

NO. 38

**JOURNAL**  
**OF THE**  
**SENATE**  
**OF THE**  
**STATE OF SOUTH CAROLINA**



REGULAR SESSION BEGINNING TUESDAY, JANUARY 14, 2025

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TUESDAY, MARCH 18, 2025

**Tuesday, March 18, 2025**  
**(Statewide Session)**

~~Indicates Matter Stricken~~

Indicates New Matter

The Senate assembled at 12:00 Noon, the hour to which it stood adjourned, and was called to order by the PRESIDENT.

A quorum being present, the proceedings were opened with a devotion by the Chaplain as follows:

II Thessalonians 3:13

As he concludes his second letter to the Thessalonians, Paul writes: "And as for you, brothers and sisters, never tire of doing what is right."

Bow with me as we pray, if you will: Blessed and glorious Lord, as we read today's scripture verse, we can't help but wonder if Paul wasn't also addressing each one of us. There is inevitably a temptation for everyone to take the "easy way" now and then, to allow the harder tasks to be handled "later on" by others. Yet that, as we know, is not -- and never should be -- the path that the Senate of South Carolina chooses to follow. Rather, this Body realizes how very much our citizens count on each Senator and every aide always to carry out their responsibilities with dedication and honor. So Lord, grant to each of these servants the desire and determination to accomplish what is truly just and right for all. In Your wondrous name we pray, dear Lord. Amen.

The PRESIDENT called for Petitions, Memorials, Presentments of Grand Juries and such like papers.

**Call of the Senate**

Senator GROOMS moved that a Call of the Senate be made. The following Senators answered the Call:

Adams	Alexander	Allen
Bennett	Campsen	Cash
Chaplin	Climer	Corbin
Cromer	Davis	Devine
Fernandez	Gambrell	Garrett
Goldfinch	Graham	Grooms
Hembree	Jackson	Johnson
Kennedy	Leber	Martin
Massey	Nutt	Ott

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Rankin	Reichenbach	Rice
Sabb	Stubbs	Sutton
Tedder	Turner	Verdin
Walker	Williams	Young
Zell		

A quorum being present, the Senate resumed.

**MESSAGE FROM THE GOVERNOR**

The following appointments were transmitted by the Honorable Henry Dargan McMaster:

**Statewide Appointments**

Reappointment, South Carolina Board of Probation, Parole and Pardon Services, with the term to commence March 15, 2025, and to expire March 15, 2031

4th Congressional District:

Reno R. Boyd, 107 Nightingale Lane, Greenville, SC 29607-5539

Referred to the Committee on Corrections and Penology.

Reappointment, South Carolina State Ethics Commission, with the term to commence April 1, 2025, and to expire April 1, 2030

Governor Appointed:

F. Xavier Starkes, Esquire, PO Box 1497, Columbia, SC 29202-1497

Referred to the Committee on Judiciary.

**Local Appointments**

Initial Appointment, Charleston County Magistrate, with the term to commence April 30, 2023, and to expire April 30, 2027

Mercedes Kay Smith, 9345 Blue House Road, Apartment 14202, Ladson, SC 29456 *VICE* Henry W. Guerard

Initial Appointment, Georgetown County Magistrate, with the term to commence April 30, 2023, and to expire April 30, 2027

Dearis Roper, 519 Gibson Avenue, Murrells Inlet, SC 29576 *VICE* James McKenzie

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Initial Appointment, Hampton County Magistrate, with the term to commence April 30, 2022, and to expire April 30, 2026

Lakeshia Allen, 416 Alabama Street, Hampton, SC 29924 *VICE*  
Gwendolyn Bampfield

Initial Appointment, Richland County Magistrate, with the term to commence April 30, 2023, and to expire April 30, 2027

Barbara M. Bowens, 1141 Old Brickyard Road, Irmo, SC 29063 *VICE*  
Mildred Rita Metts

**Leave of Absence**

On motion of Senator VERDIN, at 12:07 P.M., Senators PEELER and BLACKMON were granted a leave of absence for today.

**Expression of Personal Interest**

Senator CROMER rose for an Expression of Personal Interest.

**CO-SPONSORS ADDED**

The following co-sponsors were added to the respective Bills:

S. 76 Sen. Young  
S. 190 Sen. Devine  
S. 266 Sen. Rice  
S. 323 Sen. Rice  
S. 342 Sens. Turner and Young  
S. 393 Sens. Matthews and Turner  
S. 425 Sen. Jackson

**RECALLED**

H. 4119 -- Reps. Davis, M.M. Smith, Alexander, Anderson, Atkinson, Bailey, Ballentine, Bamberg, Bannister, Bauer, Beach, Bernstein, Bowers, Bradley, Brewer, Brittain, Burns, Bustos, Calhoon, Caskey, Chapman, Chumley, Clyburn, Cobb-Hunter, Collins, B.J. Cox, B.L. Cox, Crawford, Cromer, Dillard, Duncan, Edgerton, Erickson, Forrest, Frank, Gagnon, Garvin, Gatch, Gibson, Gilliam, Gilliard, Gilreath, Govan, Grant, Guest, Guffey, Haddon, Hager, Hardee, Harris, Hart, Hartnett, Hartz, Hayes, Henderson-Myers, Herbkersman, Hewitt, Hiott, Hixon, Holman, Hosey, Howard, Huff, J.E. Johnson, J.L. Johnson, Jones, Jordan, Kilmartin, King, Kirby, Landing, Lawson, Ligon, Long, Lowe, Luck, Magnuson, Martin, May, McCabe, McCravy, McDaniel, McGinnis, Mitchell, Montgomery, J. Moore, T. Moore, Morgan, Moss, Murphy, Neese, B. Newton, W. Newton, Oremus, Pace, Pedalino, Pope,

