, 2018.

Approved the 12<sup>th</sup> day of March, 2018.

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**No. 139**

(R144, H3929)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44-1-65 SO AS TO ESTABLISH SPECIFIC REQUIREMENTS FOR THE REVIEW AND APPEAL OF DECISIONS BY THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL (DHEC) REGARDING THE PERMITTING, LICENSING, CERTIFICATION OR OTHER APPROVAL OF POULTRY AND OTHER ANIMAL FACILITIES, EXCEPT SWINE FACILITIES; TO AMEND SECTION 44-1-60, RELATING TO APPEALS FROM DHEC DECISIONS GIVING RISE TO CONTESTED CASES, SO AS TO REVISE AND CLARIFY PROCEDURES FOR REVIEWING PERMITS FOR POULTRY AND OTHER ANIMAL FACILITIES, EXCEPT SWINE FACILITIES; AND TO AMEND SECTION 46-45-80, RELATING TO SETBACK DISTANCES FOR POULTRY AND OTHER ANIMAL FACILITIES, EXCEPT SWINE FACILITIES, SO AS TO PROHIBIT DHEC FROM REQUIRING ADDITIONAL SETBACK DISTANCES IF ESTABLISHED DISTANCES ARE ACHIEVED, TO ALLOW WAIVER OF THE ESTABLISHED SETBACK DISTANCES IN CERTAIN CIRCUMSTANCES, AND FOR OTHER PURPOSES.**

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

**Appeals of DHEC permitting decisions for animal facilities**

SECTION 1. Chapter 1, Title 44 of the 1976 Code is amended by adding:

“Section 44-1-65. (A) In making a staff decision on a permit, license, certification, or other approval of a poultry facility or another animal facility, except a swine facility, pursuant to Section 44-1-60(D), or if the department conducts a final review conference related to a decision on a permit, license, certification, or other approval of a poultry facility or another animal facility, except a swine facility, pursuant to Section 44-1-60(F), the department shall base its decision solely on whether the permit complies with the applicable department regulations governing the permitting of poultry and other animal facilities, other than swine facilities.

(B) For purposes of permitting, licensing, certification, or other approval of a poultry facility or another animal facility, other than a swine facility:

(1) only an applicant, permittee, licensee, or affected person may request a final review conference pursuant to Section 44-1-60(F);

(2) only an affected person may request a contested case hearing pursuant to Section 44-1-60(G);

(3) only an applicant, permittee, licensee, or affected person may become a party to a final review conference;

(4) only an affected person may become a party to a contested case hearing; and

(5) only an applicant, permittee, licensee, or affected person is entitled as of right to be admitted as a party pursuant to Section 1-23-310(5) of the Administrative Procedures Act.

(C)(1) In determining whether to issue a permit, license, certification, or other approval of a poultry facility or another animal facility, except a swine facility, the department only may take into consideration the existing development on and use of property owned or occupied by an affected person on the date the department receives the applicant's complete application package as prescribed by regulation. The department must not take into consideration any changes to the development or use of property after receipt of the application, including, but not limited to, the construction of a residence.

(2) If a property owner signs a setback waiver of the right to contest the issuance of a permit, license, certification, or other approval of a poultry facility or another animal facility, except a swine facility, including waiver of the right to notice and a public hearing on a permit,

license, certification, or other approval and to file a contested case or other action, then the affected person has seventy-two hours to provide in writing a withdrawal or rescission of the waiver.

(D)(1) An applicant, permittee, licensee, or affected person who has exhausted all administrative remedies within the department relating to a decision to issue or deny a permit, license, certification, or other approval of a poultry facility or another animal facility, except a swine facility, and who is aggrieved by a final decision may request a contested case hearing before the Administrative Law Court, in accordance with the Administrative Procedures Act.

(2) Notwithstanding any other provision of law, a final decision to issue a permit, license, certification, or other approval of a poultry facility or another animal facility, except a swine facility, may not be contested if the proposed building footprint is located eight hundred feet or more from the facility owner's property line or located one thousand feet or more from an adjacent property owner's residence.

(E) For purposes of this section, 'affected person' means a property owner with standing within a one-mile radius of the proposed building footprint or permitted poultry facility or other animal facility, except a swine facility, who is challenging on his own behalf the permit, license, certificate, or other approval for the failure to comply with the specific grounds set forth in the applicable department regulations governing the permitting of poultry facilities and other animal facilities, other than swine facilities."

#### **DHEC appeals and contested case reviews**

SECTION 2. Section 44-1-60(A) of the 1976 Code is amended to read:

“(A) All department decisions involving the issuance, denial, renewal, suspension, or revocation of permits, licenses, or other actions of the department which may give rise to a contested case must be made using the procedures set forth in this section. A department decision referenced in this subsection relating to a poultry facility or another animal facility, except a swine facility, also must comply with the provisions of Section 44-1-65.”

#### **Animal agricultural facility setback distances**

SECTION 3. Section 46-45-80 of the 1976 Code is amended to read:



“Section 46-45-80. Any setback distances given in R. 61-43, Standards for Permitting of Agricultural Animal Facilities, are minimum siting requirements as established by the Department of Health and Environmental Control. As long as the established setbacks are achieved, the department may not require additional setback distances. Such distances from property lines or residences may be waived or reduced by written consent of the adjoining property owners. All animal facilities affected by these setback provisions must have an evergreen buffer between the facility and the affected residence as established by DHEC unless otherwise agreed to in writing by the adjoining landowners.”

#### **Inapplicability of act to swine feeding operation**

SECTION 4. Nothing in this act shall be construed as affecting or applying to confined swine feeding operations.

#### **Time effective**

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 7<sup>th</sup> day of March, 2018.

Approved the 12<sup>th</sup> day of March, 2018.

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#### **No. 140**

(R145, H4005)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 53-3-215 SO AS TO DECLARE THE THIRD WEEK IN OCTOBER OF EACH YEAR AS “SOUTH CAROLINA NATIVE PLANT WEEK” AND ENCOURAGE ALL SOUTH CAROLINIANS TO RECOGNIZE THE ESSENTIAL VALUE AND IMPORTANCE OF THE NATIVE PLANTS OF SOUTH CAROLINA TO OUR STATE’S HISTORY, ECONOMIC LANDSCAPE, AND ENVIRONMENT.**

Whereas, South Carolina’s native plants provide unparalleled and unique iconic, economic, artistic, historical, and environmental value to both the history and future of our State; and

Whereas, South Carolina is home to tremendously rich and diverse plant life, containing over four thousand native plant species, subspecies, and varieties of which twenty-one specific species are considered federally threatened or endangered; and

Whereas, the planting, restoration, preservation, and cultivation of South Carolina's indigenous plants provide a natural link to the wild land areas of the present and past, while introducing people to their beauty and instilling a greater understanding and appreciation for our state's natural heritage. Now, therefore,

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

### **South Carolina Native Plant Week**

SECTION 1. Chapter 3, Title 53 of the 1976 Code is amended by adding:

“Section 53-3-215. The third week in October of each year is declared to be ‘South Carolina Native Plant Week’ in South Carolina, and all South Carolinians are encouraged to recognize the essential value and importance of the native plants of South Carolina to our state's history, economic landscape, and environment.”

### **Time effective**

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

Ratified the 7<sup>th</sup> day of March, 2018.

Approved the 12<sup>th</sup> day of March, 2018.

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### **No. 141**

(R148, H4858)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 53-3-240 SO AS TO DESIGNATE THE TWENTY-FIRST DAY OF OCTOBER OF**

**EACH YEAR AS “DR. RONALD MCNAIR DAY” IN SOUTH CAROLINA.**

Whereas, born in Lake City on October 21, 1950, Ronald McNair was reared in a low-income family but was undaunted by any hurdles he encountered. Determined to excel in academia and life, he graduated from Carver High School in 1967 as valedictorian, and in 1971 he earned a bachelor’s degree in physics, magna cum laude, from North Carolina A & T University; and

Whereas, Ronald McNair completed a doctorate in physics from the Massachusetts Institute of Technology in 1976, and later achieved national recognition for his work in laser physics; and

Whereas, after being selected by NASA as one of only thirty-five from a pool of ten thousand applicants, in 1984 Dr. McNair became the second African American selected to make a flight into space when he was assigned to be a mission specialist on the space shuttle Challenger; and

Whereas, he was a member of the Challenger crew on the fateful day of January 28, 1986, when the space shuttle exploded shortly after liftoff from the Kennedy Space Center; and

Whereas, the recipient of a number of honorary doctorates, fellowships, and commendations, Dr. McNair exemplified excellence in his thirty-six years; and

Whereas, a dedicated husband and the father of two children, Reginald Ervin and Joy Cheray, he found the time to earn a sixth-degree black belt in karate and become an accomplished saxophonist. Now, therefore,

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

**Dr. Ronald McNair Day established**

SECTION 1. Chapter 3, Title 53 of the 1976 Code is amended by adding:

“Section 53-3-240. The twenty-first day of October of each year is designated as ‘Dr. Ronald McNair Day’ in South Carolina.”

**Time effective**

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

Ratified the 7<sup>th</sup> day of March, 2018.

Approved the 12<sup>th</sup> day of March, 2018.

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**No. 142**

(R151, H4977)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1-3-125 SO AS TO PROVIDE THAT BEGINNING WITH THE 2018 GENERAL ELECTION, IF THE LIEUTENANT GOVERNOR RESIGNS OR IS REMOVED FROM OFFICE, THE GOVERNOR SHALL APPOINT, WITH THE ADVICE AND CONSENT OF THE SENATE, A SUCCESSOR FOR THE UNEXPIRED TERM; BY ADDING SECTION 7-11-12 SO AS TO ESTABLISH THE PROCEDURE BY WHICH A PERSON NOMINATED FOR THE OFFICE OF GOVERNOR SELECTS A LIEUTENANT GOVERNOR AS A JOINT TICKET RUNNING MATE; BY ADDING SECTION 7-13-315 SO AS TO REQUIRE THE STATE ELECTION COMMISSION TO ENSURE THAT THE GOVERNOR AND LIEUTENANT GOVERNOR ARE ELECTED JOINTLY; BY ADDING SECTION 8-13-1301 SO AS TO PROVIDE THAT JOINTLY ELECTED CANDIDATES MUST BE CONSIDERED A SINGLE CANDIDATE FOR CONTRIBUTIONS AND ESTABLISHING A COMMITTEE; TO AMEND SECTION 8-13-1314, RELATING TO CONTRIBUTION LIMITATIONS, SO AS TO PROVIDE THAT WITHIN AN ELECTION CYCLE, CONTRIBUTIONS FOR JOINTLY ELECTED STATEWIDE CANDIDATES ARE THREE THOUSAND FIVE HUNDRED DOLLARS; TO AMEND SECTION 7-11-15, RELATING TO FILING AS A CANDIDATE FOR THE GENERAL ELECTION, SO AS TO PROVIDE, AMONG OTHER THINGS, IF MARCH THIRTIETH, THE DEADLINE FOR FILING IS ON A SATURDAY, SUNDAY, OR LEGAL HOLIDAY, THE TIME FOR FILING EXTENDS TO**

**THE NEXT BUSINESS DAY; AND TO AMEND SECTION 7-13-45, RELATING TO THE ESTABLISHMENT OF HOURS FOR ACCEPTING CANDIDATE FILINGS, SO AS TO DELETE SPECIFIC REFERENCES TO THE NUMBER OF HOURS AND PROVIDE THAT FILINGS BE ACCEPTED DURING REGULAR BUSINESS HOURS ON REGULAR BUSINESS DAYS.**

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

PART I

Joint Election of Governor and Lieutenant Governor

**Filling vacancy in Office of Lieutenant Governor**

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

“Section 1-3-125. Beginning with the Lieutenant Governor elected in the 2018 General Election, in the case of the Lieutenant Governor’s impeachment, death, resignation, disqualification, disability, or removal from the State, the Governor, with the advice and consent of the Senate, shall appoint a successor to fulfill the unexpired term.”

**Joint election of Governor and Lieutenant Governor, qualifications and procedures**

SECTION 2. Article 1, Chapter 11, Title 7 of the 1976 Code is amended by adding:

“Section 7-11-12. (A) A person nominated for the Office of Governor by primary or convention, or seeking the Office of Governor as a petition candidate must designate a qualified elector to be elected jointly as Lieutenant Governor.

(B) A designee for Lieutenant Governor must possess all of the qualifications required to hold the Office of Governor.

(1) The appropriate political party shall determine if its gubernatorial candidate’s Lieutenant Governor designee is qualified.

(2) The State Election Commission shall determine whether a gubernatorial petition candidate’s Lieutenant Governor designee is qualified.

(C) No later than August first, a gubernatorial candidate's designation for Lieutenant Governor must be in writing and filed either with the appropriate political party, or, in the case of a petition candidate, with the State Election Commission.

(D) No later than August tenth, a Lieutenant Governor designee must provide:

(1) to the State Election Commission:

(a) a copy of the gubernatorial candidate's written designation for Lieutenant Governor; and

(b) a completed statement of intention of candidacy; and

(2) to the State Ethics Commission:

(a) a copy of the completed statement of intention of candidacy; and

(b) a current filed statement of economic interests.

(E)(1) If after being designated and before the general election the Lieutenant Governor candidate dies, becomes disqualified, or resigns for a legitimate nonpolitical reason as defined in Section 7-11-50, the gubernatorial candidate must make a substitution for the Lieutenant Governor candidate no later than ten days after the death, disqualification, or resignation occurs in the format provided in subsection (C).

(2) If a Lieutenant Governor candidate is substituted as provided in item (1), the substituted Lieutenant Governor candidate must file the documents required in subsection (D) no later than ten days after the substitution is made.

(3) The substitutions authorized in items (1) and (2) may be made after the general election if the death, disqualification, or resignation occurs before the general election. If the death, disqualification, or resignation occurs after the general election, the vacancy must be filled as provided in Section 1-3-125 by the Governor-elect.

(F) If the Lieutenant Governor candidate is not designated as provided in this section, the party or petition candidate for Governor shall not have his name placed on the ballot for the general election.

(G) A Lieutenant Governor candidate is not required to pay a separate filing fee.

(H) The provisions of Sections 7-11-10 and 7-11-210 are not applicable to a Lieutenant Governor candidate.

(I) If a Lieutenant Governor candidate has solicited or received contributions for another elective office, he must comply with the provisions of Sections 8-13-1350 and 8-13-1352. A contribution transferred to the single candidate committee of the Governor and

Lieutenant Governor elected jointly must comply with the requirements of Section 8-13-1314(A).”

