

## Session 114 - (2001-2002)

### S\*0229 (Rat #0123, Act #0085 of 2001) General Bill, By Hayes, Wilson, Branton, Hawkins, Ravenel and Leventis

**Summary:** Military Code, Adjutant General, National Guard, commissioned, noncommissioned officers; Veterans' and Military Affairs

A BILL TO AMEND CHAPTER 1, TITLE 25, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE MILITARY CODE BY ADDING SECTION 25-1-160 SO AS TO ENCOURAGE OWNERS OF LAND TO MAKE LAND AND WATER AREAS AVAILABLE TO THE MILITARY DEPARTMENT FOR TRAINING AND OPERATIONAL PURPOSES BY DEFINING AND LIMITING THE OWNER'S DUTY OF CARE AND LIMITING THE OWNER'S LIABILITY TOWARD MILITARY PERSONS ENTERING THE OWNER'S LAND; BY ADDING SECTION 25-1-2260 SO AS TO PROVIDE FOR THE GRANTING OF CONTINUANCES IN COURT CASES WHEN A PARTY OR HIS ATTORNEY IS ABSENT BY REASON OF ATTENDANCE ON ACTIVE DUTY AS A MEMBER OF THE NATIONAL GUARD; BY ADDING SECTION 25-1-2957 SO AS TO PROVIDE THAT A PERSON SUBJECT TO THE MILITARY CODE WHO RECKLESSLY ENDANGERS THE LIFE OR SAFETY OF ANOTHER MAY BE PUNISHED AS A COURT-MARTIAL MAY DIRECT; TO AMEND SECTION 25-1-10, RELATING TO DEFINITIONS, SO AS TO DEFINE "UNIT MAINTENANCE FUND"; TO AMEND SECTION 25-1-40, RELATING TO APPLICABILITY OF THE UNIFORM CODE OF MILITARY JUSTICE, SO AS TO PROVIDE WHEN PRECEDENTS ESTABLISHED IN THE UNIFORM CODE OF MILITARY JUSTICE SHALL BE IN FORCE AND REGARDED AS PART OF THE MILITARY CODE; TO AMEND SECTION 25-1-60, RELATING TO COMPOSITION AND CLASSES OF MILITIA, SO AS TO INCLUDE PERSONS WHO CONTRACTUALLY BIND THEMSELVES WITHIN THE MILITIA OF THE STATE; TO AMEND SECTION 25-1-110, RELATING TO BURIAL FLAGS, SO AS TO PROVIDE THAT BURIAL FLAGS SHALL BE OBTAINED FROM THE UNITED STATES WHEN AVAILABLE; TO AMEND SECTION 25-1-340, RELATING TO VACANCIES IN THE OFFICE OF ADJUTANT GENERAL, SO AS TO DELETE THE PROVISION THAT THE GOVERNOR MAY APPOINT AN OFFICER WHO IS OF FIELD GRADE RANK OR HIGHER AND PROVIDE THAT THE GOVERNOR MAY APPOINT AN OFFICER WHO IS AT LEAST THE RANK OF LIEUTENANT COLONEL AND MEETS THE ELIGIBILITY REQUIREMENTS FOR A CONSTITUTIONAL OFFICER; TO AMEND SECTION 25-1-510, RELATING TO APPOINTMENT, QUALIFICATIONS, AND TENURE OF COMMISSIONED AND WARRANT OFFICERS, SO AS TO DELETE THE REQUIREMENT THAT A COMMISSIONED OR WARRANT OFFICER BE A RESIDENT OF THIS STATE AND PROVIDE THAT A COMMISSIONED OR WARRANT OFFICER MUST MEET FEDERAL RESIDENCY REQUIREMENTS FOR THE APPOINTMENT; TO AMEND SECTION 25-1-560, RELATING TO THE RELATIVE RANK OF OFFICERS, SO AS TO REQUIRE THE ADJUTANT GENERAL TO MAINTAIN RECORDS REFLECTING A RELATIVE RANK LIST OF ALL ACTIVE AND INACTIVE OFFICERS IN THE NATIONAL GUARD AND TO CONFORM THE RELATIVE