**South Carolina General Assembly**

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**H. 3004**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Cooper, White, M.A. Pitts, Harrell, Horne, Huggins, Sottile, Sandifer, Cato, Gambrell, Loftis, Bedingfield, Allison, Owens, J.R. Smith, Rice, Parker, Brady, Spires, Toole, Stringer, G.M. Smith, Kelly, Hardwick, Littlejohn, G.R. Smith, Willis, Nanney, Wylie and Daning

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Summary: DNR

**HISTORY OF LEGISLATIVE ACTIONS**

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12/9/2008 House Referred to Committee on **Agriculture, Natural Resources and Environmental Affairs**

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**VERSIONS OF THIS BILL**

[12/9/2008](file:///p:\pprever\2009-10\3004_20081209.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 7 TO CHAPTER 6, TITLE 23 SO AS TO CREATE THE NATURAL RESOURCES ENFORCEMENT DIVISION WITHIN THE DEPARTMENT OF PUBLIC SAFETY AND TO TRANSFER TO THE DIVISION CERTAIN POWERS AND ASSETS FROM THE DEPARTMENT OF NATURAL RESOURCES, AMONG OTHER THINGS; TO AMEND SECTION 23‑6‑20, RELATING TO THE DIVISIONS COMPRISING THE DEPARTMENT OF PUBLIC SAFETY, SO AS TO ADD THE NATURAL RESOURCES ENFORCEMENT DIVISION; TO AMEND SECTION 23‑6‑30, RELATING TO THE DUTIES AND POWERS OF THE DEPARTMENT OF PUBLIC SAFETY, SO AS TO INCLUDE POWERS TO ENFORCE CERTAIN LAWS RELATED TO NATURAL RESOURCES; AND TO REPEAL SECTIONS 50‑3‑110 RELATING TO THE SUPERVISION OF DEPARTMENT OF NATURAL RESOURCES ENFORCEMENT OFFICERS; 50‑3‑120 RELATING TO DESIGNATION OF WILDLIFE LAW ENFORCEMENT PERSONNEL AS LAW ENFORCEMENT OFFICERS; 50‑3‑130 RELATING TO UNIFORMS AND EMBLEMS OF DEPARTMENT OF NATURAL RESOURCES ENFORCEMENT OFFICERS; 50‑3‑140 RELATING TO PUBLICATION OF DESCRIPTION OF ENFORCEMENT OFFICERS’ UNIFORMS AND EMBLEMS; 50‑3‑150 RELATING TO USE OF PRESENT UNIFORMS AND MOTOR VEHICLES DURING AND AFTER TRANSFER; 50‑3‑160 RELATING TO INJUNCTIONS; 50‑3‑310 RELATING TO THE APPOINTMENT AND REMOVAL OF ENFORCEMENT OFFICERS; 50‑3‑315 RELATING TO DEPUTY ENFORCEMENT OFFICERS; 50‑3‑316 RELATING TO CRITERIA FOR HIRING ENFORCEMENT OFFICERS; 50‑3‑320 RELATING TO TRANSMITTAL AND DELIVERY OF COMMISSIONS OF ENFORCEMENT OFFICERS; 50‑3‑330 RELATING TO OATHS AND BONDS FOR ENFORCEMENT OFFICERS; 50‑3‑340 RELATING TO STATEWIDE POWER OF ENFORCEMENT OFFICERS; 50‑3‑350 RELATING TO OFFICIAL BADGE OF ENFORCEMENT OFFICERS; 50‑3‑360 RELATING TO ADDITIONAL DEPUTY ENFORCEMENT OFFICERS FOR GAME ZONE 2; 50‑3‑370 RELATING TO DUTY OF ENFORCEMENT OFFICERS TO CHECK BAG LIMITS AND INVESTIGATE VIOLATIONS; 50‑3‑380 RELATING TO SEARCH AND SEIZURE OF GAME AND FISH OBTAINED UNLAWFULLY; 50‑3‑390 RELATING TO DUTY OF ENFORCEMENT OFFICERS TO ENFORCE LAWS AND PROSECUTE VIOLATIONS; 50‑3‑395 RELATING TO POWER OF ENFORCEMENT OFFICERS TO ISSUE WARNING TICKETS; 50‑3‑396 RELATING TO USE OF ENFORCEMENT OFFICERS’ OFFICIAL SUMMONS OF LITTERING VIOLATIONS; 50‑3‑400 RELATING TO GRANT OF CONSTABLE AND INSPECTOR POWERS TO ENFORCEMENT OFFICERS; 50‑3‑410 RELATING TO ARREST PROCEDURES AND BAIL; AND 50‑3‑420 RELATING TO IMMUNITY FROM CERTAIN PROSECUTION.