**State Election Commission to ensure joint election of Governor and Lieutenant Governor**

SECTION 3. Article 3, Chapter 13, Title 7 of the 1976 Code is amended by adding:

“Section 7-13-315. The State Election Commission shall ensure that the Governor and Lieutenant Governor must be elected jointly so that each voter casts a single vote to elect a Governor and Lieutenant Governor.”

PART II

Campaign Contributions for Governor and Lieutenant Governor

**Joint candidates for Governor and Lieutenant Governor to be considered a single candidate for purposes of Article 13, Chapter 13, Title 8 of the 1976 Code**

SECTION 4. Article 13, Chapter 13, Title 8 of the 1976 Code is amended by adding:

“Section 8-13-1301. For purposes of this article, candidates elected jointly as provided in Section 8, Article IV of the South Carolina Constitution, 1895, must be considered a single candidate. The gubernatorial candidate is responsible for:

(1) establishing a single candidate committee for contributions solicited and received for the Governor and Lieutenant Governor elected jointly; and

(2) complying with the requirements of Article 13, Chapter 13, Title 8 for the committee established for the joint election.”

**Campaign contribution limits and restrictions**

SECTION 5. Section 8-13-1314 of the 1976 Code is amended to read:

“Section 8-13-1314. (A) Within an election cycle, a candidate or anyone acting on his behalf shall not solicit or accept, and a person shall

not give or offer to give to a candidate or person acting on the candidate's behalf:

(1) a contribution which exceeds:

(a) three thousand five hundred dollars in the case of a candidate for statewide office; or

(b) three thousand five hundred dollars in the aggregate for statewide candidates elected jointly pursuant to Section 8, Article IV of the South Carolina Constitution, 1895; or

(c) one thousand dollars in the case of a candidate for any other office;

(2) a cash contribution from an individual unless the cash contribution does not exceed twenty-five dollars and is accompanied by a record of the amount of the contribution and the name and address of the contributor;

(3) a contribution from, whether directly or indirectly, a registered lobbyist if that lobbyist engages in lobbying the public office or public body for which the candidate is seeking election;

(4) contributions for two elective offices simultaneously, except as provided in Section 8-13-1318.

(B) The restrictions on contributions in subsection (A)(1) and (2) do not apply to a candidate making a contribution to his own campaign.”

### PART III

#### Time Extensions for Filing

#### **Qualifications to run as a candidate in general election**

SECTION 6. Section 7-11-15 of the 1976 Code is amended to read:

“Section 7-11-15. (A) In order to qualify as a candidate to run in the general election, all candidates seeking nomination by political party primary or political party convention must file a statement of intention of candidacy and party pledge and submit any filing fees between noon on March sixteenth and noon on March thirtieth as provided in this section. If March thirtieth is on a Saturday or Sunday, the time for filing extends to the next regular business day. For purposes of this section and Section 7-13-45, ‘next regular business day’ means a day that is not a Saturday, Sunday, or legal holiday.

(1) Except as otherwise provided in this section, candidates seeking nomination for a statewide, congressional, or district office that includes more than one county must file their statements of intention of



candidacy, and party pledge and submit any filing fees with the State Election Commission.

(2) Candidates seeking nomination for the State Senate or House of Representatives must file their statements of intention of candidacy and party pledge and submit any filing fees with the State Election Commission or county board of voter registration and elections in the county of their residence. The state executive committees must certify candidates pursuant to Section 7-13-40.

(3) Candidates seeking nomination for a countywide or less than countywide office shall file their statements of intention of candidacy and party pledge and submit any filing fees with the county board of voter registration and elections in the county of their residence.

(B) Except as provided in this section, the board of voter registration and elections with whom the documents in subsection (A) are filed must provide a copy of all statements of intention of candidacy, the party pledge, receipt and filing fees, to the appropriate political party executive committee within two days following the deadline for filing. If the second day falls on Saturday, Sunday, or a legal holiday, the statement of intention of candidacy, party pledge, and filing fee must be filed by noon the following day that is not a Saturday, Sunday, or legal holiday. A candidate's name may not appear on a primary election ballot, convention slate of candidates, general election ballot, or special election ballot, except as otherwise provided by law, if (1) the candidate's statement of intention of candidacy and party pledge has not been filed with the county board of voter registration and elections or State Election Commission, as the case may be, as well as any filing fee, by the deadline and (2) the candidate has not been certified by the appropriate political party as required by Sections 7-13-40 and 7-13-350, as applicable. The candidate's name must appear if the candidate produces the signed and dated copy of his timely filed statement of intention of candidacy. An error or omission by a person seeking to qualify as a candidate pursuant to this section who is not directly related to a constitutional or statutory qualification for that office must be construed in a manner that favors the person's access to the ballot.

(C) The statement of intention of candidacy required in this section and in Section 7-13-190(B) must be on a form designed and provided by the State Election Commission. This form, in addition to all other information, must contain an affirmation that the candidate meets, or will meet by the time of the general election, or as otherwise required by law, the qualifications for the office sought. The candidate or his agent must file a signed statement of intention of candidacy and the election commission with whom it is filed must stamp the statement with the date

and time received, keep the original statement, provide a copy to the candidate, and provide a copy to the appropriate political party executive committee.

(D) The candidate or his agent must file a signed party pledge, as required pursuant to Section 7-11-210, and the election commission with which it is filed must stamp the party pledge with the date and time received, provide a copy to the candidate, and provide a copy to the appropriate political party executive committee.

(E) The election commission with which the filing fee is filed must issue a receipt for the filing fee, stamp the receipt with the date and time the filing fee was received, provide a copy to the candidate or his agent, and provide a copy to the appropriate political executive party. The filing fee must be made payable to the appropriate political party.

(F) If, after the closing of the time for filing the documents required pursuant to this section, there are not more than two candidates for any one office and one or more of the candidates dies, or withdraws, the state or county committee, as the case may be, if the nomination is by political party primary or political party convention only may, in its discretion, afford opportunity for the entry of other candidates for the office involved; however, for the office of State House of Representatives or State Senator, the discretion must be exercised by the state committee.

(G) The county chairman of a political party and the chairman of the state executive committee of a political party may designate a person to observe the filings made at the election commission pursuant to this section.

(H) The provisions of this section do not apply to nonpartisan school trustee elections in a school district where local law provisions provide for other dates and procedures for filing statements of candidacy or petitions, and to the extent the provisions of this section and the local law provisions conflict, the local law provisions control.”

### **Acceptance of filings**

SECTION 7. Section 7-13-45 of the 1976 Code is amended to read:

“Section 7-13-45. In every general election year, the Executive Director of the State Election Commission and the director of each county board of voter registration and elections shall:

- (1) accept filings during the regular business hours on the regular business days of the filing period as required by Section 7-11-15;
- (2) place an advertisement to appear two weeks before the filing period begins in a newspaper of general circulation in the county at least

five by seven inches in size that notifies the public of the dates of the filing periods, the offices that may be filed for, the place and street address where filings may be made, and the hours that an authorized person will be present to receive filings.”

## PART IV

## Effective Dates

**Time effective**

SECTION 8. This act takes effect upon approval by the Governor.

Ratified the 15<sup>th</sup> day of March, 2018.

Approved the 15<sup>th</sup> day of March, 2018.

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**No. 143**

(R149, H3926)

**AN ACT TO AMEND SECTION 40-43-30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS IN THE SOUTH CAROLINA PHARMACY PRACTICE ACT, SO AS TO DEFINE ADDITIONAL TERMS; TO AMEND SECTION 40-43-86, RELATING TO COMPOUNDING PHARMACIES, SO AS TO REVISE MINIMUM GOOD COMPOUNDING PRACTICES, TO PROVIDE A PHARMACIST MUST PERFORM A FINAL CHECK ON A PREPARATION COMPOUNDED BY A PHARMACY TECHNICIAN, TO MODIFY REQUIREMENTS FOR AN AREA USED FOR COMPOUNDING IN A PHARMACY, TO PROVIDE PHARMACISTS SHALL ENSURE CERTAIN EXPECTED FEATURES OF INGREDIENTS USED IN A FORMULATION, TO PROVIDE A MEANS FOR DETERMINING THE MAXIMUM BEYOND-USE DATE OF AN EXCESS AMOUNT OF A SPECIFIC COMPOUND IN CERTAIN CIRCUMSTANCES, TO REQUIRE CERTAIN WRITTEN POLICIES AND PROCEDURES APPLICABLE TO A COMPOUNDING AREA, AND TO PROVIDE THAT MATERIAL DATA SAFETY MUST BE READILY ACCESSIBLE TO**

**PHARMACY PERSONNEL WHO WORK WITH DRUG SUBSTANCES OR BULK CHEMICALS, AND TO DELETE OBSOLETE LANGUAGE; AND TO AMEND SECTION 40-43-88, RELATING TO THE HANDLING OF STERILE PREPARATION BY PHARMACIES, SO AS TO REVISE ASSOCIATED STANDARDS AND TO BROADEN THE APPLICATION OF THESE STANDARDS TO INCLUDE OTHER FACILITIES PERMITTED BY THE BOARD, AMONG OTHER THINGS.**

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

**Definitions**

SECTION 1. Section 40-43-30 of the 1976 Code is amended to read:

“Section 40-43-30. For purposes of this chapter:

(1) ‘Administer’ means the direct application of a drug or device pursuant to a lawful order of a practitioner to the body of a patient by injection, inhalation, ingestion, topical application, or any other means.

(2) ‘Ante area’ means an ISO 8 or greater area where personnel perform hand hygiene, garbing, and stage components. An ante area precedes a buffer area, provided:

(a) a buffer area must be separated by a wall from an ante area if high-risk preparations are compounded; and

(b) if only low-risk and medium-risk preparations are compounded, separating an ante room from a buffer area is recommended.

(3) ‘Aseptic preparation’ means the technique involving procedures designed to preclude contamination of drugs, packaging, equipment, or supplies by microorganisms during processing.

(4) ‘Beyond-use date’ or ‘BUD’ means the date or time after which a compounded preparation is recommended not to be dispensed or used. The date is determined from the date or time the preparation is compounded.

(5) ‘Biological safety cabinet’ or ‘BSC’ means a containment unit suitable for the preparation of agents where there is a need for protection of the preparation, personnel, and environment, according to National Sanitation Foundation Standard 49.

(6) ‘Board’ or ‘Board of Pharmacy’ means the State Board of Pharmacy.

(7) ‘Brand name’ means the proprietary or trade name placed upon a drug, its container, label, or wrapping at the time of packaging.

(8) 'Buffer area' means an area where the primary engineering control is physically located. Activities that occur in this area include the preparation and staging of components and supplies used when compounding sterile preparations.

(9) 'Certified pharmacy technician' means an individual who is a registered pharmacy technician and who has completed the requirements provided for in Section 40-43-82(B).

(10) 'Chart order' means a lawful order from a practitioner for a drug or device for patients of a hospital or extended care facility, or such an order prepared by another person and signed by a practitioner either immediately or at another time, issued for a legitimate medical purpose within the practitioner's course of legitimate practice and including orders derived on behalf of a practitioner from a practitioner approved drug therapy management.

(11) 'Class 100 environment' or 'ISO 5' means an atmospheric environment which contains less than one hundred particles 0.5 microns in diameter per cubic foot of air.

(12) 'Closed-system transfer device' or 'CSTD' means a closed-system hazardous drug handling device comprising a number of interlocking parts for reconstituting, injecting, and administering doses of hazardous drugs.

(13) 'Colony-forming unit' or 'CFU' means an estimate of cell quantity.

(14) 'Compounding' (sterile and nonsterile) means the preparation, propagation, conversion, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis, or the preparation, mixing, assembling, packaging, or labeling of a drug or device as the result of a practitioner's prescription drug order or initiative based on the practitioner/patient/pharmacist relationship in the course of professional practice, or for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing. Compounding also includes the preparation of drugs or devices in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns. The term 'nonsterile compounding' does not include mixing, reconstituting, or other such acts that are performed in accordance with directions contained in approved labeling provided by the product's manufacturer and other manufacturer directions consistent with that labeling. The term 'sterile compounding' does not include mixing, reconstituting, or other such acts with nonhazardous agents that are preformed in accordance with directions contained in

approved labeling provided by the product's manufacturer for immediate use.

(15) 'Compounded sterile preparation' or 'CSP' means a compounded biologic, diagnostic, drug, nutrient, or radiopharmaceutical that must be sterile when administered to a patient. Among other things, CSPs include:

- (a) aqueous bronchial and nasal inhalations;
- (b) baths and soaks for live organs and tissues;
- (c) injections, such as colloidal dispersions, emulsions, solutions, suspensions, among others;
- (d) irrigations for wounds and body cavities;
- (e) ophthalmic drops and ointments; and
- (f) tissue implants.

(16) 'Compounding aseptic containment isolator' or 'CACI' means a completely enclosed isolating cabinet that makes use of airtight glove ports designed to protect the user from exposure to airborne drugs and other agents during the compounding and material transfer processes. A CACI also provides an aseptic environment for compounding sterile preparations. Air exchange with the surrounding environment should not occur in a CACI unless the air is first passed through a HEPA minimum, microbial retentive filter system capable of containing airborne concentrations of the physical size and state of the drug being compounded. Where volatile hazardous drugs are prepared, the exhaust air from the isolator should be appropriately removed by properly designed building ventilation.

(17) 'Compounding aseptic isolator' or 'CAI' means a completely enclosed isolating cabinet that makes use of airtight glove ports designed to maintain an aseptic compounding environment within the isolator throughout the compounding and material transfer process. Air exchange into the isolator from the surrounding environment should not occur unless the air has first passed through a HEPA minimum, microbial retentive filter. A CAI is primarily used for nonhazardous drug preparations.

(18) 'Confidential information' means information maintained in a patient's records or which is communicated to a patient as part of patient counseling, which is privileged and may be released only to the patient, to those practitioners and pharmacists where, in the pharmacist's professional judgment, release is necessary to protect the patient's health and well-being, and to other persons or governmental agencies authorized by law to receive such confidential information.

(19) 'Critical site' means an opening that provides a direct pathway between a CSP and the environment or any surface coming in contact with the preparation or environment.

(20) 'Deliver' or 'delivery' means the actual, constructive, or attempted transfer of a drug or device from one person to another, whether or not for consideration.

(21) 'Designated agent' means a person employed by an authorized practitioner to transmit, either orally or electronically, a prescription drug order on behalf of the authorized practitioner to the pharmacist. The authorized practitioner accepts the responsibility for the correct transmission of the prescription drug order.