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Rankin, Reese, Rivers, Robbins, Rose, Rutherford, Sanders, Schuessler, Sessions, G.M. Smith, Spann-Wilder, Stavrinakis, Taylor, Teeple, Terrible, Vaughan, Weeks, Wetmore, White, Whitmire, Wickensimer, Williams, Willis, Wooten and Yow: A CONCURRENT RESOLUTION TO DECLARE MARCH 2025 AS “BRAIN INJURY AWARENESS MONTH” IN SOUTH CAROLINA IN ORDER TO SUPPORT BRAIN INJURY SURVIVORS AND THEIR FAMILIES, TO INCREASE THE PUBLIC’S AWARENESS OF THE PREVALENCE OF BRAIN INJURY IN THE STATE AND NATIONALLY, AND TO RECOGNIZE THE IMPORTANCE OF PREVENTION AND TREATMENT OF BRAIN INJURIES.

Senator VERDIN asked unanimous consent to make a motion to recall the Concurrent Resolution from the Committee on Medical Affairs.

The Concurrent Resolution was recalled from the Committee on Medical Affairs and ordered placed on the Calendar for consideration tomorrow.

### **INTRODUCTION OF BILLS AND RESOLUTIONS**

The following were introduced:

S. 458 -- Senators Blackmon, Hembree, Massey, Johnson and Adams: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 16-11-600, RELATING TO NOTICE OF TRESPASSING, SO AS TO INCLUDE ENCLOSING THE LAND WITH A FENCE AS NOTICE FOR A TRESPASS VIOLATION; AND BY AMENDING SECTION 16-11-620, RELATING TO ENTERING PREMISES AFTER WARNING OR REFUSING TO LEAVE ON REQUEST, SO AS TO MAKE IT A MISDEMEANOR OFFENSE FOR A PERSON TO KNOWINGLY WITHOUT AUTHORIZATION, INVITATION, OR LEGAL CAUSE ENTER THE DWELLING HOUSE, PLACE OF BUSINESS, OR STRUCTURE OF ANOTHER PERSON OR FAIL TO LEAVE WHEN REQUESTED AND TO PROVIDE GRADUATED PENALTIES FOR CONVICTION.

sedu-0027db25.docx

Read the first time and referred to the Committee on Judiciary.

S. 459 -- Senator Elliott: A SENATE RESOLUTION TO AUTHORIZE THE GREENVILLE YOUNG MEN'S CHRISTIAN ASSOCIATION TO USE THE CHAMBER OF THE SOUTH CAROLINA SENATE AND ANY AVAILABLE COMMITTEE

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HEARING ROOMS IN THE GRESSETTE BUILDING FOR ITS YOUTH IN GOVERNMENT PROGRAM ON THURSDAY, NOVEMBER 6, FRIDAY, NOVEMBER 7, AND MONDAY, NOVEMBER 17, 2025. HOWEVER, THE CHAMBER MAY NOT BE USED IF THE SENATE IS IN SESSION OR THE CHAMBER IS OTHERWISE UNAVAILABLE.

lc-0116ph-jah25.docx

The Senate Resolution was introduced and referred to the Committee on Operations and Management.

S. 460 -- Senator Jackson: A SENATE RESOLUTION TO COMMEND MICAH ROTH, ELIZA JONES, AND HAMPTON ROGERS OF COLUMBIA FOR THEIR HEROIC ACTS IN HELPING EXTINGUISH A KITCHEN FIRE AND RESCUE A FELLOW CITY RESIDENT FROM HER BURNING HOME.

lc-0219vr-jah25.docx

The Senate Resolution was adopted.

S. 461 -- Senator Nutt: A SENATE RESOLUTION TO RECOGNIZE AND HONOR AFL FOR BEING A MANUFACTURING COMPANY THAT BRINGS GREAT PRIDE TO THE STATE OF SOUTH CAROLINA.

sr-0276km-hw25.docx

The Senate Resolution was adopted.

S. 462 -- Senators Johnson, Garrett, Adams, Massey, Kimbrell, Blackmon, Young, Hembree, Climer, Verdin, Chaplin, Walker, Zell, Leber and Stubbs: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 12-36-2120, RELATING TO SALES TAX EXEMPTIONS, SO AS TO EXEMPT CAPITAL EQUIPMENT PURCHASED BY SCHOOL DISTRICTS, COUNTIES, OR MUNICIPALITIES FOR USE ON CAPITAL PROJECTS.

lc-0189dg25.docx

Read the first time and referred to the Committee on Finance.

S. 463 -- Senator Grooms: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 50-21-125, RELATING TO RESTRICTIONS ON SWIMMING NEAR PUBLIC LANDINGS ON LAKES OR RESERVOIRS OWNED OR MAINTAINED BY AN INVESTOR-OWNED UTILITY, SO AS TO

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PROVIDE FOR RESTRICTIONS ON SWIMMING NEAR PUBLIC BOATING LANDINGS ON LAKES OR RESERVOIRS OWNED OR MAINTAINED BY THE SOUTH CAROLINA PUBLIC SERVICE AUTHORITY.

sfgf-0020bc25.docx

Read the first time and referred to the Committee on Fish, Game and Forestry.

S. 464 -- Senators Nutt, Ott, Corbin, Gambrell, Elliott and Stubbs: A SENATE RESOLUTION TO PROCLAIM WEDNESDAY, MARCH 26, 2025, AS "SOUTH CAROLINA PROFESSIONAL LAND SURVEYORS DAY" THROUGHOUT THE STATE AND TO RECOGNIZE THE IMPORTANCE OF THE SERVICES PROVIDED BY THIS GROUP OF PROFESSIONALS TO THE PALMETTO STATE.

lc-0223cm-rm25.docx

The Senate Resolution was introduced and referred to the Committee on Labor, Commerce and Industry.