RANK LIST TO FEDERAL MILITARY LAW; TO AMEND SECTION 25-1-580, RELATING TO THE SENIOR OFFICER ON DUTY BEING IN COMMAND, SO AS TO PROVIDE THAT A COMMANDER MAY APPOINT AN OFFICER TO COMMAND A SUBORDINATE OR DETACHED UNIT, AND THAT IF NONE IS APPOINTED, THE SENIOR OFFICER OF THE LINE ON DUTY IS IN COMMAND; TO AMEND SECTION 25-1-810, RELATING TO PROMOTIONS UNDER THE RESERVE OFFICER PERSONNEL ACT, SO AS TO DELETE THE OBSOLETE REFERENCE TO THE RESERVE OFFICER PERSONNEL ACT AND REPLACE IT WITH A REFERENCE TO FEDERAL LAW; TO AMEND SECTION 25-1-850, RELATING TO TRANSFER OF OFFICERS WITHIN THE ARMY NATIONAL GUARD, SO AS TO DELETE A PROVISION THAT A TRANSFER MUST BE MUTUALLY ACCEPTABLE TO COMMANDERS CONCERNED; TO AMEND SECTION 25-1-870, RELATING TO A VACANCY IN THE GRADE OF MAJOR GENERAL, SO AS TO PROVIDE THAT A VACANCY IN THE GRADE OF MAJOR GENERAL MUST BE FILLED BY A FULLY QUALIFIED OFFICER; TO AMEND SECTION 25-1-880, RELATING TO A VACANCY IN THE GRADE OF BRIGADIER GENERAL, SO AS TO DELETE OBSOLETE LANGUAGE RELATING TO THE BRIGADIER GENERAL SELECTION BOARD AND PROVIDE THAT A VACANCY IN THE GRADE OF BRIGADIER GENERAL MUST BE FILLED BY THE PROMOTION OF THE BEST QUALIFIED OFFICER IN THE NEXT LOWER GRADE AS DETERMINED BY THE ADJUTANT GENERAL; TO AMEND SECTION 25-1-1110, RELATING TO PROMOTIONS UNDER THE RESERVE OFFICER PERSONNEL ACT, SO AS TO DELETE REFERENCES TO THE RESERVE OFFICER PERSONNEL ACT AND PROVIDE FOR PROMOTIONS UNDER FEDERAL LAW; TO AMEND SECTION 25-1-1140, RELATING TO A VACANCY IN THE HEADQUARTERS OF THE AIR NATIONAL GUARD, SO AS TO DELETE A PROVISION THAT NO OFFICER SHALL BE ASSIGNED TO HEADQUARTERS, AIR NATIONAL GUARD, UNTIL HE HAS COMPLETED THREE YEARS COMMISSIONED SERVICE IN THE SOUTH CAROLINA AIR NATIONAL GUARD; TO AMEND SECTION 25-1-1330, RELATING TO ANNUAL SETTLEMENTS FOR FEDERAL AND STATE PROPERTY, SO AS TO DELETE REFERENCES TO RESPONSIBLE OFFICER AND REPLACE THEM WITH REFERENCES TO RESPONSIBLE PARTY AND TO AUTHORIZE COLLECTION ACTIONS FOR PAYMENTS FROM PARTIES LIABLE ON PROPERTY ACCOUNTS; TO AMEND SECTION 25-1-1370, RELATING TO UNIT MAINTENANCE FUND ALLOWANCES, SO AS TO

DELETE REFERENCES TO THE MILITARY BOARD, DELETE REFERENCES TO CERTAIN DATES FOR PAYMENTS OF APPROPRIATIONS AND PROVIDE FOR PAYMENTS PERIODICALLY, AND TO PROVIDE THAT UNIT MAINTENANCE FUNDS FROM SOURCES OUTSIDE THE ANNUAL APPROPRIATION MUST BE REGULATED AND AUDITED BY THE ADJUTANT GENERAL; TO AMEND SECTION 25-1-1620, RELATING TO THE CUSTODIAN AND USE OF TRAINING FACILITIES, SO AS TO PROVIDE THAT THE ADJUTANT GENERAL IS THE MANAGER AS WELL AS CUSTODIAN OF TRAINING FACILITIES AND THAT FACILITIES OWNED OR LEASED FOR THE MILITARY DEPARTMENT MAY