(22) 'Designated pharmacist' means an individual currently licensed by the Board of Pharmacy in this State who certifies internship training.

(23) 'Device' means an instrument, apparatus, implement, machine, contrivance, implant, or other similar or related article, including any component part or accessory, which is required under federal law to bear the label: 'Caution: Federal law restricts this device for sale by or on the order of a \_\_\_\_\_', the blank to be filled with the word physician, dentist, veterinarian, or with the descriptive designation of any other practitioner licensed by the law of the State in which he practices to use or order the use of the device; or 'Federal law prohibits dispensing without prescription'; or any products deemed to be a public health threat after notice and public hearing as designated by the board.

(24) 'Disinfectant' means an agent that frees from infection, usually a chemical agent but sometimes a physical one, and that destroys disease-causing pathogens or other harmful microorganisms but may not kill bacterial and fungal spores. It refers to substances applied to inanimate objects.

(25) 'Dispense' means the transfer of possession of one or more doses of a drug or device by a licensed pharmacist or person permitted by law, to the ultimate consumer or his agent pursuant to a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to, or use by, a patient. As an element of dispensing, the dispenser shall, before the actual physical transfer, interpret and assess the prescription order for potential adverse reactions or side effects, interactions, allergies, dosage, and regimen the dispenser considers appropriate in the exercise of his professional judgment, and the dispenser shall determine that the drug or device called for by the prescription is ready for dispensing. The dispenser shall also provide counseling on proper drug usage, either orally or in writing, as provided in this chapter. The actual sales transaction and delivery of a drug or

device is not considered dispensing and the administration is not considered dispensing.

(26) 'Distribute' means the delivery of a drug or device other than by administering or dispensing.

(27) 'Drug' or 'medicine' means:

(a) articles recognized as drugs in an official compendium, or supplement to a compendium, including, but not limited to, USP/NF designated from time to time by the board for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals;

(b) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals;

(c) articles, other than food, or nonprescription vitamins intended to affect the structure or a function of the human body or other animals; and

(d) articles intended for use as a component of any articles specified in item (a), (b), or (c) of this subsection.

(28) 'Drug regimen review' includes, but is not limited to, the following activities:

(a) evaluation of prescription drug orders and pharmacy patient records for:

- (i) known allergies;
- (ii) rational therapy-contraindications;
- (iii) reasonable dose and route of administration; and
- (iv) reasonable directions for use.

(b) evaluation of prescription drug orders and pharmacy patient records for duplication of therapy.

(c) evaluation of prescription drug orders and pharmacy patient records for interactions:

- (i) drug-drug;
- (ii) drug-food;
- (iii) drug-disease, if available; and
- (iv) adverse drug reactions.

(d) evaluation of prescription drug orders and pharmacy patient records for proper utilization, including over-utilization or under-utilization, and optimum therapeutic outcomes.

(29) 'Drug therapy management' is that practice of pharmacy which involves the expertise of the pharmacist in a collaborative effort with the practitioner and other health care providers to ensure the highest quality health care services for patients.

(30) 'Enteral' means within or by way of the intestine.



(31) 'Equivalent drug product' means a drug product which has the same established name and active ingredients to meet the same compendia or other applicable standards, but which may differ in characteristics such as shape, scoring configuration, packaging, excipient (including colors, flavors, preservatives), and expiration time. Pharmacists may utilize as a basis for the determination of generic equivalency Approved Drug Products with Therapeutic Equivalence Evaluations and current supplements published by the Federal Food and Drug Administration, within the limitations stipulated in that publication.

(32) 'Expiration date' means the maximum time period that a manufactured, compounded, or repackaged product may be used based on specified storage requirements.

(33) 'Extern' means an individual currently enrolled in an approved college or school of pharmacy who is on required rotations for obtaining a degree in pharmacy.

(34) 'First air' means the air exiting the HEPA filter in a unidirectional airstream that is essentially particulate-free.

(35) 'Generic names' mean the official compendia names or United States Adopted Names (USAN).

(36) 'Glove fingertip test' means a test where the gloved fingertips and thumb are lightly pressed into appropriate agar plates. The plates are incubated for an appropriate time period and at an appropriate temperature.

(37) 'Hazardous drug' means a drug that has at least one of the following properties: carcinogenicity; teratogenicity or developmental toxicity; reproductive toxicity in humans; organ toxicity at low doses in humans or animals; genotoxicity; or new drugs that mimic existing hazardous drugs in structure or toxicity.

(38) 'Health care provider' includes a pharmacist who provides health care services within the pharmacist's scope of practice pursuant to state law and regulation.

(39) 'High-efficiency particulate arrestor' or 'HEPA' means a type of air filter that must satisfy certain efficiency standards set by the United States Department of Energy. A filter that qualifies as a HEPA is subject to interior classifications.

(40) 'Institutional facility' means an organization whose primary purpose is to provide a physical environment for patients to obtain health care services and shall not include those places where physicians, dentists, veterinarians, or other practitioners, who are duly licensed, engage in private practice.

(41) 'Institutional pharmacy' means the physical portion of an institutional facility that is engaged in the compounding, dispensing, and distribution of drugs, devices, and other materials, hereinafter referred to as 'drugs', used in the diagnosis and treatment of injury, illness, and disease and which is permitted by the State Board of Pharmacy.

(42) 'Institutional consultant pharmacist' means a pharmacist licensed in this State who acts as a consultant for institutional facilities.

(43) 'Intern' means an individual who is currently registered by certificate in this State to engage in the practice of pharmacy while under the personal supervision of a pharmacist and is satisfactorily progressing toward meeting the requirements for licensure as a pharmacist.

(44) 'ISO' means the International Organization for Standardization.

(45) 'ISO 5 environment' means an atmospheric environment that contains fewer than 3,520 particles no greater than 0.5 millimeters in diameter per cubic meter of air. The previous designation of this environment was known as Class 100.

(46) 'ISO 7 environment' means an atmospheric environment that contains fewer than 352,000 particles no greater than 0.5 millimeters in diameter per cubic meter of air. The previous designation of this environment was known as Class 10,000.

(47) 'ISO 8 environment' means an atmospheric environment that contains fewer than 3,520,000 particles no greater than 0.5 millimeters in diameter per cubic meter of air. The previous designation of this environment was known as Class 100,000.

(48) 'Isolator' means a self-contained primary engineering control defined by having fixed walls, a floor, and a ceiling, and includes barriers such as gloves, sleeves, and air locks that separate transfers of materials into and out of the environment. The use of an isolator can be an alternative to a buffer area for sterile preparations.

(49) 'Labeling' means the process of preparing and affixing a label which includes all information required by federal and state law to a drug container exclusive of the labeling by a manufacturer, packer, or distributor of a nonprescription drug or commercially packaged legend drug or device.

(50) 'Laminar air flow workbench' or 'LAFW' means a primary engineering control that uses an ISO 5 controlled environment created by a HEPA filter to retain airborne particles and microorganisms, and has horizontal air flow or vertical air flow.

(51) 'Manufacturing' of products means the production, preparation, propagation, conversion, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis, or from

bulk chemicals, and includes any packaging or repackaging of the substances or labeling or relabeling of its container, if these actions are followed by the promotion and marketing of the drugs or devices for resale to pharmacies, practitioners, or other persons.

(52) 'Manufacturer' means a person engaged in the manufacture of prescription drugs or devices.

(53) 'Material safety data sheet' or 'MSDS' means a resource that provides information concerning a chemical, including:

(a) the identity, physical and chemical characteristics, physical and health hazards, primary routes of entry, and exposure limits of the chemical;

(b) whether the chemical is a carcinogen;

(c) precautions for safe handling and use of the chemical;

(d) control measures;

(e) emergency and first aid procedures;

(f) the latter of the date the MSDS was prepared or last modified;

and

(g) the name, address, and telephone number of the manufacturer, importer, or employer who distributes the MSDS.

(54) 'Media-fill test' means a test to evaluate the aseptic technique of:

(a) compounding personnel; and

(b) a process to ensure that the process used can produce sterile preparation that has no microbial contamination.

(55) 'Medical order' means a lawful order of a practitioner which may or may not include a prescription drug order.

(56) 'Negative pressure' means a room or device that is at a lower pressure than adjacent space; the air flow moves into the room or device.

(57) 'Nonprescription drug' means a drug which may be sold without a prescription and which is labeled for use by the consumer in accordance with the requirements of the laws of this State and the federal government.

(58) 'Nonresident pharmacy' means a pharmacy located outside this State.

(59) 'Parenteral' means a sterile preparation of drugs for injection through one or more layers of the skin.

(60) 'Patient counseling' means the oral or written communication by the pharmacist to a patient or caregiver providing information on the proper use of drugs and devices.

(61) 'Permit consultant pharmacist' means a pharmacist licensed in this State who acts as a consultant for a permit holder other than a pharmacy or institution.

(62) 'Person' means an individual, sole-proprietorship, corporation, partnership, association, or any other legal entity including government.

(63) 'Personal protective equipment' or 'PPE' means a gown, glove, mask, hair cover, shoe cover, eye shield, and similar items intended to protect the compounder from hazards and minimize particle shedding.

(64) 'Pharmacy care' is the direct provision of drug therapy and other pharmacy patient care services through which pharmacists, in cooperation with the patient and other health care providers, design, implement, monitor, and manage therapeutic plans for the purpose of improving a patient's quality of life. Objectives include cure of disease, elimination or reduction of a patient's symptomatology, arresting or slowing a disease process, or prevention of a disease or symptomatology. The process includes three primary functions:

- (a) identifying potential and actual drug-related problems;
- (b) resolving actual drug-related problems; and
- (c) preventing potential drug-related problems.

(65) 'Pharmacist' means an individual health care provider licensed by this State to engage in the practice of pharmacy. A pharmacist is a learned professional authorized to provide patient care services within the scope of his knowledge and skills.

(66) 'Pharmacist-in-charge' means a pharmacist currently licensed in this State who accepts responsibility for the operation of a pharmacy in conformance with all laws pertinent to the practice of pharmacy and the distribution of drugs and who is in full and actual charge of the pharmacy and personnel.

(67) 'Pharmacy' means a location for which a pharmacy permit is required and in which prescription drugs and devices are maintained, compounded, and dispensed for patients by a pharmacist. This definition includes a location where pharmacy-related services are provided by a pharmacist.

(68) 'Pharmacy technician' means an individual other than an intern or extern, who assists in preparing, compounding, and dispensing medicines under the personal supervision of a licensed pharmacist and who is required to register as a pharmacy technician.

(69) 'Poison' means:

- (a) a drug, chemical, substance, or preparation which, according to standard works on medicine, materia medica, or toxicology, is liable to be destructive to adult human life in doses of sixty grains or less; or
- (b) a substance recognized by standard authorities on medicine, materia medica, or toxicology as poisonous; or
- (c) any other item enumerated in this chapter; or

(d) a drug, chemical, substance, or preparation which is labeled 'Poison'.

(70) 'Positive pressure' means a room or device with higher pressure than adjacent space so that air flow moves out of, rather than into, the room or device.

(71) 'Practice of pharmacy' means the interpretation, evaluation, and dispensing of prescription drug orders in the patient's best interest; participation in drug and device selection, drug administration, prospective drug reviews, and drug or drug-related research; provision of patient counseling and the provision of those acts or services necessary to provide pharmacy care and drug therapy management; and responsibility for compounding and labeling of drugs and devices, (except labeling by a manufacturer, repackager, or distributor or nonprescription drugs and commercially packaged legend drugs and devices) proper and safe storage of drugs and devices and maintenance of proper records for them; or the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, education, management, and control of pharmacy.

(72) 'Practitioner' means a physician, dentist, optometrist, podiatrist, veterinarian, or other health care provider authorized by law to diagnose and prescribe drugs and devices.

(73) 'Preparation' means a drug or nutrient compounded in a licensed pharmacy or licensed health care facility.

(74) 'Prescription drug' or 'legend drug' means:

(a) a drug which, under federal law, is required, prior to being dispensed or delivered, to be labeled with any of the following statements:

(i) 'Caution: Federal law prohibits dispensing without prescription';

(ii) 'Caution: Federal law restricts this drug to use by, or on the order of, a licensed veterinarian';

(iii) 'Rx only'; or

(b) a drug which is required by any applicable federal or state law to be dispensed pursuant only to a prescription drug order or is restricted to use by practitioners only;

(c) any drug products or compounded preparations considered to be a public health threat, after notice and public hearing as designated by the board; or

(d) any prescribed compounded prescription is a prescription drug within the meaning of this act.

(75) 'Prescription drug order' means a lawful order from a practitioner for a drug or device for a specific patient, issued for a legitimate medical

purpose within the prescriber's course of legitimate practice and including orders derived from collaborative pharmacy practice.

(76) 'Primary engineering control' or 'PEC' means a device, such as a laminar airflow workbench or an isolator, or a room that provides an ISO 5 environment.

(77) 'Process verification and validation' means the process:

(a) used to evaluate whether a preparation, service, or system meets specifications and fulfills its intended purpose; and

(b) of establishing evidence that provides a high degree of assurance that a preparation, service, or system accomplishes its intended requirements.

(78) 'Product' means a commercially manufactured drug or nutrient that has been evaluated for safety and efficacy by the FDA. A product is accompanied by FDA-approved manufacturer labeling or a product package insert.

(79) 'Prospective drug use review' means a review of the patient's drug therapy and prescription drug order before dispensing the drug as part of a drug regimen review.

(80) 'Pyrogen' means a substance or agent that tends to cause a rise in body temperature or fever.

(81) 'Revocation' means the cancellation or withdrawal of a license, permit, or other authorization issued by the board either permanently or for a period specified by the board before the person shall be eligible to apply anew. A person whose license, permit, or other authorization has been permanently revoked by the board shall never again be eligible for a license or permit of any kind from the board.

(82) 'Secondary engineering control' means a buffer area and an ante area that meet the designated ISO classification.

(83) 'Segregated compounding area for compounding sterile product preparations' means a designated space:

(a) confined to a room or a demarcated area;

(b) restricted to preparing low-risk CSPs with a twelve hour or less beyond-use time;

(c) containing a device that provides unidirectional air flow of ISO 5 air quality;

(d) free of materials extraneous to sterile compounding; and

(e) not used for other activities or purposes.

(84) 'Significant adverse drug reaction' means a drug-related incident that may result in serious harm, injury, or death to the patient.