S. 465 -- Senator Ott: A SENATE RESOLUTION TO RECOGNIZE THE VALUE AND SERVICES PROVIDED TO OUR STATE BY THE MEMBERS OF THE SOUTH CAROLINA SOCIETY OF ASSOCIATION EXECUTIVES AND ITS LEADERS AND TO DECLARE WEDNESDAY, APRIL 9, 2025, AS "SOUTH CAROLINA SOCIETY OF ASSOCIATION EXECUTIVES DAY" IN SOUTH CAROLINA.

lc-0274sa-rm25.docx

The Senate Resolution was introduced and referred to the Committee on Labor, Commerce and Industry.

#### **REPORT OF STANDING COMMITTEE**

Senator CLIMER from the Committee on Agriculture and Natural Resources polled out H. 3814 favorable:

H. 3814 -- Rep. Hixon: A JOINT RESOLUTION TO PROVIDE THAT THE SURFACE WATER STUDY COMMITTEE MAY STUDY THE CURRENT STATE OF GROUNDWATER IN THIS STATE AND TO POSTPONE THE DUE DATE OF THE COMMITTEE'S REPORT.

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**Poll of the Agriculture and Natural Resources Committee**

**Polled 17; Ayes 17; Nays 0**

**AYES**

Climer	Verdin	Williams
Goldfinch	Johnson	Kimbrell
Corbin	Gambrell	Young
Chaplin	Elliott	Graham
Nutt	Ott	Stubbs
Sutton	Zell	

**Total--17**

**NAYS**

**Total--0**

Ordered for consideration tomorrow.

**THE SENATE PROCEEDED TO A CALL OF THE UNCONTESTED LOCAL AND STATEWIDE CALENDAR.**

**READ THE THIRD TIME  
SENT TO THE HOUSE**

The following Bill and Resolution were read the third time and ordered sent to the House:

S. 380 -- Transportation Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF TRANSPORTATION, RELATING TO SPECIFIC INFORMATION SERVICE SIGNING, DESIGNATED AS REGULATION DOCUMENT NUMBER 5358, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE SOUTH CAROLINA CODE OF LAWS.

S. 170 -- Senators Hembree, Kimbrell, Stubbs, Matthews, Garrett, Adams, Graham and Zell: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 44-7-387 SO AS TO REQUIRE A LICENSED FACILITY TO ADOPT AND IMPLEMENT POLICIES TO PREVENT EXPOSURE TO SURGICAL SMOKE BY REQUIRING THE USE OF A SMOKE EVACUATION SYSTEM.



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**CARRIED OVER**

S. 171 -- Senators Gambrell and Garrett: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING ARTICLE 3 TO CHAPTER 75, TITLE 39 SO AS TO PROVIDE REQUIREMENTS FOR WASTE TIRE MANIFESTS AND RELATED PROVISIONS; BY ADDING ARTICLE 5 TO CHAPTER 75, TITLE 39 SO AS TO PROHIBIT THE INSTALLATION OF UNSAFE USED TIRES, AND RELATED PROVISIONS; BY AMENDING SECTION 44-96-170(E) THROUGH (F), RELATING TO WASTE TIRES, SO AS TO PROVIDE THAT A COUNTY MAY CHARGE UP TO FOUR HUNDRED DOLLARS AS A TIPPING FEE; BY AMENDING SECTION 44-96-170(N) THROUGH (S), RELATING TO WASTE TIRES, SO AS TO AMEND THE COLLECTION OF THE FEE TO INCLUDE USED TIRES, TO PROVIDE FOR THE APPLICATION OF THE WASTE TIRE FEE AND RELATED WASTE TIRE FUNDS, TO REMOVE THE REBATE PROVISIONS, AND TO PROVIDE FOR THE DEVELOPMENT OF A STATEWIDE MARKET INFRASTRUCTURE FOR TIRE-DERIVED PRODUCTS; TO DIRECT THE CODE COMMISSIONER TO MAKE CONFORMING CHANGES; AND TO DEFINE NECESSARY TERMS.

On motion of Senator CORBIN, the Bill was carried over.

**RECOMMITTED**

S. 388 -- Education Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE STATE COMMISSION ON HIGHER EDUCATION, RELATING TO PALMETTO FELLOWS SCHOLARSHIP PROGRAM, DESIGNATED AS REGULATION DOCUMENT NUMBER 5322, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE SOUTH CAROLINA CODE OF LAWS.

On motion of Senator HEMBREE, the Resolution was recommitted to the Committee on Education.

**RECOMMITTED**

S. 389 -- Education Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE STATE COMMISSION ON HIGHER EDUCATION, RELATING TO LIFE SCHOLARSHIP AND SCHOLARSHIP ENHANCEMENT, DESIGNATED AS REGULATION DOCUMENT NUMBER 5321, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE SOUTH CAROLINA CODE OF LAWS.

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On motion of Senator HEMBREE, the Resolution was recommitted to the Committee on Education.

**RECOMMITTED**

S. 390 -- Education Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE STATE BOARD OF EDUCATION, RELATING TO ASSESSMENT PROGRAM, DESIGNATED AS REGULATION DOCUMENT NUMBER 5359, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE SOUTH CAROLINA CODE OF LAWS.

On motion of Senator HEMBREE, the Resolution was recommitted to the Committee on Education.

**RECOMMITTED**

S. 391 -- Education Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE STATE BOARD OF EDUCATION, RELATING TO REQUIREMENTS FOR CERTIFICATION AT THE ADVANCED LEVEL, DESIGNATED AS REGULATION DOCUMENT NUMBER 5318, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE SOUTH CAROLINA CODE OF LAWS.