BE RENTED OR SUBLICENSED WHEN NOT IN USE FOR TRAINING; TO AMEND SECTION 25-1-1820, RELATING TO WHEN THE NATIONAL GUARD IS SUBJECT TO ACTIVE DUTY, SO AS TO DELETE THE CIRCUMSTANCE OF WHEN THE PRESIDENT IS UNABLE WITH THE REGULAR FORCES TO EXECUTE THE LAWS OF THE UNITED STATES AND PROVIDE THAT THE NATIONAL GUARD IS SUBJECT TO ACTIVE DUTY WHEN THE PRESIDENT ISSUES ORDERS TO EXECUTE THE LAWS OF THE UNITED STATES; TO AMEND SECTION 25-1-2110, RELATING TO TERMS OF ENLISTMENT, SO AS TO DELETE THE THREE-YEAR PROVISION AND PROVIDE THAT ORIGINAL ENLISTMENTS IN THE NATIONAL GUARD MUST BE FOR A PERIOD TO COMPLY WITH GOVERNING DEPARTMENT OF DEFENSE REGULATIONS; TO AMEND SECTION 25-1-2220, RELATING TO TRANSFER OF ENLISTED MEN, SO AS TO DELETE THE PROVISION THAT THE TRANSFER BE APPROVED BY THE COMMANDING OFFICERS OF THE UNITS INVOLVED; TO AMEND SECTION 25-1-2230, RELATING TO DISCHARGES, SO AS TO REVISE THE AUTHORITY FOR DISCHARGES OF ENLISTED PERSONS; TO AMEND SECTION 25-1-2420, RELATING TO DEFINITIONS, SO AS TO INCLUDE PERSONS ATTACHED OR ASSIGNED TO STATE UNITS WITHIN THE DEFINITION OF "MILITARY FORCES"; TO AMEND SECTION 25-1-2420, RELATING TO DEFINITIONS, BY ADDING A NEW SUBPARAGRAPH APPROPRIATELY NUMBERED SO AS TO DEFINE "OFFICER"; TO AMEND SECTION 25-1-2450, RELATING TO APPOINTMENT OF THE STATE JUDGE ADVOCATE, SO AS TO PROVIDE THAT, ABSENT SEPARATE APPOINTMENT, THE SENIOR JUDGE ADVOCATE OF THE NATIONAL GUARD IS THE STATE JUDGE ADVOCATE; TO AMEND SECTION 25-1-2460, RELATING TO APPREHENSION, SO AS TO DELETE REFERENCES TO CIVIL OFFICERS HAVING AUTHORITY TO APPREHEND OFFENDERS AND PROVIDE FOR APPREHENSION BY ANY OFFICER UNDER THE LAWS OF THE UNITED STATES OR OF SOUTH CAROLINA; TO AMEND SECTION 25-1-2520, RELATING TO NONJUDICIAL PUNISHMENT, SO AS TO DELETE A REFERENCE TO THE INSPECTOR GENERAL; TO AMEND SECTION 25-1-2530, RELATING TO TYPES OF COURTS-MARTIAL, SO AS TO PROVIDE FOR A SUMMARY COURT-MARTIAL CONSISTING OF ONE OFFICER RATHER THAN ONE COMMISSIONED OFFICER; TO AMEND SECTION 25-1-2550, RELATING TO JURISDICTION OF GENERAL COURTS-MARTIAL, SO AS TO INCREASE THE FINE THAT MAY BE IMPOSED BY GENERAL COURTS-MARTIAL FROM TWO THOUSAND DOLLARS TO THREE THOUSAND DOLLARS; TO AMEND SECTION 25-1-2560, RELATING TO JURISDICTION OF SPECIAL COURTS-MARTIAL, SO AS TO DELETE THE LANGUAGE EXCLUDING OFFICERS FROM THE JURISDICTION OF SPECIAL COURTS-MARTIAL AND TO INCREASE THE AMOUNT OF FINE THAT MAY BE IMPOSED BY SPECIAL COURTS-MARTIAL FROM FIVE HUNDRED DOLLARS TO ONE THOUSAND DOLLARS; TO AMEND SECTION 25-1-2570, RELATING TO JURISDICTION OF SUMMARY COURTS-MARTIAL, SO AS TO INCREASE THE AMOUNT OF FINE THAT MAY BE IMPOSED BY SUMMARY COURTS-MARTIAL