(85) 'Sterile pharmaceutical' means a dosage form devoid of viable microorganisms.

(86) 'Sterility test' means a process designed to determine the presence of bacteria or fungi in or on a test device or solution.

(87) 'Therapeutically equivalent' means a drug product with the same efficacy and toxicity when administered to an individual as the originally prescribed drug as provided for in Section 39-24-40.

(88) 'Velocity' means the displacement air flow across the line of demarcation between a buffer area into the ante area in a single room.

(89) 'Wholesale distributor' means a person engaged in wholesale distribution of prescription drugs or devices including, but not limited to, manufacturers; repackagers; own-label distributors; private-label distributors; jobbers; brokers; warehouses including manufacturers' and distributors' warehouses, chain drug warehouses, and wholesale drug warehouses; independent wholesale drug traders; and retail pharmacies that conduct wholesale distributions. Wholesale distributor does not include:

(a) intracompany sales, being defined as a transaction or transfer between a division, subsidiary, parent, or affiliated or related company under the common ownership and control of a corporate entity;

(b) the purchase or other acquisition by a hospital or other health care entity that is a member of a group-purchasing organization of a drug for its own use from the group-purchasing organization or from other hospitals or health care entities that are members of such organizations;

(c) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug by a charitable organization described in section 501(c)(3) of the Internal Revenue Code of 1986 to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

(d) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug among hospitals or other health care entities that are under common control. For purposes of this section, 'common control' means the power to direct or cause the direction of the management and policies of a person or an organization, whether by ownership of stock, voting rights, by contract, or otherwise;

(e) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug for emergency medical reasons. For purposes of this section, 'emergency medical reasons' includes the transfer of legend drugs by a licensed pharmacy to another licensed pharmacy or a practitioner licensed to possess prescription drugs to alleviate a temporary shortage, except that the gross dollar value of the transfers may not exceed five percent of the total legend drug sales revenue of either the transferor or the transferee pharmacy during a consecutive twelve-month period;

(f) the sale, purchase, or trade of a drug, an offer to sell, purchase, or trade a drug, or the dispensing of a drug pursuant to a prescription; or

(g) the sale, purchase, or trade of blood and blood components intended for transfusion.

(90) 'Zone of turbulence' means the pattern of flow of air from the HEPA filter created behind an object placed within the LAFW pulling or allowing contaminated room air into the aseptic environment."

### **Practices and procedures**

SECTION 2. Section 40-43-86(CC) of the 1976 Code is amended to read:

“(CC)(1) The provisions of this subsection only apply to the compounding of medication by pharmacies permitted in the State of South Carolina.

(2) The following are the minimum current good compounding practices for the preparation of medications by pharmacists licensed in the State for dispensing or administering, or both, to humans or animals:

(a) Pharmacists engaged in the compounding of drugs shall operate in conformance with applicable laws regulating the practice of pharmacy.

(b) Based on the existence of a pharmacist/patient/practitioner relationship and the presentation of a valid prescription, or in anticipation of prescription medication orders based on routine, regularly observed prescribing patterns, pharmacists may compound, for an individual patient medications for which the components are commercially available.

(c) Pharmacists shall receive, store, or use drug substances for compounding that meet official compendia requirements, or of a chemical grade in one of the following categories: chemically pure (CP), analytical reagent (AR), American Chemical Society (ACS), or, if other than this, drug substances that meet the accepted standard of the practice of pharmacy.

(d) A compounder shall first attempt to use components manufactured in an FDA-registered facility. When components cannot be obtained from an FDA-registered facility, a compounder shall use his professional judgment in selecting an acceptable and reliable source and shall establish purity and safety by reasonable means, to include Certificate of Analysis, manufacturer reputation, and reliability of source.



(e) For components that do not have expiration dates assigned by the manufacturer or supplier, a compounder shall label the container with the date of receipt and assign a conservative expiration date, not to exceed three years after receipt of the component based on the nature of the component and its degradation mechanism, the container in which it is packaged, and the storage conditions.

(f) Pharmacists may not offer compounded medications to other pharmacies for resale; however, pharmacists may compound preparations based on an order from a practitioner for administration to a patient in institutional or office settings.

(g) The compounding of legend drugs in anticipation of receiving prescriptions without a historical basis or the distribution of compounded preparations without a patient/practitioner/pharmacist relationship is considered manufacturing.

(h) Physicians who administer compounded medications in an office or licensed ambulatory surgical facility setting shall be allowed to order and purchase those medications from the compounding pharmacy, store them in the office for future use but not for resale, and administer those medications according to their usual physician/patient/pharmacy practice relationship. A prescription for an individual patient for each administration of the drug shall not be required.

(i) Institutional pharmacies may order and store compounded preparations, both sterile and nonsterile, from compounding pharmacies in anticipation of patient orders based on the existence of a pharmacist/patient/practitioner relationship for regularly observed prescribing patterns. A chart order from a practitioner will be required for administration in an institutional facility.

(3)(a) Pharmacists engaging in compounding shall achieve competence and maintain proficiency through current awareness training and annual competency assessment in the art and science of compounding and the rules and regulations of compounding.

(b) Pharmacy technicians may assist the pharmacist in compounding. The pharmacist is responsible for training and monitoring the pharmacy technician. The pharmacy technician's duties must be consistent with the training received. The pharmacist must perform the final check of the compounded preparation to determine if the preparation is ready to dispense.

(c) Personnel engaged in the compounding of medications shall wear clean clothing appropriate to the operation being performed. Protective apparel must be worn as necessary to protect personnel from chemical exposure and medication or chemical contamination.

(d) Only personnel authorized by the responsible pharmacist may be in the immediate vicinity of the drug compounding operation. A person shown at any time, either by medical examination or pharmacist determination, to have an apparent illness or open lesions that may adversely affect the safety or quality of a drug preparation being compounded must be excluded from direct contact with components, medication containers, closures, in-process materials, and medication preparations until the condition is corrected or determined by competent medical personnel not to jeopardize the safety or quality of the preparations being compounded. All personnel who assist the pharmacists in compounding procedures must be instructed to report to the pharmacist any health conditions that may have an adverse effect on drug preparations.

(4)(a) Pharmacists engaging in compounding shall have an adequate area for the complexity level of compounding that is maintained for the placement of material and equipment. Sterile compounding must be performed in a separate area in compliance with Section 40-43-88.

(b) Bulk medications and other chemicals or materials used in the compounding of medication must be stored in adequately labeled containers in a clean, dry, and temperature-controlled area or, if required, under proper refrigeration.

(c) Adequate lighting and ventilation must be provided in all drug compounding areas. Potable water must be supplied under continuous positive pressure in a plumbing system free of defects that could contribute contamination to a compounded drug preparation. Adequate washing facilities, easily accessible to the compounding areas of the pharmacy, must be provided. These facilities shall include, but are not limited to, hot and cold water, soap or detergent, and air-dryers or single-use towels.

(d) The area used for the compounding of drugs must be maintained in a clean and sanitary condition. It must be free of infestation by insects, rodents, and other vermin. Trash must be held and disposed of in a timely and sanitary manner. Sewage and other refuse in and from the pharmacy and immediate medication compounding areas must be disposed of in a safe and sanitary manner.

(e) If sterile preparations are being compounded, the pharmacist shall comply with Section 40-43-88 as applicable to the procedure.

(f) If radiopharmaceuticals are being compounded, the pharmacist shall comply with Section 40-43-87 as applicable to the procedure.

(g) If drug products with special precautions for contamination, such as penicillin or hazardous drugs, are involved in a compounding procedure, appropriate measures, including either the dedication of equipment or meticulous cleaning of contaminated equipment before its use for the preparation of other drugs, must be utilized in order to prevent cross-contamination.

(5)(a) Equipment and utensils used for compounding must be of appropriate design and capacity and stored in a manner to protect from contamination. In addition, all equipment and utensils must be cleaned and sanitized before use to prevent contamination that would alter the safety or quality of the drug preparation beyond that desired. The pharmacist is responsible for determining suitability for use. In the case of sterile compounding, the pharmacist shall comply with Section 40-43-88 as applicable to equipment and utensils.

(b) Automatic, mechanical, electronic, or other equipment used in compounding must be routinely inspected, calibrated, if necessary, or checked to ensure proper performance.

(c) The pharmacist shall ensure that the proper container is selected to dispense the finished compounded prescription, whether sterile or nonsterile.

(6)(a) The pharmacist shall ensure that there are formulas and logs maintained either electronically or manually. Formulas must be comprehensive and include ingredients, amounts, methodology, and equipment, if needed, and special information regarding sterile compounding.

(b) The pharmacist shall ensure that components used in compounding are accurately weighed, measured, or subdivided as appropriate at each stage of the compounding procedure to conform to the formula being prepared. Any chemical transferred to a container from the original container must be labeled with the same information as on the original container and the date of transfer placed on the label.

(c) The pharmacist shall establish and conduct procedures so as to monitor the output of compounded prescriptions, i.e., capsule weight variation, adequacy of mixing, clarity, pH of solutions, and, where appropriate, procedures to prevent microbial contamination of medications purported to be sterile.

(7)(a) The pharmacist shall label any excess compounded preparation so as to reference it to the formula used and the assigned control number and the beyond-use date based on appropriate testing or published data. In the absence of stability information applicable to the specific compound, the maximum BUD must be determined by:

(i) the type of formulation, such as nonaqueous, water containing, or topical; and

(ii) professional judgment.

(b) The preparation must be stored appropriately.

(c) At the completion of compounding the prescription, the pharmacist shall examine the prescription for correct labeling.

(8) The pharmacist shall keep records of all compounded preparations for a period of time as other prescriptions as required by the Board of Pharmacy. These records must be readily available for authorized inspection during the retention period at the establishment. These records are subject to duplication by photocopying or other means of reproduction as part of the inspection.

(9) All significant procedures performed in the compounding area must be covered in written policies and procedures. These procedures must be developed for the facility, equipment, personnel, preparation, packaging, and storage of compounded preparations and ingredients to ensure accountability, accuracy, quality, safety, and uniformity in compounding as appropriate for the level of compounding performed at the facility.

(10) Safety data sheets should be readily accessible from an Internet website or otherwise to all personnel working with drug substances or bulk chemicals located on the compounding facility premises, and personnel should be instructed on how to retrieve needed information.”

### **Sterile preparations**

SECTION 3. Section 40-43-88 of the 1976 Code is amended to read:

“Section 40-43-88. (A) The purpose of this section is to provide standards for the preparation, labeling, storing, dispensing and distribution of sterile preparations by pharmacies and other facilities permitted by the board.

(B) Compounded sterile preparation (CSP) microbial contamination risk level is assigned according to the corresponding probability of contamination.

(1) A low-risk level CSP is compounded under the following conditions:

(a) The CSP must be compounded with aseptic manipulations entirely within ISO Class 5 or better air quality using only sterile ingredients, products, components, and devices with the exception of radiopharmaceuticals as stated in Section 40-43-87.

(b) The compounding only may involve transfer, measuring, and mixing manipulations using not more than three commercially manufactured packages of sterile products and not more than two entries into one sterile container or package of sterile product or administration container or device to prepare the CSP.

(c) For a low-risk level preparation, in the absence of passing a sterility test or process validation, the storage periods should not exceed the following time periods before administration and with proper storage:

- (i) not more than forty-eight hours at controlled room temperature;
- (ii) not more than fourteen days at a cold temperature; and
- (iii) not more than forty-five days in solid frozen state.

(2) A low-risk level CSP prepared in a PEC and that cannot be located within an ISO Class 7 or better buffer area requires a twelve-hour or less BUD. A low-risk level CSP with a BUD of twelve hours or less must meet the following criteria:

(a) PECs must be certified and maintain ISO Class 5 for exposure to critical sites and must be in a segregated compounding area restricted to sterile compounding activities that minimize the risk of CSP contamination.

(b) The segregated compounding area must not be in a location that has unsealed windows or doors that connect to the outdoors or high traffic flow, or that is adjacent to construction sites, warehouses, or food preparation.

(c) Personnel shall follow all procedures outlined in subsection (F) prior to compounding. A sink may not be located adjacent to the ISO Class 5 PEC and must be separated from the immediate area of the ISO Class 5 PEC device.

(d) The specifications for cleaning and disinfecting the sterile compounding area, personnel training and responsibilities, aseptic procedures, and air sampling must be followed as described in subsection (F).

(3) A medium-risk level CSP occurs under low-risk conditions when one or more of the following conditions exist:

(a) Multiple individual or small doses of sterile products are combined or pooled to prepare CSPs that will be administered either to multiple patients or to one patient on multiple occasions.

(b) The compounding process includes complex aseptic manipulations other than the single-volume transfer.

(c) The compounding process requires an unusually long duration, such as that required to complete dissolution or homogeneous mixing.

(d) In the absence of passing a sterility test or process validation, the storage periods should not exceed the following time periods before administration and with proper storage:

(i) not more than thirty hours at controlled room temperature;

(ii) not more than nine days at a cold temperature; and

(iii) not more than forty-five days in solid frozen state.

(4) A CSP is considered high-risk if it is compounded under the following conditions due to contamination or high risk of becoming contaminated:

(a) Nonsterile ingredients and products are incorporated or a nonsterile device is employed before terminal sterilization.

(b) Any of the following are exposed to air quality worse than ISO Class 5 for more than one hour:

(i) sterile contents of commercially manufactured products;

(ii) CSPs that lack effective antimicrobial preservatives; and

(iii) sterile surfaces of devices and containers for the preparation, transfer, sterilization, and packaging of CSPs.

(c) Presterilization procedures for high-risk level CSP, such as weighing and mixing, are completed in an ISO Class 8 or better environment.

(d) Preparations are appropriately sterilized before dispensing.

(e) For a high-risk level preparation, in the absence of passing a sterility test or process validation, the storage periods should not exceed the following time periods before administration and with proper storage:

(i) not more than twenty-four hours at controlled room temperature;

(ii) not more than three days at a cold temperature; and

(iii) not more than forty-five days in solid frozen state.

(5) The immediate-use CSP provision stated here only may be used for situations where a need for emergency or immediate patient administration of a CSP exists. An immediate-use preparation may not include a medium-risk level or a high-risk level CSP. An immediate-use CSP is exempt from the requirements described in subsection (B)(1) if:

(a) The compounding process involves simple transfer of commercially manufactured packages of sterile nonhazardous products or diagnostic radiopharmaceutical products from the manufacturers'

original containers into any one container or package of sterile infusion solution or administration container or device.