On motion of Senator HEMBREE, the Resolution was recommitted to the Committee on Education.

**CARRIED OVER**

S. 287 -- Senators Alexander, Hutto, Grooms, Verdin, Davis, Turner, Gambrell, Hembree, Cromer, Kimbrell, Elliott, Zell, Ott, Garrett and Graham: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 44-95-65 SO AS TO PROVIDE REGULATIONS FOR THE SALE OF ELECTRONIC NICOTINE DELIVERY SYSTEMS AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THIS SECTION; AND TO PROVIDE A TIMELINE FOR THE REQUIRED DEALER CERTIFICATION, DIRECTORY PUBLICATION, AND EFFECTIVE DATE OF CERTAIN PROVISIONS.

On motion of Senator GARRETT, the Bill was carried over.

**COMMITTEE AMENDMENT ADOPTED**

**READ THE SECOND TIME**

S. 126 -- Senator Johnson: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 30-2-500,

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RELATING TO DEFINITIONS, SO AS TO INCLUDE ADDITIONAL INFORMATION IN THE DEFINITION OF “PERSONAL CONTACT INFORMATION” AND TO DEFINE “DISCLOSED RECORDS”; BY AMENDING SECTION 30-2-510, RELATING TO OPTIONS FOR LAW ENFORCEMENT OFFICERS TO MAKE PERSONAL CONTACT INFORMATION CONFIDENTIAL; EXCEPTIONS; PROCEDURES, SO AS TO RESTRICT PERSONAL CONTACT INFORMATION IN A DISCLOSED RECORD FROM A PUBLICLY AVAILABLE INTERNET WEBSITE MAINTAINED BY OR OPERATED ON BEHALF OF A STATE OR LOCAL GOVERNMENT AND TO REQUIRE THAT THE PERSONAL CONTACT INFORMATION RESTRICTED FROM DISCLOSED RECORDS UNDER THIS SECTION MUST REMAIN WITHIN THE OFFICIAL RECORD HELD OR MAINTAINED BY A STATE OR LOCAL GOVERNMENT AGENCY, AND TO ALLOW DISCLOSURE TO CERTAIN INDIVIDUALS OR ENTITIES; BY ADDING SECTION 30-2-515 SO AS TO PROVIDE FOR A PETITION TO COURT FOR COMPLIANCE WITH THE ARTICLE AND TO PREVENT LIABILITY FROM ACCRUING TO A STATE OR LOCAL GOVERNMENT EMPLOYEE OR THE EMPLOYEE’S AGENTS; BY AMENDING SECTION 30-2-700, RELATING TO DEFINITIONS, SO AS TO INCLUDE ADDITIONAL INFORMATION IN THE DEFINITION OF “PERSONAL CONTACT INFORMATION” AND TO DEFINE “DISCLOSED RECORDS”; BY AMENDING SECTION 30-2-710, RELATING TO OPTIONS FOR JUDGES TO MAKE PERSONAL CONTACT INFORMATION CONFIDENTIAL; EXCEPTIONS; PROCEDURES, SO AS TO RESTRICT PERSONAL CONTACT INFORMATION IN A DISCLOSED RECORD FROM A PUBLICLY AVAILABLE INTERNET WEBSITE MAINTAINED BY OR OPERATED ON BEHALF OF A STATE OR LOCAL GOVERNMENT AND TO REQUIRE THAT THE PERSONAL CONTACT INFORMATION RESTRICTED FROM DISCLOSED RECORDS UNDER THIS SECTION MUST REMAIN WITHIN THE OFFICIAL RECORD HELD OR MAINTAINED BY A STATE OR LOCAL GOVERNMENT AGENCY, AND TO ALLOW DISCLOSURE TO CERTAIN INDIVIDUALS OR ENTITIES; BY ADDING SECTION 30-2-715 SO AS TO PROVIDE FOR A PETITION TO COURT FOR COMPLIANCE WITH THE ARTICLE AND TO PREVENT LIABILITY FROM ACCRUING TO A STATE OR LOCAL GOVERNMENT EMPLOYEE OR THE EMPLOYEE’S AGENTS; TO

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DIRECT THE OFFICE OF COURT ADMINISTRATION AND THE SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY TO COLLABORATE IN THE CREATION OF THE DESIGNATED FORM FOR A LAW ENFORCEMENT OFFICER AND FOR A JUDGE TO USE TO REQUEST THE RESTRICTION OF PERSONAL CONTACT INFORMATION IN DISCLOSED RECORDS; AND TO MAKE CONFORMING CHANGES.

The Senate proceeded to the consideration of the Bill.

The Committee on Judiciary proposed the following amendment (SJ-126.MB0008S), which was adopted:

Amend the bill, as and if amended, SECTION 1, by striking Section 30-2-500(1) and inserting:

(1) "Personal contact information" means the ~~name, home address or, personal cellular telephone number, or property tax map number, if applicable,~~ of the eligible requesting party.

Amend the bill further, SECTION 1, by striking Section 30-2-510(A)(1) and inserting:

(1) notifies the individual state or local government agency of the law enforcement officer's choice to restrict public access to ~~or posting of personal contact information~~ personal contact information in disclosed records by submission of ~~a the designated form~~ and any supplemental information requested by the state or local government agency ~~produced by the South Carolina Criminal Justice Academy; and~~

Amend the bill further, SECTION 1, by striking Section 30-2-510(D) and inserting:

(D)(1) Personal contact information restricted from disclosed records under this section must remain within the official records held or maintained by a state or local government agency but may not be included in an index or displayed on an image of an official record on a publicly available internet website maintained or operated on behalf of a state or local government agency.