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

SECTION 1. Chapter 6, Title 23 of the 1976 Code is amended by adding:

“Article 7

Natural Resources Enforcement Division

Section 23‑6‑310. (A) There is created a Natural Resources Enforcement Division within the Department of Public Safety that shall enforce all of the laws of the State relating to natural resources as provided in Title 50.

(B) The functions, powers, duties, responsibilities, and authority statutorily exercised by the Natural Resources Enforcement Division of the South Carolina Department of Natural Resources are transferred to and devolved on the Natural Resources Enforcement Division of the Department of Public Safety and the assets, liabilities, records, property, personnel, unexpended appropriations, and other funds are transferred to the division.

(C) The division may have such enforcement officers, agents, and employees that the department considers necessary and proper for the enforcement of the laws of the State relating to natural resources as provided in Title 50. An enforcement officer of the division must be commissioned by the Governor upon the recommendation of the director of the Department of Public Safety, and the Secretary of State shall transmit to the director the commissions of all officers. The director may terminate a commission at his pleasure.

(D) The department shall provide distinctive uniforms, badges, and suitable arms and equipment that its officers must use when performing their official duties. An officer shall wear a complete uniform and a conspicuously displayed badge when performing his duties.

(E) The department shall prescribe a distinctive color or colors and appropriate emblems for all motor vehicles used by the division except those designated by the director.

(F) The director shall file with the Legislative Council for publication in the State Register a description and illustration of the official highway patrol uniform with insignia and the emblems of the official highway patrol and motor vehicles including a description of the color of such uniforms and vehicles and a description and illustration of the uniform, insignia, emblems, and motor vehicles of the division.

(G) Another law enforcement agency, private security agency, or other person may not:

(1) wear a uniform, badge, or insignia that can be readily confused with a uniform, badge, or insignia of the division; or

(2) cause a vehicle not used by the department to be readily confused with a vehicle used by the department.

(H) In order to carry out the provisions of this section in an orderly and economical manner, all serviceable uniforms and motor vehicles used by the division must continue to be used until the director considers their replacement necessary.

Section 23‑6‑320. (A) An enforcement officer commissioned pursuant to this chapter shall file a bond, or be covered by a surety bond, with the department in an amount of not less than two thousand dollars, subscribed by a duly licensed surety company, that must be conditioned on the faithful performance of his duties. These duties include, but are not limited to, the prompt and proper accounting of all funds coming into his hands, the payment of a judgment recovered against him in a court of competent jurisdiction upon a cause of action arising out of breach or abuse of official duty or power, or the payment of damages sustained by a member of the public from an unlawful act of the officer or trooper. Coverage under the bond may not include personal injury or property damage arising from the negligent operation of a motor vehicle. The bond may be individual, schedule, or blanket. The bond must be on a form approved by the Attorney General. The department shall pay the premiums for a bond.

(B) An enforcement officer commissioned pursuant to this chapter shall take and subscribe before a notary public or other authorized officer an oath to perform faithfully the duties of his office. The oath must be transmitted to the board, which shall maintain a record of the oath.

Section23‑6‑330. (A) The director may appoint deputy enforcement officers who serve at the pleasure of the director without pay. A deputy enforcement officer has statewide police power, but the director may restrict their territorial jurisdiction.

(B) Except for specially designated department employees, a deputy enforcement officer is a volunteer covered by Chapter 25, Title 8 and not an employee entitled to coverage or benefits in Title 42.

(C) Except for specially designated department employees, a deputy enforcement officer shall furnish his own equipment but may not equip a privately owned vehicle with blue lights, sirens, or indicia of the department or division.

(D) The department shall administer the deputy enforcement officers through its Natural Resources Enforcement Division.

(E) The number of deputy enforcement officers appointed is in the discretion of the director.

(F) A deputy enforcement officer:

(1) must be of good character;

(2) may not hold another public office;

(3) must be certified by the South Carolina Criminal Justice Academy or successfully shall complete the ‘Basic State Constables Course’ at his own expense at one of the state technical schools;

(4) successfully shall complete required refresher training;

(5) shall comply promptly with a directive by the deputy director of the Natural Resources Enforcement Division and the supervisor of enforcement officers within whose area the officer is acting; and

(6) shall take and subscribe before a notary public or other authorized officer an oath to faithfully perform the duties of his office. The oath must be transmitted to the board, which shall maintain a record of the oath.

(G) The department by regulation shall establish a training program for deputy enforcement officers commissioned after the effective date of this article.

Section 23‑6‑340. An enforcement officer shall obtain information concerning a violation of a bird, nonmigratory fish, or game law; and check all bag limits, size, and species of bagged birds, nonmigratory fish, or game.

Section23‑6‑350.An enforcement officer who makes an affidavit before a court of proper jurisdiction stating that reasonable grounds exist to believe that a person or common carrier illegally possesses game, a bird, or a fish may:

(1) procure a search warrant and open, enter, and examine a vehicle, building, or receptacle of the suspected person or common carrier; and

(2) seize game, a bird, or a fish possessed in violation of a law of this State.