(b) The compounding procedure is a continuous process not to exceed one hour unless otherwise required for preparation.

(c) During preparation, aseptic technique is followed and, if not immediately administered, the finished CSP is under continuous supervision to minimize the potential for contact with nonsterile surfaces, introduction of particulate matter or biological fluids, mix-ups with other CSPs, and direct contact of outside surfaces.

(d) Administration begins no later than one hour following the start of the preparation of the CSP.

(e) Unless immediately and completely administered by the person who prepared it or immediate and complete administration is witnessed by the preparer, the CSP must bear a label listing the patient identification information, the names and amounts of all ingredients, the name or initials of the person who prepared the CSP, and the exact one-hour BUD and time.

(f) If administration has not begun within one hour following the start of preparing the CSP, the CSP must be discarded.

(C) The compounding area of the facility must meet the facility requirements relative to the risk level of preparations they prepare.

(1) Facility design and environmental control must be designed to minimize airborne contamination from contacting critical sites.

(a) A PEC must maintain ISO Class 5 or better conditions while compounding.

(b) The PEC HEPA-filtered air must be supplied in critical areas at a velocity sufficient to sweep particles away from the compounding area.

(2) The buffer area must maintain at least ISO Class 7 conditions under dynamic operating conditions.

(a) The room must be segregated from surrounding, unclassified spaces to reduce the risk of contaminants being blown, dragged, or otherwise introduced into the HEPA-filtered airflow environment.

(b) For buffer areas not physically separated from the ante areas, the principle of displacement airflow must be employed. The displacement concept shall not be used for high-risk compounding.

(c) The PEC must be placed out of the traffic flow in a manner to avoid conditions that could adversely affect its operation.

(d) Cleaning materials must be nonshedding and dedicated for use only in the sterile compounding area.

(e) Only the furniture, equipment, supplies, and other material required for the compounding activities to be performed may be brought into the buffer area, and they must be nonpermeable, nonshedding, cleanable, and resistant to disinfectants. They must be cleaned, then disinfected before brought into the area.

(f) The surfaces of ceilings, walls, floors, fixtures, shelving, counters, and cabinets in the buffer area must be smooth, impervious, and nonshedding in order to promote cleanliness.

(g) The buffer area shall not contain sources of water or floor drains with the exception of emergency safety devices.

(3) An ISO Class 7 buffer area and ante area supplied with HEPA-filtered air must have air changes per hour (ACPH) of not less than thirty.

(4) HEPA-filtered supply air should be introduced at the ceiling and returns must be mounted low on the wall, creating a general top-down dilution of area air.

(5) The floors in the clean and ante areas are cleaned by sweeping and mopping on each day of operation when no aseptic operations are in progress.

(6) The environment for compounding must contain an ante area that is ISO Class 8 quality air or better. Areas participating in high-risk compounding must have a separate ante area. Supplies and equipment must be removed from shipping cartons outside of the ante area, and must be wiped with a sanitizing agent before being transported to the clean room.

(7) Placement of a PEC must be based on the following:

(a) an LAFW, BSC, CAI, and CACI only may be located within a restricted access ISO Class 7 buffer area; and

(b) a CAI and CACI only may be placed in an ISO Class 7 buffer area unless the isolator maintains ISO Class 5 during dynamic operating conditions.

(8) The buffer area designated for placement of the ISO Class 5 PEC must be constructed to allow visual observation.

(9) The buffer area may not be used for storage of bulk supplies and materials.

(10) Maintain areas at temperatures and humidity levels to ensure the integrity of the drugs prior to their dispensing as stipulated by the USP/NF or the labeling of the manufacturer or distributor, or both.

(11) A sink with hot and cold running water readily accessible to the sterile preparations preparation area with immediate availability of germicidal skin cleanser and either an air blower or nonshedding



single-use towels for hand drying must be available to all personnel preparing sterile pharmaceuticals.

(D) Environmental quality and control practices include:

(1) Giving the highest priority in a sterile compounding practice to the protection of critical sites by precluding physical contact and airborne contamination.

(2) Performing viable and nonviable environmental air sampling testing every six months as part of a comprehensive quality management program and:

(a) as part of the commissioning and certification of new facilities and equipment;

(b) as part of the recertification of facilities and equipment; or

(c) in response to identified problems with the sterility of end preparations.

(3) Engineering control performance verification procedures must be performed by a qualified individual no less than every six months and when the device or room is relocated or altered. Certification documents must be retained for two years.

(4) Certification that each ISO classified area is within established guidelines for total particle counts must be performed no less than every six months and whenever the LAFW, BSC, CAI, or CACI is relocated or the physical structure of the buffer area or ante area has been altered. Testing must be performed by qualified operators.

(5) All certification records must be maintained and reviewed by pharmacy personnel to ensure that the controlled environments are in compliance.

(6) A pressure gauge or velocity meter must be installed to monitor the pressure differential or airflow between the buffer area and the ante area and between the ante area and the general environment outside the compounding area.

(a) The pressure between the positive ISO Class 7 or better buffer area, the ante area, and the general pharmacy area may not be less than a 0.02 inch water column.

(b) The pressure between the negative ISO Class 7 or better buffer area, the ante area, and the general pharmacy area may not be less than a -0.01 inch water column. For negative pressure buffer areas, the ante area must be ISO Class 7 or better.

(c) The results must be reviewed and documented on a log maintained either electronically or manually at least every work shift or by a continuous recording device.

(7) An appropriate facility-specific environmental sampling procedure must be followed for airborne viable particles based on a risk assessment of compounding activities performed.

(a) The documentation must include sample location, method of collection, volume of air sampled, time of day, and action levels.

(b) Evaluation of airborne microorganisms using volumetric collection methods in the controlled air environments, including LAFWs, CAIs, clean room or buffer areas, and ante areas, must be performed by properly trained individuals for all compounding risk levels. Impaction is the preferred method of volumetric air sampling.

(c) For all compounding risk levels, air sampling must be performed at locations prone to contamination during compounding activities and during other activities such as staging, labeling, gowning, and cleaning. Locations must include zones of turbulence within LAFW and other areas where air turbulence may enter the compounding area.

(d) Corrective actions must be taken when CFU counts for each ISO classification are exceeded, or when microorganisms are identified that are potentially harmful to patients receiving CSPs.

(E)(1) All hazardous CSPs must be compounded and prepared in an ISO Class 5 environment in a BSC or CACI with the exception of radiopharmaceuticals as stated in Section 40-43-87. Hazardous drugs may not be prepared in a laminar airflow workbench or a compounding aseptic isolator.

(2) Appropriate personal protective equipment must be worn by personnel compounding hazardous agents.

(3) Written procedures for disposal and handling spills of hazardous agents must be developed.

(4) There must be immediate access to emergency spill supplies wherever hazardous drugs are prepared.

(5) A hazardous CSP must be identified with warning labels in accordance with state and federal requirements.

(6) A hazardous CSP must be packaged for handling and delivery in a manner that minimizes the risk of rupture of the primary container and ensures the stability, sterility, and potency of the solution.

(7) A hazardous drug must be handled with caution at all times during receiving, distribution, stocking, inventorying, preparation for administration, and disposal.

(8) Documentation that personnel have been trained in the compounding, handling, and disposal of hazardous agents must be available. This documentation must be updated annually. The training must include the following if applicable:

(a) safe aseptic manipulation practices;

(b) negative pressure techniques when utilizing a BSC or CACI;

(c) correct use of CSTD devices;

(d) containment, cleanup and disposal procedures for breakages and spills; and

(e) treatment of personnel contact and inhalation exposure.

(F) Policies and procedures must be developed and implemented for the pharmacy. These policies and procedures must include the following as applicable:

(1) annual training and evaluation of sterile compounding personnel to include skills observation of antiseptic hand cleansing, other personnel cleansing, media-fill challenge, glove fingertip testing, cleaning of compounding environment, donning protective garb, maintaining or achieving sterility of CSPs;

(2) semiannual media-fill test representative of high-risk compounding must be performed by all personnel authorized to prepare high-risk CSPs;

(3) cleaning and disinfecting of the sterile compounding areas and devices with supporting documentation;

(4) ensuring identity, quality, and purity of ingredients;

(5) sterilization methods for high-risk CSPs;

(6) establishment of appropriate storage requirements and BUDs;

(7) measuring, mixing, dilution, purification, packaging, and labeling;

(8) unpackaging and introducing supplies into the sterile compounding environment;

(9) compounding activities that require the manipulation and disposal of a hazardous material;

(10) expiration dating of single-dose and multiple-dose containers;

(11) quality control and quality assurance of CSP processes;

(12) material safety data sheets;

(13) use of investigational drugs;

(14) written procedures outlining required equipment calibration, maintenance, monitoring for proper function, and controlled procedures for use of the equipment and specified time frames for these activities must be established and followed. Results from the equipment calibration, semiannual certification reports, and routine maintenance must be kept on file for two years;

(15) patient training and competency in managing therapy in the home environment;

(16) safety measures to ensure accuracy of CSPs; and

(17) compounding logs for nonpatient-specific CSPs.

(G) Compounding personnel:

(1) may not introduce food or drinks into the ante areas, buffer areas, or segregated compounding areas; and

(2) shall ensure that all CSPs are checked by a pharmacist before dispensing.

(H) In addition to references currently required in a pharmacy, at least one current reference on compatibility and stability of sterile pharmaceuticals must be available.

(I) All sterile pharmaceuticals prepared for dispensing must be labeled in accordance with Section 40-43-86 and include:

(1) name, address, and telephone number of the pharmacy for outpatients and name of the facility for inpatients;

(2) dating of a nonadditive solution if the manufacturer's protective cover, if applicable, is removed before dispensing;

(3) name of prescribing physician;

(4) room number and bed of patient, if applicable; and

(5) special handling, storage requirements, or both.

(J) Bulk or unformulated drug substances and added substances or excipients must be stored in tightly closed containers under temperature, humidity, and lighting conditions that are either indicated in official monographs or approved by suppliers. The date of receipt by the compounding facility must be clearly and indelibly marked on each package of ingredients. After receipt by the compounding facility, packages of ingredients that lack a supplier's expiration date cannot be used after one year unless either appropriate inspection or testing indicates that the ingredient has retained its purity and quality for use in CSPs.

(K) When sterile pharmaceuticals are provided to home care patients, the dispensing pharmacy may supply a nurse with emergency drugs if a physician has authorized the use of these drugs by a protocol or prescription drug order for use in an emergency situation, such as anaphylactic shock.

(L) A licensed health care professional may possess noncontrolled legend drugs or devices such as water for injection, normal saline for an IV, and heparin flushes to facilitate in the administration of prescribed CSPs.

(M) There must be a system that requires an institutional or home infusion pharmacist to be available twenty-four hours a day for a patient, nursing agency, or physician to which the pharmacy is providing services.”

**Time effective**

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 15<sup>th</sup> day of March, 2018.

Approved the 20<sup>th</sup> day of March, 2018.

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**No. 144**

(R152, H3442)

**AN ACT TO AMEND SECTION 63-9-60, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO INDIVIDUALS WHO MAY ADOPT A CHILD, SO AS TO ADD CIRCUMSTANCES UNDER WHICH A NONRESIDENT MAY ADOPT AND TO PROVIDE FOR THE RIGHT TO FILE A PETITION FOR ADOPTION WITHOUT REGARD TO WHOM HAS CUSTODY OF THE CHILD; TO AMEND SECTIONS 63-9-750 AND 63-9-1110, RELATING TO ADOPTION HEARINGS AND STEPPARENT OR RELATIVE ADOPTIONS, RESPECTIVELY, SO AS TO MAKE CONFORMING CHANGES; AND BY ADDING SECTION 63-9-370 SO AS TO ADDRESS THE RIGHT TO ADOPT A CHILD IN THE CUSTODY OF THE DEPARTMENT OF SOCIAL SERVICES.**

Whereas, recent South Carolina court opinions have so interpreted the meaning of Section 63-9-60 as to deny residents of this State standing to bring or maintain an action for the adoption of any child in the temporary custody of the Department of Social Services; and

Whereas, the General Assembly by this act wishes to reassert its legislative intent with regard to the adoption of children in this State by residents of South Carolina only, except in unusual or exceptional circumstances, to affirm the right of residents of South Carolina to bring actions for the adoption of children in the temporary custody of the department, and to correct the typographical error in the cross-reference in Section 63-9-750. Now, therefore,

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

**Adoption of a child by a nonresident of the State**

SECTION 1. Section 63-9-60 of the 1976 Code is amended to read:

“Section 63-9-60. (A) Any South Carolina resident may petition the court to adopt a child.

(B)(1) Any nonresident of South Carolina may petition the court to adopt a child in the following circumstances only:

(a) the child is a special needs child, as defined by Section 63-9-30;

(b) the child is to be placed for adoption with a relative related biologically or by marriage;

(c) at least one of the adoptive parents is in the military service stationed in South Carolina;

(d) there are unusual or exceptional circumstances such that the best interests of the child would be served by placement with or adoption by nonresidents of this State;

(e) the child has been in foster care for at least six months after having been legally freed for adoption and no South Carolina resident has been identified as a prospective adoptive home;

(f) all persons required to give consent to the adoption pursuant to Section 63-9-310 have specifically consented to the adoption by the nonresident; or

(g) the department or any agency under contract with the department has placed the child with the nonresident for purposes of adoption.

(2) A person who files a petition pursuant to subsections (A) and (B) shall not use public notoriety concerning a child or child's family to support or to evidence his petition to adopt a child.

(3) Before a child is placed within or outside the boundaries of this State for adoption with nonresidents of this State, compliance with Article 11 (Interstate Compact on the Placement of Children) is required, and a judicial determination must be made in this State that one of the circumstances in subsection (B)(1)(a)-(g) applies, whether or not the adoption proceedings are instituted in this State. Additionally, in order to determine if any of the circumstances in subsection (B)(1)(a)-(g) apply so as to permit placement with a nonresident for the purpose of adoption or adoption by a nonresident, a petition may be brought for the determination before the birth of the child or before placement of the child with the prospective adoptive parents. In ruling on this question the court must include in its order specific findings of fact as to the

circumstances allowing the placement of a child with a nonresident or the adoption of a child by a nonresident. The court also must analyze the facts against the objective criteria established in Sections 16-3-1060 and 63-9-310(F) and make specific findings in accordance with the pertinent law and evidence presented. The order resulting from this action does not prohibit or waive the right to refuse to consent to a release of rights or relinquish rights at a later time or to withdraw a consent or relinquish at a later time as provided in this article. The order must be merged with and made a part of any subsequent adoption proceeding, which must be initiated and finalized in this State.