(2) In the event that a home address or tax map number cannot be restricted from a disclosed record within an index or from being displayed on an image of an official record on a publicly available internet website maintained or operated on behalf of a state or local government agency, then the image of the official record shall not be displayed and the state or local government agency must restrict the home address or tax map number portion from the display within the index, regardless of the location within the index.

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Amend the bill further, SECTION 1, by striking Section 30-2-510(E) and inserting:

(E) Any personal contact information as defined under this article must be ~~redacted~~ restricted, if requested by an eligible requesting party, from any ~~public document~~ disclosed record, including the designated form used to notify the state or local government agency and supplemental information requested by the state or local government agency, otherwise eligible to be released under any other provision of law. The provisions of this article must not be construed to prevent the disclosure of any other otherwise public information allowed by law.

Amend the bill further, SECTION 1, by striking Section 30-2-510(G)(2) and (3) and inserting:

(2) a title insurance agent or agency; ~~or~~

(3) a personal representative of a deceased eligible requesting party;

~~(3)~~(4) an attorney duly admitted to practice law in the State of South Carolina and in good standing with the South Carolina Bar or a person appointed in writing by said attorney to receive the restricted information on his behalf; or

(5) a professional engineer or professional surveyor, as defined under Section 40-22-20, or a person appointed in writing by said professional engineer or professional surveyor to receive the restricted information on his behalf.

Amend the bill further, SECTION 1, by striking Section 30-2-510(H) and inserting:

(H) The ~~exempt~~ restricted status of a home address contained in the official records within a county register of deeds is maintained only during the period when an eligible requesting party resides at the dwelling location. Upon the conveyance of real property that no longer constitutes an eligible request in the party's home address, the eligible requesting party must submit the designated form to release the restriction on personal contact information, including the home address information, and a notarized affidavit affirming the designated form to the county register of deeds.

Amend the bill further, SECTION 2, by striking Section 30-2-700(1) and inserting:

(1) "Personal contact information" means the ~~name~~, home address, ~~or~~ personal cellular telephone number, or tax map number, if applicable, of the eligible requesting party.

Amend the bill further, SECTION 2, by striking Section 30-2-710(A)(1) and inserting:

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(1) notifies the individual state or local government agency of the judge's choice to restrict public access to ~~or posting online of~~ personal contact information in disclosed records by submission of ~~a the~~ designated form and any supplemental information requested by the state or local government agency ~~provided by the South Carolina Court Administration;~~ and

Amend the bill further, SECTION 2, by striking Section 30-2-710(D) and inserting:

(D)(1) Personal contact information restricted from disclosed records under this section must remain within the official records held or maintained by a state or local government agency but not be included within an index or displayed on an image of an official record on a publicly available internet website maintained or operated on behalf of a state or local government agency.

(2) In the event that a home address or tax map number cannot be restricted from a disclosed record within an index or from being displayed on an image of the official record on a publicly available internet website maintained or operated on behalf of a state or local government agency, then the image of the official record shall not be displayed and the state or local government agency must restrict the home address or tax map number portion from the display within the index, regardless of the location of the index.

Amend the bill further, SECTION 2, by striking Section 30-2-710(E) and inserting:

(E) Any personal contact information, as defined under this article, must be redacted, restricted, if requested by an eligible requesting party, from any ~~public document~~ disclosed record, including the designated form used to notify the state or local government agency and supplemental information requested by the state or local government agency, otherwise eligible to be released under any other provision of law. The provisions of this article must not be construed to prevent the disclosure of other public information otherwise allowed by law.

Amend the bill further, SECTION 2, by striking Section 30-2-710(G)(2) and (3) and inserting:

(2) a title insurance agent or agency; ~~or~~

(3) the personal representative of a deceased eligible requesting party;

(3)(4) an attorney duly admitted to practice law in the State of South Carolina and in good standing with the South Carolina Bar or a person appointed in writing by said attorney to receive the restricted information on his behalf; ~~or~~

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(5) a professional engineer or professional surveyor as defined under Section 40-22-20, or a person appointed in writing by said professional engineer or professional surveyor to receive the restricted information on his behalf.

Amend the bill further, SECTION 2, by striking Section 30-2-710(H) and inserting:

(H) The ~~exempt~~restricted status of a home address contained in the official records within a county of register of deeds is maintained only during the period when an eligible requesting party resides at the dwelling location. Upon the conveyance of real property that no longer constitutes an eligible requesting party's home address, the eligible requesting party must submit the designated form to release the restriction on personal contact information, including home address information, and a notarized affidavit affirming the designated form to the county register of deeds.

Amend the bill further, by deleting SECTION 3.

Amend the bill further, by adding an appropriately numbered SECTION to read:

SECTION X. The Office of Court Administration and the South Carolina Criminal Justice Academy shall collaborate to create the designated form for law enforcement officers and for judges to use to request a state or local government agency restrict public access to personal contact information in disclosed records. The form shall include a disclaimer to inform the requesting party the request is specific to the state or local government agency and will not be provided to other entities or apply to changes in personal contact information. The form must contain fields for the following:

(1) the requesting party's personal information including, but not limited to, legal name, date of birth, home address, driver's license information, personal email address, and where applicable, tax map numbers;

(2) the dates of service and status of service;

(3) the location of personal contact information in disclosed records by instrument number, book and page number of the copy or image, docket number, file number, vehicle identification number, or title number; and

(4) an exception section to notify a state or local government agency of rescission of the request to restrict personal contact information and to permit disclosure of personal contact information for a specific purpose and for a limited time.

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A state or local government agency may provide a supplemental form for the purposes of identifying information needed by the state or local government agency to address the eligible requesting party's request.