FROM TWO HUNDRED DOLLARS TO FIVE HUNDRED DOLLARS; TO AMEND SECTION 25-1-2610, RELATING TO WHO MAY SERVE ON COURTS-MARTIAL, SO AS TO REMOVE REFERENCES TO COMMISSIONED AND WARRANT OFFICERS, AND PROVIDE THAT ANY OFFICER ON OR OFF DUTY WITH THE MILITARY FORCES MAY SERVE ON COURTS-MARTIAL; TO AMEND SECTION 25-1-2725, RELATING TO THE STATUTE OF LIMITATIONS, SO AS TO DELETE PROVISIONS RELATING TO DESERTION DURING TIMES OF PEACE AND CERTAIN OTHER OFFENSES PUNISHABLE UNDER THE MILITARY CODE AND PROVIDE THAT A PERSON CHARGED WITH ANY OFFENSE IS NOT LIABLE TO BE TRIED BY COURT-MARTIAL IF THE OFFENSE WAS COMMITTED MORE THAN THREE YEARS BEFORE RECEIPT OF SWORN CHARGES OR THE IMPOSITION OF PUNISHMENT; TO AMEND SECTION 25-1-2750, RELATING TO CONTEMPT, SO AS TO INCREASE THE AMOUNT OF FINE THAT MAY BE IMPOSED BY A COURT-MARTIAL FOR CONTEMPT FROM TWENTY-FIVE DOLLARS TO FIVE HUNDRED DOLLARS; TO AMEND SECTION 25-1-2780, RELATING TO RECORDS OF TRIAL OF COURTS-MARTIAL, SO AS TO PROVIDE THAT SUMMARY COURT-MARTIAL PROCEEDINGS MUST USE DOCUMENTS PROMULGATED BY REGULATIONS OF THE ADJUTANT GENERAL; TO AMEND SECTION 25-1-2795, RELATING TO SENTENCES OF COURTS-MARTIAL, SO AS TO DELETE CERTAIN REFERENCES TO GENERAL COURT-MARTIAL JURISDICTION SO AS TO MAKE CERTAIN PROVISIONS OF THE SECTION APPLICABLE TO COURT-MARTIAL JURISDICTION RATHER THAN ONLY TO THE JURISDICTION OF A GENERAL COURT-MARTIAL; TO AMEND SECTION 25-1-2935, RELATING TO THE OFFENSE OF DISRESPECT TOWARD A SUPERIOR COMMISSIONED OFFICER, BY DELETING THE REFERENCE TO COMMISSIONED OFFICER AND INCLUDING NONCOMMISSIONED OFFICERS, SO AS TO MAKE THE OFFENSE OF DISRESPECT APPLICABLE TO SUPERIOR OFFICERS OR

NONCOMMISSIONED OFFICERS; TO AMEND SECTION 25-1-2940, RELATING TO THE OFFENSE OF ASSAULTING OR WILLFULLY DISOBEYING A SUPERIOR COMMISSIONED OFFICER, BY DELETING THE REFERENCE TO COMMISSIONED OFFICER AND INCLUDING NONCOMMISSIONED OFFICERS, SO AS TO MAKE THE OFFENSES OF ASSAULT AND WILLFULLY DISOBEYING A LAWFUL COMMAND APPLICABLE TO SUPERIOR OFFICERS OR NONCOMMISSIONED OFFICERS; TO AMEND SECTION 25-1-2945, RELATING TO INSUBORDINATE CONDUCT TOWARD A WARRANT OFFICER OR NONCOMMISSIONED OFFICER, BY DELETING REFERENCES TO WARRANT OFFICER, SO AS TO MAKE THE OFFENSE OF INSUBORDINATE CONDUCT APPLICABLE TO OFFICERS AND NONCOMMISSIONED OFFICERS; TO AMEND SECTION 25-1-2950, RELATING TO THE OFFENSES OF FAILURE TO OBEY ORDERS AND REGULATIONS AND DERELICTION OF DUTY, SO AS TO INCLUDE THE VIOLATION OF A STATUTE WITHIN THE OFFENSE; TO AMEND SECTION 25-1-3065, RELATING TO CONDUCT UNBECOMING AN OFFICER AND A GENTLEMAN, BY DELETING REFERENCES TO COMMISSIONED OFFICER AND A GENTLEMAN, SO AS TO PROVIDE THAT ANY