(4) Neither the department nor its contractors may delay or deny the placement of a child for adoption by a nonresident if that nonresident has been approved for adoption of the child by another state authorized to approve such placements pursuant to the Interstate Compact on Placement of Children. The department shall provide an opportunity for a hearing, in accordance with the department's fair hearing procedures, to a nonresident who believes that the department, in violation of this section, has delayed or denied placement of a child for adoption.

(C) A petition for adoption of a child may be filed pursuant to this section regardless of which individual or entity has custody of the child. When the department has custody of a child, the rights granted herein to South Carolina residents and nonresidents shall not be diminished, invalidated or negatively affected in any way."

### **Final adoption hearing**

SECTION 2. Section 63-9-750(B)(7) of the 1976 Code is amended to read:

"(7) if the petitioner is a nonresident of this State, the findings pursuant to Section 63-9-60(B) are included in the order, and there has been compliance with Article 11 (Interstate Compact on the Placement of Children)."

### **Stepparent and relative adoptions**

SECTION 3. Section 63-9-1110(5) of the 1976 Code is amended to read:

"(5) upon good cause shown, the court may waive the requirement, pursuant to Section 63-9-60(B)(3), that the adoption proceeding must be finalized in this State."

**Right to adopt a child in the custody of the Department of Social Services**

SECTION 4. Subarticle 3, Article 1, Chapter 9, Title 63 of the 1976 Code is amended by adding:

“Section 63-9-370. (A) Consent or relinquishment for the purpose of adoption, pursuant to Section 63-9-310, for a minor child who is in the custody of the department by a removal action under Section 63-7-1660, is valid, binding, and enforceable. However, if a cause of action for the termination of parental rights affecting a minor child who is in the custody of the department by a removal action under Section 63-7-1660 was filed prior to the execution of a consent or relinquishment, then the consent or relinquishment and any further action on the petition for adoption, while valid, remains subject to the pendency of the termination of parental rights action and any order of the court pursuant thereto.

(B) Notwithstanding subsection (A), the department may move the court to make specific written findings that the consent or relinquishment has been freely, knowingly, and voluntarily given or that the consent or relinquishment is invalid on any of the following grounds:

(1) the adoptee lacks the mental capacity to give consent pursuant to Section 63-9-310(A)(1);

(2) the person lacks the mental capacity to give consent pursuant to Section 63-9-320(A)(2) as a result of:

(a) suffering from mental illness, impairment, or deficiency;

(b) being under the influence of alcohol or illegal drugs or abusing prescription medication; or

(c) being impaired by medical treatment; or

(3) the consent or relinquishment was not given voluntarily or was obtained through undue influence, duress, or coercion.

(C) The custody of a minor child who is in the custody of the department shall not be modified pursuant to a consent or relinquishment prior to a hearing being held in court, wherein the department is a party, for the purpose of determining whether the requirements of this section and Section 63-9-60 have been met with regard to the standing of the petitioner and validity of any consent or relinquishment for the purpose of adoption.

(D) Notwithstanding any other provision in this section, the court must consider the best interests of the child in making any findings pursuant to this section.”



**Time effective**

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 3<sup>rd</sup> day of April, 2018.

Approved the 4<sup>th</sup> day of April, 2018.

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**No. 145**

(R153, H3513)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-26-45 SO AS TO PROVIDE RETIRED EDUCATOR TEACHING CERTIFICATES TO ENABLE RETIRED EDUCATORS TO MAINTAIN ELIGIBLE CERTIFICATION FOR THE PURPOSE OF SUBSTITUTE TEACHING, TO PROVIDE ELIGIBILITY REQUIREMENTS, TO PROVIDE PROCEDURES FOR OBTAINING AND RENEWING CERTIFICATION, TO PROVIDE CERTIFICATION IS INVALIDATED UPON ISSUANCE OF OTHER EDUCATOR CERTIFICATION IN THIS STATE, TO PROVIDE RETIRED EDUCATOR TEACHING CERTIFICATE HOLDERS ARE NOT EXEMPT FROM DISTRICT PROFESSIONAL DEVELOPMENT REQUIREMENTS BY THE PROVISIONS OF THIS ACT, AND TO PROVIDE THE STATE BOARD OF EDUCATION SHALL PROMULGATE RELATED REGULATIONS.**

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

**Retired educator teaching certificates**

SECTION 1. Chapter 26, Title 59 of the 1976 Code is amended by adding:

“Section 59-26-45. (A) A retired educator certificate is a renewable certificate established in regulation by the State Board of Education that allows a retired South Carolina educator to be eligible to maintain

certification for the purpose of substituting. A person is initially eligible for a South Carolina retired educator certificate if he:

(1) held a valid South Carolina renewable, professional educator certificate at the time of retirement;

(2) is either a:

(i) retired member of the South Carolina Retirement System; or

(ii) current or former participant in the State Optional Retirement Program who would have met the eligibility requirements for retirement under the South Carolina Retirement System had he participated in that system rather than the State Optional Retirement Program;

(3) does not hold another valid South Carolina educator certificate and has never held a valid South Carolina educator certificate that has been suspended, revoked, or voluntarily surrendered; and

(4) meets all other qualifications to serve as a substitute educator as specified in state statute, regulation, and guidelines.

(B) An individual meeting the eligibility requirements and desirous of a certificate, including a renewal certificate, must submit the request in the manner specified in regulation and guidelines.

(1) A retired educator certificate approved and issued is valid for five years from the date of each issuance.

(2) A certificate may be renewed and, if approved, is valid for five years from the date of each issuance.

(3) Department guidelines shall include the timeline, forms, and a process for submitting and approving or denying certificate or renewal requests.

(4) Renewal of a retired educator certificate does not require completion of professional learning or renewal credit.

(C) Any new or renewed certificate is invalidated upon issuance of any other South Carolina educator certificate.

(D) An educator who works under the retired certificate must work under the agreement and rate of pay established for this purpose by the hiring district. Section 59-25-150 shall apply to any retired educator certificate.

(E) Nothing in this section exempts an educator from taking part in professional development that is required by a local school district.

(F) The State Board of Education shall develop regulations for, and the department shall establish guidelines and procedures for, the implementation of this section.”

**Time effective**

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

Ratified the 3<sup>rd</sup> day of April, 2018.

Approved the 4<sup>th</sup> day of April, 2018.

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**No. 146**

(R154, H3701)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 63-7-735 SO AS TO REQUIRE THE DEPARTMENT OF SOCIAL SERVICES TO INFORM A RELATIVE WITH WHOM A CHILD MAY BE PLACED OF THE OPPORTUNITY TO BE LICENSED AS A FOSTER PARENT, INCLUDING THE LICENSURE PROCESS AND BENEFITS OF BEING LICENSED AS A FOSTER PARENT, AND TO REQUIRE THE COURT TO MAKE CERTAIN FINDINGS BEFORE SIGNING AN ORDER APPROVING PLACEMENT OF A CHILD WITH A RELATIVE WHO IS NOT A LICENSED FOSTER PARENT; TO AMEND SECTION 63-7-650, RELATING IN PART TO THE DEPARTMENT MAKING AN INTERIM PLACEMENT OF A CHILD WITH A RELATIVE INSTEAD OF TAKING CUSTODY OF A CHILD, SO AS TO REQUIRE THE DEPARTMENT TO EXPLAIN TO THE RELATIVE ABOUT THE OPPORTUNITY TO BECOME LICENSED AS A KINSHIP FOSTER PARENT IF THE CHILD IS UNABLE TO RETURN HOME; TO AMEND SECTION 63-7-2320, RELATING TO THE KINSHIP FOSTER PROGRAM, SO AS TO ALLOW THE DEPARTMENT TO WAIVE CERTAIN NONSAFETY LICENSURE REQUIREMENTS WHEN LICENSING A RELATIVE AS A FOSTER PARENT AND TO INDICATE THE PREFERENCE FOR PLACING A CHILD WITH A RELATIVE; TO AMEND SECTION 63-7-2330, RELATING TO PLACEMENT OF A CHILD WITH A RELATIVE AS PART OF A REMOVAL ACTION, SO AS TO REQUIRE THE DEPARTMENT TO INFORM THE RELATIVE OF THE OPPORTUNITY TO BE LICENSED AS A FOSTER**

**PARENT, INCLUDING THE LICENSURE PROCESS AND BENEFITS OF BEING SO LICENSED; TO AMEND SECTION 63-7-2350, RELATING TO RESTRICTIONS ON FOSTER CARE PLACEMENTS, SO AS TO CLARIFY THE PROCESS THE DEPARTMENT MUST FOLLOW TO DETERMINE WHETHER A PERSON HAS COMMITTED A CRIME THAT MAKES THE PERSON INELIGIBLE TO BE A FOSTER PARENT; TO AMEND SECTION 43-1-210, RELATING TO DEPARTMENT REPORTING REQUIREMENTS, SO AS TO REQUIRE REPORTING OF KINSHIP CARE DATA; AND TO AMEND SECTION 63-7-20, RELATING TO TERMS DEFINED IN THE CHILDREN'S CODE, SO AS TO CHANGE THE DEFINITION OF CHILD ABUSE OR NEGLECT TO INCLUDE CHILD TRAFFICKING IN CERTAIN CIRCUMSTANCES.**

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

**Right to become a licensed kinship foster parent**

SECTION 1. Subarticle 3, Article 3, Chapter 7, Title 63 of the 1976 Code is amended by adding:

“Section 63-7-735. (A) Before the department places a child with a relative who is not licensed as a foster parent, the department shall inform the relative of the procedures for licensure as a foster parent, the benefits of licensure as a foster parent, including eligibility for financial assistance and supportive services, and the risk that the relative may be ineligible for that assistance and services if the relative is not licensed as a foster parent.

(B) An order issued as a result of a hearing in which the court approves placement of a child with a relative who is not licensed as a foster parent must contain a finding by the court whether the department informed the relative of the right to become licensed as a foster parent, the procedures for obtaining licensure, and the benefits of being licensed as a foster parent, including eligibility for financial assistance and supportive services.

(C) If the court finds that the department complied with the requirements of this section and Sections 63-7-2320(C) and (E) and 63-7-2330, and the relative indicates to the court that the relative does not wish to pursue licensure as a foster parent, the court may approve the placement pursuant to this section.”

**Interim relative placements and the opportunity to be licensed as kinship foster parent**

SECTION 2. Section 63-7-650 of the 1976 Code is amended to read:

“Section 63-7-650. (A) Before agreeing to or acquiescing in a corrective action that involves placement of the child with a relative or other person or making an interim placement with a relative while retaining custody of the child or as soon as possible after agreeing to or acquiescing in a corrective action, the department shall secure from the relative or other person and other adults in the home an affidavit attesting to information necessary to determine whether a criminal history or history of child abuse or neglect exists and whether this history indicates there is a significant risk that the child would be threatened with abuse or neglect in the home of the relative or other person. As soon as possible, the department shall confirm the information supplied in the affidavit by checking the Central Registry of Child Abuse and Neglect, other relevant department records, county sex offender registries, and records for the preceding five years of law enforcement agencies in the jurisdiction in which the relative or other person resides and, to the extent reasonably possible, jurisdictions in which the relative or other person has resided during that period. The department must not agree to or acquiesce in a placement if the affidavit or these records reveal information indicating there is a significant risk that the child would be threatened with abuse or neglect in the home of the relative or other person. The relative or other person must consent to a check of the above records by the department.

(B) Before making an interim placement of a child with a relative pursuant to this section, the department shall inform the relative about the opportunity to become licensed as a foster parent if the department later determines it is not safe for the child to be returned to the home and the department initiates a removal action pursuant to Section 63-7-1660. The department shall provide the relative general information about the kinship foster parent licensing process and the benefits of licensure, including eligibility for financial assistance and supportive services, and the risk that the relative may be ineligible for that assistance and services if the relative is not licensed as a foster parent.”

**Waiver of nonsafety licensure requirements for kinship foster parents**

SECTION 3. Section 63-7-2320(C) and (D)(4) of the 1976 Code is amended to read:

“(C) When a child has been removed from his home and is in the care, custody, or guardianship of the department, the department shall attempt to identify a relative who would be appropriate for placement of the child in accordance with the preliminary investigation requirements of Subarticle 3, Article 3 and in accordance with Section 63-7-1680(E)(1). If the department determines that it is in the best interest of a child requiring out-of-home placement that the child be placed with a relative for foster care, or if a relative advises the department that the relative is interested in providing placement for a child requiring foster care, and the relative is not already licensed to provide foster care, the department shall inform the relative of the procedures for being licensed as a kinship foster parent, assist the foster parent with the licensing process, and inform the relative of availability of payments and other services to kinship foster parents. If the relative is licensed by the department to provide kinship foster care services, in accordance with rules and regulations adopted by the department regarding kinship foster care, and a placement with the relative is made, the relative may receive payment for the full foster care rate for the care of the child and any other benefits that might be available to foster parents, whether in money or in services.

(4) Notwithstanding the requirement that a relative licensed as a kinship foster parent must be licensed in accordance with the same requirements as nonrelative applicants, the department may waive, on a case-by-case basis, for relative applicants nonsafety elements as the department deems appropriate. Safety elements, such as criminal and child abuse and neglect background checks required by Title IV-E of the Social Security Act, 42 U.S.C. Section 671(a)(20)(A), may not be waived. The department may not license a relative as a kinship foster parent or place the child with the relative if the placement would violate any provision of Section 63-7-2350. The department shall note on the standard license if there was a waiver of a nonsafety element and identify the element being waived.

(5) The department shall determine, after a thorough review of information obtained in the kinship foster care licensing process, whether the person is able to care effectively for the foster child. The review must take into consideration the parental preference and the

preference for placement with a relative who is known to the child and who has a constructive and caring relationship with the child, as provided in Section 63-7-1680(E)(1). The review also must take into consideration the preference for the placement with a relative who, but for the removal of the child at birth, would have had a constructive and caring relationship with the child, based on the relative's fitness and ability to care for the child."

### **Licensing of kinship foster parents**

SECTION 4. Section 63-7-2330(B) of the 1976 Code is amended to read:

"(B) If the department has determined that it is in the best interest of a child requiring foster care that the child be placed with a relative, and the relative is not licensed to provide foster care, or if a relative advises the department that the relative is interested in providing placement for a child requiring foster care, and the relative is not licensed to provide foster care, the department shall inform the relative of the procedures for obtaining licensure and the benefits of licensure, including eligibility for financial assistance and supportive services, and the risk that the relative may be ineligible for that assistance and services if the relative is not licensed as a foster parent. The department also shall provide information and reasonable assistance to a relative seeking a foster care license to the same extent that it provides this information and assistance to other persons contacting the department about foster care licensing."