Renumber sections to conform.

Amend title to conform.

Senator ADAMS explained the amendment.

The amendment was adopted.

The question being the second reading of the Bill.

The "ayes" and "nays" were demanded and taken, resulting as follows:

**Ayes 44; Nays 0**

**AYES**

Adams	Alexander	Allen
Bennett	Campsen	Cash
Chaplin	Climer	Corbin
Cromer	Davis	Devine
Elliott	Fernandez	Gambrell
Garrett	Goldfinch	Graham
Grooms	Hembree	Hutto
Jackson	Johnson	Kennedy
Kimbrell	Leber	Martin
Massey	Matthews	Nutt
Ott	Rankin	Reichenbach
Rice	Sabb	Stubbs
Sutton	Tedder	Turner
Verdin	Walker	Williams
Young	Zell	

**Total--44**

**NAYS**

**Total--0**

There being no further amendments, the Bill, as amended, was read the second time, passed and ordered to a third reading.



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**CARRIED OVER**

S. 233 -- Senators Leber and Kennedy: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 44-48-30, RELATING TO DEFINITIONS OF TERMS USED IN THE "SEXUALLY VIOLENT PREDATOR ACT," SO AS TO REDEFINE "LIKELY TO ENGAGE IN ACTS OF SEXUAL VIOLENCE."

The Senate proceeded to the consideration of the Bill.

Senator LEBER explained the Bill.

On motion of Senator LEBER, the Bill was carried over.

**CARRIED OVER**

S. 235 -- Senators Kimbrell, Leber and Zell: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 16-15-90, RELATING TO PROSTITUTION, SO AS TO REVISE THE STATUTE TO PROHIBIT PROSTITUTION BY A PROSTITUTED PERSON AND TO INCREASE THE PENALTY FOR VIOLATIONS; BY AMENDING SECTION 16-15-100, RELATING TO PROSTITUTION, SO AS TO REVISE THE STATUTE TO PROHIBIT CERTAIN ACTIONS RELATED TO A PERSON WHO SOLICITS CUSTOMERS FOR A PROSTITUTED PERSON AND TO INCREASE THE PENALTY FOR VIOLATIONS; BY AMENDING SECTION 16-15-110, RELATING TO VIOLATIONS FOR PROSTITUTION, SO AS TO REVISE THE STATUTE TO PROHIBIT A PERSON FROM SOLICITING A PROSTITUTED PERSON.

The Senate proceeded to the consideration of the Bill.

Senator KIMBRELL explained the Bill.

On motion of Senator KIMBRELL, the Bill was carried over.

**CARRIED OVER**

S. 336 -- Senators Alexander, Massey and Rankin: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 2-19-90, RELATING TO APPROVAL OF THE GENERAL ASSEMBLY IN JOINT SESSION, SO AS TO SET THE FIRST WEDNESDAY OF MARCH FOR THE ELECTIONS OF JUDGES BY THE GENERAL ASSEMBLY.

The Senate proceeded to the consideration of the Bill.

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Senator ELLIOTT explained the Bill.

On motion of Senator MARTIN, the Bill was carried over.

**READ THE SECOND TIME**

H. 3529 -- Reps. W. Newton, Bannister, Caskey, Wooten, Spann-Wilder, Calhoon, Ballentine, Robbins, Mitchell and Weeks: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 63-3-40, RELATING TO FAMILY COURT JUDGES ELECTED FROM EACH JUDICIAL CIRCUIT, SO AS TO INCREASE BY ONE THE NUMBER OF FAMILY COURT JUDGES IN THE NINTH, ELEVENTH, AND FOURTEENTH CIRCUITS.

The Senate proceeded to the consideration of the Bill.

Senator ELLIOTT explained the Bill.

The question being the second reading of the Bill.

The “ayes” and “nays” were demanded and taken, resulting as follows:

**Ayes 44; Nays 0**

**AYES**

Adams	Alexander	Allen
Bennett	Campsen	Cash
Chaplin	Climer	Corbin
Cromer	Davis	Devine
Elliott	Fernandez	Gambrell
Garrett	Goldfinch	Graham
Grooms	Hembree	Hutto
Jackson	Johnson	Kennedy
Kimbrell	Leber	Martin
Massey	Matthews	Nutt
Ott	Rankin	Reichenbach
Rice	Sabb	Stubbs
Sutton	Tedder	Turner
Verdin	Walker	Williams
Young	Zell	

**Total--44**

**NAYS**

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**Total--0**

The Bill was read the second time, passed and ordered to a third reading.

**POINT OF ORDER**

S. 150 -- Senators Blackmon and Graham: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS SO AS TO ENACT THE "SOUTH CAROLINA RENTAL KART AGE ACT"; BY AMENDING SECTION 41-18-30, RELATING TO APPLICABILITY AND EXCEPTIONS FOR THE SOUTH CAROLINA AMUSEMENT RIDES SAFETY CODE, SO AS TO PROVIDE THAT AN INDIVIDUAL IS ALLOWED TO OPERATE A RENTAL KART IF THEY ARE EIGHTEEN YEARS OF AGE OR OLDER OR ARE FIFTEEN YEARS OF AGE OR OLDER AND HOLD A VALID DRIVER'S LICENSE OR PERMIT; AND BY AMENDING SECTION 41-18-40, RELATING TO DEFINITIONS FOR THE SOUTH CAROLINA AMUSEMENT PARK RIDES SAFETY CODE, SO AS TO MAKE CONFORMING CHANGES.

**Point of Order**

Senator MARTIN raised a Point of Order under Rule 39 that the Bill had not been on the desks of the members at least one day prior to second reading.

The PRESIDENT sustained the Point of Order.