OFFICER WHO IS CONVICTED OF CONDUCT UNBECOMING AN OFFICER MAY BE PUNISHED AS A COURT-MARTIAL MAY DIRECT; TO AMEND SECTION 25-1-3085, RELATING TO THE AUTHORITY TO ADMINISTER OATHS, BY DELETING REFERENCES TO COMMISSIONED OFFICER, SO AS TO PROVIDE THAT ALL OFFICERS HAVE THE AUTHORITY TO ADMINISTER OATHS; TO AMEND SECTION 25-1-3095, RELATING TO COMPLAINTS AGAINST OFFICERS, BY DELETING THE REQUIREMENT THAT COMPLAINTS BE FORWARDED TO THE ADJUTANT GENERAL, SO AS TO PROVIDE THAT ANY MEMBER OF THE MILITARY FORCE MAY COMPLAIN TO HIS NEXT SUPERIOR COMMISSIONED OFFICER; TO AMEND SECTION 25-1-3235, RELATING TO THE NATIONAL GUARD PENSION FUND, SO AS TO PROVIDE THAT CERTAIN PERSONS WITH A BREAK IN SERVICE REMAIN ELIGIBLE FOR PENSION BENEFITS; TO AMEND SECTION 25-17-30, AS AMENDED, RELATING TO MAINTENANCE OF THE MUSEUM, SO AS TO DELETE THE PROVISION THAT NO STATE FUNDS MAY BE USED FOR MAINTENANCE OF THE MUSEUM; AND TO REPEAL SECTIONS 25-1-330, 25-1-950, 25-1-1340, 25-1-1390, 25-1-1400, 25-1-2130, AND 25-1-2160; AND TO FURTHER AMEND CHAPTER 1, TITLE 25, BY ADDING SECTION 24-1-2455 SO AS TO PROVIDE FOR THE APPOINTMENT OF MILITARY JUDGES BY THE ADJUTANT GENERAL AND PROVIDE FOR THE QUALIFICATIONS, POWERS, AND DUTIES OF MILITARY JUDGES.-AMENDED TITLE

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| 01/30/01 | Senate | Introduced and read first time SJ-9   |
| 01/30/01 | Senate | Referred to Committee on General SJ-9   |
| 04/17/01 | Senate | Committee report: Favorable with amendment General SJ-14  |
| 04/19/01 | Senate | Amended SJ-16   |
| 04/19/01 | Senate | Read second time SJ-16  |
| 04/19/01 | Senate | Ordered to third reading with notice of amendments SJ-16  |
| 04/26/01 | Senate | Amended SJ-16   |
| 04/26/01 | Senate | Read third time and sent to House SJ-16   |
| 05/01/01 | House  | Introduced and read first time HJ-9   |
| 05/01/01 | House  | Referred to Committee on Medical, Military, Public and Municipal Affairs HJ-16                  |
| 05/23/01 | House  | Committee report: Favorable with amendment Medical, Military, Public and Municipal Affairs HJ-3 |
| 05/24/01 | House  | Amended HJ-19   |
| 05/24/01 | House  | Requests for debate-Rep(s). Quinn and Davenport HJ-20   |
| 05/29/01 | House  | Read second time HJ-12  |
| 05/30/01 | House  | Read third time and returned to Senate with amendments HJ-7                                     |
| 05/31/01 | Senate | Concurred in House amendment and enrolled SJ-16   |
| 06/07/01 |        | Ratified R 123  |
| 08/08/01 |        | Signed By Governor  |
| 08/08/01 |        | Effective date 08/08/01   |
| 08/22/01 |        | Copies available  |
| 08/22/01 |        | Act No. 85  |