### **Criminal background checks to license a foster parent**

SECTION 5. Section 63-7-2350 of the 1976 Code is amended to read:

"Section 63-7-2350. (A) No child in the custody of the Department of Social Services may be placed in foster care or for adoption with a person if the person or anyone eighteen years of age or older residing in the home:

- (1) has a substantiated history of child abuse or neglect; or
- (2) has pled guilty or nolo contendere to or has been convicted of:
  - (a) an 'Offense Against the Person' as provided for in Chapter 3, Title 16;
  - (b) an 'Offense Against Morality or Decency' as provided for in Chapter 15, Title 16;

(c) contributing to the delinquency of a minor as provided for in Section 16-17-490;

(d) the common law offense of assault and battery of a high and aggravated nature when the victim was a person seventeen years of age or younger;

(e) criminal domestic violence as defined in Section 16-25-20;

(f) criminal domestic violence of a high and aggravated nature as defined in Section 16-25-65;

(g) a felony drug-related offense under the laws of this State;

(h) unlawful conduct toward a child as provided for in Section 63-5-70;

(i) cruelty to children as provided for in Section 63-5-80;

(j) child endangerment as provided for in Section 56-5-2947;

or

(k) criminal sexual conduct with a minor in the first degree as provided for in Section 16-3-655(A).

(B) A person who has been convicted of a criminal offense similar in nature to a crime enumerated in subsection (A) when the crime was committed in another jurisdiction or under federal law is subject to the restrictions set out in this section.

(C) At a minimum, the department shall require that all persons referenced in subsection (A) undergo a state fingerprint review to be conducted by the State Law Enforcement Division and a fingerprint review to be conducted by the Federal Bureau of Investigation. The department also shall check the State Central Registry of Child Abuse and Neglect, department records, the equivalent registry system for each state in which the person has resided for five years preceding an application for licensure as a foster parent, the national sex offender registry, and the state sex offender registry for applicants and all persons twelve years of age and older residing in the home of an applicant.

(D) This section does not prevent foster care placement or adoption placement when a conviction or plea of guilty or nolo contendere for one of the crimes enumerated in subsection (A) has been pardoned. However, notwithstanding the entry of a pardon, the department or other entity making placement or licensing decisions may consider all information available, including the person's pardoned convictions or pleas and the circumstances surrounding them, to determine whether the applicant is unfit or otherwise unsuited to provide foster care services."

#### **DSS annual reporting requirements to include kinship care data**

SECTION 6. Section 43-1-210 of the 1976 Code is amended to read:



“Section 43-1-210. (A) The director shall prepare and submit to the Governor and the General Assembly a full and detailed report of its activities and expenditures annually, including a statement of its personnel and the salaries paid, and shall likewise make such recommendations and suggestions as it shall deem advisable in the execution of its duties to the General Assembly. In addition, this report must include, but is not limited to, the following information:

(1) the monthly total number of cases assigned, as of the last business day of every month, to each case worker in the Department of Social Services Child Protective Services Division;

(2) the monthly total number of children assigned, as of the last business day of every month, to each case worker in the Department of Social Services Child Protective Services Division;

(3) the monthly total number of children seen by the Department of Social Services within twenty-four hours of a report of abuse or neglect that were accepted for intake;

(4) the monthly total number of children that were not seen by the Department of Social Services within twenty-four hours of a report of abuse or neglect;

(5) the total number of children in foster care that were seen by the Department of Social Services each month;

(6) the total number of children in foster care that were not seen by the Department of Social Services each month;

(7) the number of children placed with a relative or other person pursuant to a safety plan;

(8) the number of children placed with a relative licensed as a kinship foster parent;

(9) the number of children placed with a relative not licensed as a kinship foster parent;

(10) for each case in which a relative requests to be licensed as a kinship foster parent, the number of days before a license is granted; and

(11) the number of relatives who apply to be licensed as a kinship foster parent and request a waiver of nonsafety licensing requirements who are subsequently granted a license with the waiver.

(B) The Department of Social Services shall prepare and submit this report no later than March first of each year.”

**Definition of child abuse or neglect to include child trafficking**

SECTION 7. Section 63-7-20(6) of the 1976 Code is amended to read:

“(6) ‘Child abuse or neglect’ or ‘harm’ occurs when:

(a) the parent, guardian, or other person responsible for the child’s welfare:

(i) inflicts or allows to be inflicted upon the child physical or mental injury or engages in acts or omissions which present a substantial risk of physical or mental injury to the child, including injuries sustained as a result of excessive corporal punishment, but excluding corporal punishment or physical discipline which:

(A) is administered by a parent or person in loco parentis;

(B) is perpetrated for the sole purpose of restraining or correcting the child;

(C) is reasonable in manner and moderate in degree;

(D) has not brought about permanent or lasting damage to the child; and

(E) is not reckless or grossly negligent behavior by the parents;

(ii) commits or allows to be committed against the child a sexual offense as defined by the laws of this State or engages in acts or omissions that present a substantial risk that a sexual offense as defined in the laws of this State would be committed against the child;

(iii) fails to supply the child with adequate food, clothing, shelter, or education as required under Article 1 of Chapter 65 of Title 59, supervision appropriate to the child’s age and development, or health care though financially able to do so or offered financial or other reasonable means to do so and the failure to do so has caused or presents a substantial risk of causing physical or mental injury. However, a child’s absences from school may not be considered abuse or neglect unless the school has made efforts to bring about the child’s attendance, and those efforts were unsuccessful because of the parents’ refusal to cooperate. For the purpose of this chapter ‘adequate health care’ includes any medical or nonmedical remedial health care permitted or authorized under state law;

(iv) abandons the child;

(v) encourages, condones, or approves the commission of delinquent acts by the child including, but not limited to, sexual trafficking or exploitation, and the commission of the acts are shown to be the result of the encouragement, condonation, or approval; or

(vi) has committed abuse or neglect as described in subsubitems (i) through (v) such that a child who subsequently becomes part of the person’s household is at substantial risk of one of those forms of abuse or neglect; or

(b) a child is a victim of trafficking in persons as defined in Section 16-3-2010, including sex trafficking, regardless of whether the perpetrator is a parent, guardian, or other person responsible for the child's welfare. Identifying a child as a victim of trafficking in persons does not create a presumption that the parent, guardian, or other individual responsible for the child's welfare abused, neglected, or harmed the child."

**Time effective**

SECTION 8. This act takes effect upon approval by the Governor.

Ratified the 3<sup>rd</sup> day of April, 2018.

Approved the 4<sup>th</sup> day of April, 2018.

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**No. 147**

(R155, H4729)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 61-6-141 SO AS TO PROHIBIT THE DEPARTMENT OF REVENUE FROM ISSUING MORE THAN THREE RETAIL DEALER LICENSES TO ONE LICENSEE AND PROVIDE THAT A LICENSEE MAY BE ISSUED ADDITIONAL LICENSES UNDER CERTAIN CIRCUMSTANCES; BY ADDING SECTION 61-6-151 SO AS TO PROHIBIT A LICENSEE FROM HAVING AN INTEREST IN A RETAIL LIQUOR STORE OTHER THAN THE STORES COVERED BY HIS RETAIL DEALER'S LICENSE; TO AMEND SECTION 61-6-1636, RELATING TO THE SALE OF ALCOHOLIC LIQUOR BY THE DRINK, SO AS TO ALLOW A LICENSED WHOLESALER TO DELIVER NEW ALCOHOLIC LIQUOR TO A PERSON LICENSED TO SELL ALCOHOLIC LIQUORS FOR ON-PREMISES CONSUMPTION UNDER CERTAIN CIRCUMSTANCES AND TO ESTABLISH CERTAIN REQUIREMENTS FOR THE FIRST BILL OF LADING; AND TO ESTABLISH A SCHEDULE FOR THE INCREMENTAL INCREASE OF RETAIL LICENSES THAT MAY BE ISSUED TO ONE LICENSEE.**

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

### Findings

SECTION 1. The General Assembly finds and declares that:

(A) The State has a substantial interest in exercising its powers and the powers granted to the State by the Twenty-first Amendment to the Constitution of the United States and in regulating alcoholic liquors, including the activities of manufacturers, importers, wholesalers, and retailers; the number and localities of retail dealer licenses; and the influences that affect the consumption levels of alcoholic liquors by the people of the State.

(B) The state's police power to regulate the business of retail liquor sales in the manner and to the extent allowed by law including, but not limited to, Section 1, Article VIII-A of the South Carolina Constitution, 1895, includes regulating the number and localities of retail dealer licenses that a person may be issued and regulating what wholesalers may deliver to persons licensed to sell alcoholic liquors for on-premises consumption, processes that affect the health, safety, and morals of the State.

(C) The public policy of this State and the legislative purpose of this act is to:

(1) strictly regulate alcoholic liquors to protect the health of this State and its residents. Excessive use of alcohol has wide ranging deleterious health effects, including death. The General Assembly acknowledges that, according to the United States Centers for Disease Control, during the period from 2006-2010 an average of 1,539 of this state's residents suffered alcohol attributed deaths due to excessive alcohol use and the rate of binge drinking in this State is ranked among the highest in the nation;

(2) strictly regulate alcoholic liquors to protect the safety of this State and its residents. The General Assembly acknowledges that, according to the National Highway Traffic Safety Administration, this State had three hundred thirty-one alcohol-impaired driving fatalities in 2016, which accounted for thirty-three percent of the total traffic fatalities in the State. Attributed deaths due to alcohol-impaired driving in this State is ranked among the highest in the nation;

(3) strictly regulate alcoholic liquors to protect the morals of this State and its residents by fostering moderation and responsibility in the use and consumption of alcoholic liquors. The General Assembly recognizes the prevalence of scientific data compiled by the Community

Prevention Services Task Force establishing a positive association between outlet density, including the number of retail liquor stores, and excessive alcohol consumption and related harms and further concurs with the task force's recommendation to limit outlet density in the effort to address those problems;

(4) protect the collection of state taxes imposed upon alcoholic liquors;

(5) protect the interests of consumers against fraud and misleading practices in the sale of alcoholic liquors and avoid problems associated with indiscriminate price cutting and excessive advertising of alcoholic liquors;

(6) provide a framework for the sale of alcoholic liquors that recognizes and encourages the beneficial aspects of competition and to prevent monopolies;

(7) maintain trade stability and provide for the continuation of control and orderly processing by the State over the number and locations of retail liquor stores;

(8) prevent the concentration of retail liquor stores in close proximity thereby affecting the health and morals of the State;

(9) prohibit discrimination in the sale of alcoholic liquors to retail licensees.

#### **Maximum alcohol retail dealer licenses to one licensee**

SECTION 2. Article 3, Chapter 6, Title 61 of the 1976 Code is amended by adding:

“Section 61-6-141. To protect the health, safety, and morals of the residents of this State, the issuance of retail dealer licenses must be governed pursuant to the following requirements to promote adequate law enforcement, regulatory measures, health care costs, and associated impacts on the health, safety, and welfare of the state's residents resulting from the anticipated sales of liquor, and to curb relationships and practices calculated to stimulate sales and impair the state's policy favoring trade stability and the promotion of temperance, in determining whether a political subdivision is adequately served pursuant to Section 61-6-170, and to provide for an orderly provision of retail dealer licenses:

(1) The department shall not issue more than three retail dealer licenses to one licensee, and the licensee must be eligible for a license for each store pursuant to Section 61-6-110.

(2) The limitation of no more than three retail dealer licenses to one licensee does not apply to a person having an interest in retail liquor stores as of July 1, 1978.

(3)(a) A licensee may be issued up to an additional three retail dealer licenses under the conditions provided in this item. Additional retail dealer licenses issued pursuant to this item must be for retail locations in counties with populations in excess of two hundred fifty thousand residents. Licensees issued a retail dealer license pursuant to this subitem may not operate more than two stores in a county with a population in excess of two hundred fifty thousand residents.

(b) A licensee who as of March 21, 2018, operates three retail dealer licensed stores within a county with a population in excess of two hundred fifty thousand residents may be issued two additional retail dealer licenses under subitem (a) to operate in that county.”

#### **Prohibitions on interests in retail liquor stores**

SECTION 3. Article 3, Chapter 6, Title 61 of the 1976 Code is amended by adding:

“Section 61-6-151. To protect the health, safety, and morals of the residents of this State, no person, directly or indirectly, individually or as a member of a partnership or an association, as a member or stockholder of a corporation, or as a relative to a person by blood or marriage within the second degree, may have any interest whatsoever in a retail liquor store licensed under this section except the six stores covered by his retail dealer’s licenses, pursuant to Section 61-6-141.”

#### **New alcoholic liquor requirements for wholesalers**

SECTION 4. Section 61-6-1636 of the 1976 Code is amended to read:

“Section 61-6-1636. (A) A person licensed by this article for sale and use for on-premises consumption shall purchase alcoholic liquor for sale by the drink from a licensed retail dealer with a wholesaler’s basic permit issued pursuant to the Federal Alcohol Administration Act or from a licensed wholesaler, as provided in subsection (C), in any size bottle, except 1.75 liter sized bottles.

(B) A licensed retail dealer with a wholesaler’s basic permit issued pursuant to the Federal Alcohol Administration Act may deliver, in sealed containers, alcoholic liquor in any size bottle, except 1.75 liter

sized bottles, to a person licensed by this article to sell alcoholic liquors for on-premises consumption.

(C)(1) For the purposes of this subsection, ‘new alcoholic liquor’ means alcoholic liquor not previously sold in this State.

(2) A licensed wholesaler may deliver new alcoholic liquor to a person licensed by this article to sell alcoholic liquors for on-premises consumption:

(a) in sealed containers and in any sized bottle, except 1.75 liter sized bottles, and

(b) only during the first one hundred eighty days from the date of the first bill of lading in this State for that new alcoholic liquor.

(3) Within ten days of receipt of the first bill of lading, the licensed wholesaler must provide a copy of the bill of lading to the department in the manner prescribed by the department.”

### **One subject**

SECTION 5. The General Assembly finds that all the provisions contained in this act relate to one subject as required by Section 17, Article III of the South Carolina Constitution, 1895, in that each provision relates directly to or in conjunction with other sections relating to the subject of premises licensed to sell alcoholic liquors to consumers.