**POINT OF ORDER**

S. 190 -- Senators Adams, Tedder, Sutton and Devine: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 31-12-30, RELATING TO THE DEFINITION OF "REDEVELOPMENT PROJECT," SO AS TO INCLUDE AFFORDABLE HOUSING PROJECTS; BY AMENDING SECTION 31-12-210, RELATING TO ISSUANCE OF OBLIGATIONS FOR A REDEVELOPMENT PROJECT BY MUNICIPALITY, SO AS TO INCREASE THE TIME LIMIT OF WHICH AN OBLIGATION MUST BE ISSUED; AND BY AMENDING SECTION 12-10-88, RELATING TO REDEVELOPMENT FEES, SO AS TO UPDATE THE DEFINITION OF CLOSED OR REALIGNED FEDERAL INSTALLATIONS.

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**Point of Order**

Senator MARTIN raised a Point of Order under Rule 39 that the Bill had not been on the desks of the members at least one day prior to second reading.

The PRESIDENT sustained the Point of Order.

**POINT OF ORDER**

S. 279 -- Senator Massey: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 41-29-20, RELATING TO THE APPOINTMENT, REMOVAL, AND COMPENSATION OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF EMPLOYMENT AND WORKFORCE, SO AS TO PROVIDE THAT THE EXECUTIVE DIRECTOR IS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE; BY AMENDING SECTION 41-29-35, RELATING TO THE APPOINTMENT OF THE EXECUTIVE DIRECTOR, SO AS TO PROVIDE QUALIFICATIONS FOR OFFICE; BY AMENDING SECTION 41-27-710, RELATING TO THE DEPARTMENT OF EMPLOYMENT AND WORKFORCE REVIEW COMMITTEE, SO AS TO REMOVE THE PROVISION THAT A PERSON MAY NOT BE APPOINTED UNLESS THE COMMITTEE FINDS THE APPOINTEE QUALIFIED; AND BY AMENDING SECTION 41-27-720, RELATING TO DUTIES OF COMMITTEE, SO AS TO REMOVE THE PROVISION THAT THE COMMITTEE SHALL NOMINATE THREE QUALIFIED APPLICANTS FOR THE CONSIDERATION OF THE GOVERNOR.

**Point of Order**

Senator MARTIN raised a Point of Order under Rule 39 that the Bill had not been on the desks of the members at least one day prior to second reading.

The PRESIDENT sustained the Point of Order.

**POINT OF ORDER**

H. 3933 -- Reps. Mitchell and B. Newton: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 33-36-1330, RELATING TO APPOINTMENT OR ELECTION OF BOARD MEMBERS, SO AS TO ESTABLISH A SEVEN-MEMBER BOARD AND TO CHANGE THE APPOINTMENT PROCEDURE.

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**Point of Order**

Senator MARTIN raised a Point of Order under Rule 39 that the Bill had not been on the desks of the members at least one day prior to second reading.

The PRESIDENT sustained the Point of Order.

**THE CALL OF THE UNCONTESTED CALENDAR HAVING BEEN COMPLETED, THE SENATE PROCEEDED TO THE MOTION PERIOD.**

**MOTION ADOPTED**

At 12:53 P.M., on motion of Senator MASSEY, the Senate agreed to dispense with the balance of the Motion Period.

**THE SENATE PROCEEDED TO THE SPECIAL ORDERS.**

**AMENDED, CARRIED OVER**

S. 244 -- Senators Massey, Alexander, Rice, Turner, Climer, Williams, Bennett, Cromer, Grooms, Blackmon and Chaplin: A BILL TO AMEND CERTAIN PROVISIONS IN TITLES 15, 38, AND 61 ALL RELATED TO CIVIL CLAIMS, TORT LAW, AND INSURANCE COVERAGE. (Abbreviated title)

The Senate proceeded to a consideration of the Bill, the question being the second reading of the Bill.

**Amendment No. 1A**

Senators GOLDFINCH, KIMBRELL and GARRETT proposed the following amendment (SR-244.CEM0035S), which was carried over:

Amend the bill, as and if amended, SECTION 1.A., by striking Section 15-38-15(A)(1), (2), (3), (4), and (5) and inserting:

(1) The jury shall determine the percentage of fault of the ~~claimant~~ plaintiff, of the defendant, and of any nonparty whose act or omission arose out of the same occurrence that is the subject of the underlying complaint and was a proximate cause of the claimant's alleged damages. In assessing the percentage of fault, the jury or the court shall consider the fault of all persons or entities whose alleged act or omission was a proximate cause of the alleged damage, regardless of whether the person or entity was named as a party, subject to the limitations contained in subsection (A)(1)(c) and (d).The percentage of fault of the parties to the action may total less than one hundred percent if the jury finds that fault contributing to the plaintiff's damages also

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came from a non-party, provided that the total percentage of fault assigned to parties and non-parties equals one hundred percent. ~~The jury may not be informed of any immunity defense that is available to the nonparty. In assessing percentage of fault, the jury or the court shall consider the fault of all persons or entities whose alleged act or omission was a proximate cause of the alleged damage, regardless of whether the person or entity was or could have been named as a party. The percentage of fault of the parties to the action may total less than one hundred percent if the jury finds that fault contributing to the claimant's loss has also come from a nonparty or nonparties.~~

(a) Prior to a jury or court allocating any or all fault to a non-party, the defendant must affirmatively identify the non-party and plead the facts and cause of action allegedly giving rise to the fault of a non-party in its answer, subject to amendment once as a matter of right in accordance with the South Carolina Rules of Civil Procedure.

(i) Notice of a pleading filed in accordance with (a) shall be served on all parties and the non-party in the manner provided for in the South Carolina Rules of Civil Procedure.