Section 23‑6‑360. An enforcement officer may issue a warning ticket to a violator for a misdemeanor under Title 50. The department by regulation shall provide the form, administration, and use of a warning ticket authorized by this section.

Section23‑6‑370. (A) An enforcement officer, deputy enforcement officer, or officer deputized by the department pursuant to Section 27‑16‑70(C)(2):

(1) shall enforce the laws of the State related to natural resources as provided in Title 50 and prosecute a person who violates these laws;

(2) has statewide jurisdiction;

(3) has the same power and authority held and exercised by:

(a) a constable at common law and under the laws of this State; and

(b) an inspector as provided by Chapter 5, Title 50; and

(4) may use an official summons for violations of a law or regulation of the Department of Natural Resources, the Department of Parks, Recreation and Tourism, the State Forestry Commission, or the Department of Health and Environmental Control pertaining to shellfish, trespass, and:

(a) interfering with a police officer, Section 16‑5‑50;

(b) disorderly conduct, Section 16‑17‑530;

(c) malicious injury to animals or personal property, Section 16‑11‑510;

(d) littering, Section 16‑11‑700;

(e) possession of beer or wine by a person underage, Section 63‑19‑2440;

(f) possession of alcoholic liquor by a person under twenty‑one years of age, Section 63‑19‑2450;

(g) possession of marijuana (1 oz. or less), Section 44‑53‑370(c);

(h) violation of the South Carolina Underwater Antiquities Act, Sections 54‑7‑610 through 54‑7‑810;

(i) interfering with navigation, Sections 54‑11‑10 through 54‑11‑50;

(j) failure to stop for a blue light, Section 56‑5‑750;

(k) fishing from a posted bridge or roadway, Section 56‑5‑3110;

(l) unlawful possession and consumption of alcoholic liquor, Sections 61‑6‑1800, 61‑6‑2220, and 61‑6‑4710;

(m) open container, Section 61‑4‑110;

(n) transporting uncovered loads on highways, Section 56‑5‑4100;

(o) destruction of sea oats or venus flytraps, Section 16‑11‑590;

(p) destruction of marsh, Section 48‑39‑130; or

(q) inhumane treatment to animals, Section 47‑1‑40.

(B) A person served with a summons under subsection (A) of this section may offer to post bail in lieu of incarceration or a personal appearance required by the summons. The apprehending officer may accept as bail cash in an amount not less than the minimum or more than the maximum fine, plus court costs. The official summons serves as receipt for the sum deposited and confers to the appropriate court jurisdiction to adjudicate the matter.

Section23‑6‑380. (A) An enforcement officer, deputy enforcement officer, officer deputized by the department pursuant to Section 27‑16‑70(C)(2), or officer of the Lake Wylie Marine Commission may not be subject to criminal prosecution when acting in his official capacity within his territorial jurisdiction for:

(1) failing to comply with a statute or regulation governing the operation of a motor vehicle, watercraft, or aircraft;

(2) entering private property, regardless of whether the property posts a prohibition against trespassing; or

(3) failing to comply with a wildlife conservation or boating law when necessary to investigate or enforce a wildlife conservation or boating law.

(B) This section does not relieve an officer from:

(1) the duty to exercise due regard for the safety of the public or protect them from the consequences of reckless, wilful, or wanton disregard for the safety of others; or

(2) liability for other criminal prosecution.”

SECTION 2. Section 23‑6‑20(A) of the 1976 Code is amended to read:

“(A) The Department of Public Safety is established as an administrative agency of state government which is comprised of a South Carolina Highway Patrol Division, a South Carolina State Police Division, and a Division of Training and Continuing Education, and a Natural Resource Law Enforcement Division.”

SECTION 3. Section 23‑6‑30(9) of the 1976 Code is amended to read:

“( 9) enforce the laws of the State regarding birds, nonmigratory fish, gamefish, shellfish, shrimp, oysters, oyster leases, and fisheries; and

(10) do all other functions and responsibilities as required or provided for by law.”

SECTION 4. Sections 50‑3‑110, 50‑3‑120, 50‑3‑130, 50‑3‑140, 50‑3‑150, 50‑3‑160, 50‑3‑310, 50‑3‑315, 50‑3‑316, 50‑3‑320, 50‑3‑330, 50‑3‑340, 50‑3‑350, 50‑3‑360, 50‑3‑370, 50‑3‑380, 50‑3‑390, 50‑3‑395, 50‑3‑396, 50‑3‑400, 50‑3‑410, and 50‑3‑420 of the 1976 Code are repealed.

SECTION 5. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 6. 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.

SECTION 7. This act takes effect July 1, 2009.

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