The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in the act.

### **Incremental increase of maximum alcohol retail dealer licenses to one licensee**

SECTION 6. (A)(1) Until May 31, 2018, the department shall not issue more than three retail dealer licenses to one licensee, and the licensee must be eligible for a license for each store pursuant to Section 61-6-110.

(2) The limitation of no more than three retail dealer licenses to one licensee does not apply to a person having an interest in retail liquor stores as of July 1, 1978. Additional retail dealer licenses may be issued to that person as provided in this section.

(B) Beginning June 1, 2018, no more than four retail dealer licenses may be issued to one licensee, and the licensee must be eligible for each license for each store pursuant to Section 61-6-110.

(C) Beginning June 1, 2020, no more than five retail dealer licenses may be issued to one licensee, and the licensee must be eligible for each license for each store pursuant to Section 61-6-110.

(D) Beginning June 1, 2022, no more than six retail dealer licenses may be issued to one licensee, and the licensee must be eligible for each license for each store pursuant to Section 61-6-110.

### **Severability**

SECTION 7. 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.

### **Department of Revenue directed to reconsider retail dealer license applications**

SECTION 8. Pursuant to the terms of this act, the Department of Revenue, in order to conform to the terms of this act, is directed to reconsider the application for the privilege of a retail dealer license and any approval or denial for the privilege of a retail dealer license issued between April 5, 2018, and the effective date of this act.

### **Time effective**

SECTION 9. This act takes effect upon approval by the Governor.

Ratified the 3<sup>rd</sup> day of April, 2018.

Approved the 4<sup>th</sup> day of April, 2018.

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**No. 148**

(R156, H4868)

**AN ACT TO AMEND SECTION 9-4-40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE AUDIT OF THE PUBLIC EMPLOYEE BENEFIT AUTHORITY, SO AS TO CHANGE THE DATE THE AUDIT MUST BE COMPLETED.**

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

**PEBA audit date extension**

SECTION 1. Section 9-4-40 of the 1976 Code, is amended to read:

“Section 9-4-40. Every four years the State Auditor shall employ a private audit firm to perform a fiduciary audit on the South Carolina Public Employee Benefit Authority. The audit firm must be selected by the State Auditor. A report from the private audit firm must be completed by January 15, 2020, and every four years after that time. Upon completion, the report must be submitted to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee.”

**Time effective**

SECTION 2. This act takes effect on July 1, 2018.

Ratified the 3<sup>rd</sup> day of April, 2018.

Approved the 4<sup>th</sup> day of April, 2018.

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**No. 149**

(R157, H4869)

**AN ACT TO AMEND SECTIONS 9-1-1650, 9-9-70, 9-9-100, 9-11-110, AND 9-11-170, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CERTAIN AMOUNTS TO BE**

**PAID UPON TERMINATION OF EMPLOYMENT, OPTIONAL FORMS OF ALLOWANCE, CERTAIN PAYMENTS ON DEATH OF A MEMBER OR BENEFICIARY, CERTAIN LUMP-SUM PAYMENTS TO BE PAID IN THE EVENT OF DEATH, AND THE SUPPLEMENTAL ALLOWANCE PROGRAM, RESPECTIVELY, ALL SO AS TO REMOVE CERTAIN NOTARIZATION REQUIREMENTS.**

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

**Removal of acknowledgement requirements**

SECTION 1. The first undesignated paragraph of Section 9-1-1650 of the 1976 Code is amended to read:

“If a member ceases to be a teacher or employee except by death or retirement, the member must be paid within six months after the member’s demand for payment, but not less than ninety days after ceasing to be a teacher or employee, the sum of the member’s contributions and the accumulated regular interest on the contributions. If the member has five or more years of earned service or eight or more years of such service for a Class Three member, and before the time the member’s membership would otherwise terminate, elects to leave these contributions in the system, the member, unless these contributions are paid to him as provided by this section before the attainment of age sixty, remains a member of the system and is entitled to receive a deferred retirement allowance beginning at age sixty computed as a service retirement allowance in accordance with Section 9-1-1550(A) or (B) for Class One and Class Two members and Section 9-1-1550(C) for Class Three members. The employee annuity must be the actuarial equivalent at age sixty of the member’s contributions with the interest credits on the contributions, if any, as allowed by the board. If a member dies before retirement, the amount of the member’s accumulated contributions must be paid to the member’s estate or to the person the member nominated by written designation filed with the board.”

**Removal of acknowledgement and notarization requirements**

SECTION 2. Section 9-9-70 (A) and (B) of the 1976 Code is amended to read:

“(A) Until the first payment on account of a retirement allowance becomes normally due, any member or beneficiary may elect, by filing with the system, to convert the retirement allowance otherwise payable on his account after retirement into a retirement allowance of equivalent actuarial value under one of the optional forms named below, the retirement allowance under the option selected being due and payable on the date of retirement:

Option 1. A reduced retirement allowance payable during the retired member’s life, with the provision that it continues after his death to and for the life of the beneficiary, or the trustee of the beneficiary nominated by him by written designation filed with the board at the time of retirement if the person survives him. Any retirement allowance payable under this option, except an allowance for disability retirement pursuant to Section 9-9-65, shall be subject to the incidental death benefit limitation upon the payment of survivorship benefits to a nonspouse beneficiary under Section 401(a)(9)(G) of the Internal Revenue Code and Treasury Regulation Section 1.401(a)(9)-6, Q&A-2;

Option 2. A reduced retirement allowance payable during the retired member’s life, with the provision that it continues after his death at one-half the rate paid to him to and for the life of the beneficiary or the trustee of the beneficiary nominated by him by written designation filed with the board at the time of retirement, if the person survives him;

Option 3. A member may elect either Option 1 or 2 with the added provision that, if the designated beneficiary predeceases the member, the retirement allowance payable to the member after the designated beneficiary’s death must be equal to the retirement allowance which would have been payable had the member not elected the option;

Option 4. A member may elect Option 1 or 2 with the added provision that the reduced retirement allowance after his death is payable in equal shares to and for the life of each of two or more beneficiaries, or to the trustee or trustees of the beneficiaries, for so long as each beneficiary survives him. The benefit reduction factor must be based on the average age of the beneficiaries.

(B) A member having elected Option 1, 2, or 3 and nominated his spouse to receive a retirement allowance upon the member’s death may revoke the prior nomination and elect a new option only after the death of his spouse, a divorce, or other change in the member’s marital status. This change may be accomplished only by filing with the system:

(1) the form prescribed by the system, appropriately completed and signed by the member, that simultaneously both revokes the prior nomination and elects a new option and contains such other information as the system requires; or

(2) a writing signed by the member that makes the same revocation and election and contains the identical information required by the prescribed form. The revocation and election of a new option is effective on the first day of the month in which the new option is elected. The retirement allowance payable following the election of a new option allowed by this paragraph must be computed upon the actuarial equivalent of the retirement allowance in effect immediately before the effective date of the new option. The revocation of the prior nomination and the election of a new option after the death of the member's spouse must be made before the first anniversary of the death of the spouse."

#### **Removal of acknowledgement requirements**

SECTION 3. Section 9-9-100(2) of the 1976 Code is amended to read:

"(2) Upon the death of a retired member a lump-sum amount must be paid to the person he has last nominated by written designation filed with the board, otherwise to his estate. The lump-sum must be equal to the excess, if any, of his total accumulated contributions at the time his allowance commenced over the sum of the retirement allowance payments made to him, and to his designated beneficiary under Options 1, 2, and 3 of Section 9-9-70, during their lifetimes."

#### **Removal of acknowledgement requirements**

SECTION 4. Section 9-11-110(1) of the 1976 Code is amended to read:

"(1) Upon the death of any member prior to retirement, a lump-sum amount shall be paid to such person as he shall have nominated by written designation filed with the board, otherwise to his estate. If the member is in service at the time of his death, such lump-sum amount shall be equal to the sum of (a) and (b) below:

(a) his accumulated contributions, excluding any additional contributions, or one thousand dollars, whichever is greater; and

(b) his accumulated additional contributions. If the member is not in service at the time of his death, such lump-sum amount shall be the amount of his accumulated contributions."

#### **Removal of acknowledgement requirements**

SECTION 5. Section 9-11-170(5) and (6) of the 1976 Code is amended to read:

“(5) Upon the death of a member prior to his retirement and prior to his withdrawal of contributions on his ceasing to be a police officer under item (7) below, the amount of his accumulated supplemental contributions, if any, shall be paid to such person as he shall have nominated by written designation filed with the board, otherwise to his estate.

(6) Upon the death of a beneficiary who has not elected an optional form of allowance in accordance with item (8) below, a lump-sum amount shall be paid to such person as he shall have nominated by written designation filed with the board, otherwise to his estate. Such lump-sum amount shall be equal to the excess, if any, of his total accumulated supplemental contributions at the time his allowance commenced over the sum of the supplemental allowance payments made to him during his lifetime.”

#### **Time effective**

SECTION 6. This act takes effect on July 1, 2018.

Ratified the 3<sup>rd</sup> day of April, 2018.

Approved the 4<sup>th</sup> day of April, 2018.

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#### **No. 150**

(R158, H4870)

**AN ACT TO AMEND SECTION 7-7-350, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN LANCASTER COUNTY, SO AS TO ADD ONE PRECINCT, AND REDESIGNATE THE MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE REVENUE AND FISCAL AFFAIRS OFFICE.**

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

**Designation of Lancaster County voting precincts**

SECTION 1. Section 7-7-350 of the 1976 Code is amended to read:

“Section 7-7-350. (A) In Lancaster County there are the following voting precincts:

Antioch  
Black Horse Run  
Camp Creek  
Carmel  
Chesterfield Avenue  
College Park  
Douglas  
Dwight  
Elgin  
Erwin Farm  
Gold Hill  
Gooch’s Cross Road  
Harrisburg  
Heath Springs  
Hyde Park  
Jacksonham  
Kershaw North  
Kershaw South  
Lake House  
Lancaster East  
Lancaster West  
Lynwood Drive  
Midway  
Osceola  
Pleasant Hill  
Pleasant Valley  
Possum Hollow  
Rich Hill  
River Road  
Riverside  
Shelley Mullis  
Spring Hill  
The Lodge  
Unity  
University  
Van Wyck

(B) The precinct lines defining the above precincts are as shown on maps filed with the clerk of court of the county and also on file with the State Election Commission as provided and maintained by the Revenue and Fiscal Affairs Office designated as document P-57-18.

(C) The polling places for the precincts provided in this section must be established by the Board of Voter Registration and Elections of Lancaster County subject to approval by a majority of the Lancaster County Legislative Delegation.”

### **Time effective**

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

Ratified the 3<sup>rd</sup> day of April, 2018.

Approved the 4<sup>th</sup> day of April, 2018.

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### **No. 151**

(R160, H4981)

**AN ACT TO AMEND SECTION 7-7-530, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN YORK COUNTY, SO AS TO ADD ONE PRECINCT, TO REDESIGNATE THE MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE REVENUE AND FISCAL AFFAIRS OFFICE, AND TO CORRECT OUTDATED REFERENCES TO THE REVENUE AND FISCAL AFFAIRS OFFICE.**

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

### **Designation of voting precincts in York County**

SECTION 1. Section 7-7-530 of the 1976 Code is amended to read:

“Section 7-7-530. (A) In York County there are the following voting precincts:

Adnah  
Airport

Allison Creek  
Anderson Road  
Baxter  
Bethany  
Bethel  
Bethel School  
Bowling Green  
Bullocks Creek  
Cannon Mill  
Carolina  
Catawba  
Celanese  
Clover  
Cotton Belt  
Delphia  
Dobys Bridge  
Ebenezer  
Ebinport  
Edgewood  
Fairgrounds  
Ferry Branch  
Fewell Park  
Filbert  
Fort Mill No. 1  
Fort Mill No. 2  
Fort Mill No. 3  
Fort Mill No. 4  
Fort Mill No. 5  
Fort Mill No. 6  
Friendship  
Gold Hill  
Hampton Mill  
Harvest  
Hickory Grove  
Highland Park  
Hollis Lakes  
Hopewell  
Independence  
India Hook  
Kanawha  
Lakeshore  
Lakewood



Larne  
Laurel Creek  
Lesslie  
Manchester  
McConnells  
Mill Creek  
Mt. Holly  
Mt. Gallant  
Nation Ford  
Neelys Creek  
New Home  
Newport  
Northside  
Northwestern  
Oakridge  
Oakwood  
Old Pointe  
Ogden  
Orchard Park  
Palmetto  
Pleasant Road  
Pole Branch  
River's Edge  
River Hills  
Riverview  
Rock Creek  
Rock Hill No. 2  
Rock Hill No. 3  
Rock Hill No. 4  
Rock Hill No. 5  
Rock Hill No. 6  
Rock Hill No. 7  
Rock Hill No. 8  
Roosevelt  
Rosewood  
Sharon  
Shoreline  
Six Mile  
Smyrna  
Springdale  
Springfield  
Stateline

Steele Creek  
Tega Cay  
Tirzah  
Tools Fork  
University  
Waterstone  
Windjammer  
Wylie  
York No. 1  
York No. 2

(B) The precinct lines defining the precincts in subsection (A) are as shown on the official map on file with the Revenue and Fiscal Affairs Office, or its successor agency, designated as document P-91-18 and as shown on copies provided to the Board of Voter Registration and Elections of York County by the Revenue and Fiscal Affairs Office.

(C) The polling places for the precincts in subsection (A) must be determined by the Board of Voter Registration and Elections of York County with the approval of a majority of the York County Legislative Delegation.”

**Time effective**

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

Ratified the 3<sup>rd</sup> day of April, 2018.

Approved the 4<sup>th</sup> day of April, 2018.

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**No. 152**

(R161, H3591)

**AN ACT TO AMEND SECTION 59-152-32, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO BENCHMARKS AND OBJECTIVES REQUIRED AS PART OF THE FIRST STEPS TO SCHOOL READINESS COMPREHENSIVE LONG-RANGE INITIATIVE, SO AS TO PROVIDE THE BENCHMARKS AND OBJECTIVES MUST BE APPROVED BY THE FIRST STEPS TO SCHOOL READINESS BOARD OF TRUSTEES AND POSTED ON THE INTERNET WEBSITE OF**

If the last act shown on the opposite page is not complete, it will be continued in the next Advance Sheet.

ASHLEY HARWELL-BEACH  
Acting Code Commissioner  
P. O. Box 11489  
Columbia, S.C. 29211