(ii) Any interested party may, at any time after receiving notice of the addition of a non-party, make any motion that would be available to a party, including, but not limited to, Rules 12, 50, or 56 of the South Carolina Rules of Civil Procedure, to dismiss or otherwise remove the non-party from the verdict form. The court will apply the same standard to the dismissal or removal of a non-party as it would to a party.

(ii) Notwithstanding any applicable statute or limitation or repose, the plaintiff may, within sixty days of the proof of service required pursuant to subitem (i), assert any claim against the non-party arising out of the occurrence that is the subject matter of the original complaint.

(b) In order for a jury or court to allocate any or all fault to a non-party for the purpose of apportioning damages, a defendant must prove at trial by a preponderance of the evidence the fault of the non-party in causing the plaintiff's damages. If the court determines that the defendant has failed to meet the burden of proof for the fault of the non-party in causing the plaintiff's damages, the non-party shall not be allocated any fault for the purpose of apportioning damages.

(c) There shall be no allocation of fault to a non-party who is:

(i) immune from liability for the plaintiff's alleged damages;

(ii) not subject to the court's jurisdiction;

(iii) not subject to liability for the plaintiff's alleged damages because the claim is barred by a statute of limitations or statute of repose;

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(iv) charged with or convicted of any crime in relation to the occurrence that is the subject of the underlying complaint;

(v) directly or indirectly owned, managed, or controlled by a defendant, including any non-party with which there is commonality in the executives, managers, or officer of a defendant and a non-party; or

(vi) who the defendant's liability is imputed or based upon the fault of the non-party.

(d) There shall be no allocation of fault to a non-party when the defendant's liability is based on:

(i) wilful, wanton, reckless, grossly negligent, intentional, or criminally chargeable conduct;

(ii) negligence and the non-party's liability is based on any basis other than negligence, including, but not limited, to intentional, wanton, or reckless misconduct, strict liability or liability pursuant to any cause action created by statute;

(iii) strict liability;

(iv) a toxic or environmental tort; or

(v) any cause of action created by statute.

(e) Prior to including a non-party who is engaged in a profession designated by Section 15-36-100(G), the party seeking to designate such a non-party must comply with the provisions and procedures in Section 15-36-100 if the fault sought to be attributed to such party arises from alleged professional negligence.

(2) If the percentage of fault of the ~~claimant~~-plaintiff is greater than fifty percent of the total fault involved in the act or omission that caused the ~~claimant's~~-plaintiff's damage, then the jury shall return a verdict for the defendant and no further jury deliberation is required.

(3) If the percentage of fault of the ~~claimant~~-plaintiff is not greater than fifty percent of the total fault involved in the act or omission that caused the ~~claimant's~~-plaintiff's damage, then the jury shall determine the total amount of damages the ~~claimant~~-plaintiff would be entitled to recover if comparative fault were disregarded. If the percentage of fault of any one defendant is greater than fifty percent of the total fault involved in the act or omission that caused the plaintiff's damage, then that defendant is jointly and severally liable for the total amount of the plaintiff's damages.

(4) ~~Upon~~ Except for defendants greater than fifty percent of the total fault, upon the completion of subitem (3), the court shall enter judgment for the ~~claimant~~-plaintiff against each defendant in an amount equal to the total amount of damages awarded in subitem (3) multiplied by the percentage of fault assigned to each respective defendant in subitem (1).

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~~(5) The court may determine that two or more persons are to be treated as a single party. Such treatment must be used where two or more persons acted in concert or where, by reason of agency, employment, or other legal relationship, a party is vicariously responsible for another party.~~  
A defendant shall not be entitled to a setoff from any settlement received from any potential tortfeasor prior to the verdict.

Amend the bill further, by deleting SECTIONS 1.B, 1.C, and 1.D.

Renumber sections to conform.

Amend title to conform.

Senator MASSEY moved to lay the amendment on the table.

### **Point of Order**

Senator SABB raised a Point of Order that the motion to table the amendment was out of order inasmuch as no substantive debate had taken place since the previous motion to table the amendment.

Senator GOLDFINCH spoke on the amendment.

### **Motion Adopted**

On motion of Senator GOLDFINCH, the amendment was carried over.

### **Amendment No. 2A**

Senator GOLDFINCH proposed the following amendment (SR-244.KM0026S), which was carried over:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

SECTION 1. Section 38-90-20(A) of the S.C. Code is amended to read:

(A) A captive insurance company, when permitted by its articles of incorporation, articles of organization, operating agreement, or charter, may apply to the director for a license to provide any and all insurance, except workers' compensation insurance written on a direct basis, authorized by this title; including, without limitation, liquor liability insurance; however:

(1) a pure captive insurance company may not insure any risks other than those of its parent, affiliated companies, controlled unaffiliated business, risks assumed from a risk pool for the purpose of risk sharing, or a combination of them;



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(2) an association captive insurance company may not insure any risks other than those of the member organizations of its association and their affiliated companies;

(3) an industrial insured captive insurance company may not insure any risks other than those of the industrial insureds that comprise the industrial insured group and their affiliated companies;

(4) a special purpose captive insurance company may provide insurance or reinsurance, or both, for risks as approved by the director;

(5) a captive insurance company may not provide personal motor vehicle or homeowner's insurance coverage written on a direct basis;

(6) a captive insurance company may not accept or cede reinsurance except as provided in Section 38-90-110.

(7) a captive insurance company may not issue eroding or declining insurance coverage whereby the occurrence or aggregate limits are reduced by costs or expenses arising from the insurance company's duty to defend a claim.

SECTION 2. Section 61-2-60 of the S.C. Code is amended by adding:

(9) regulations governing the development, implementation, education, and enforcement of responsible alcohol server training positions.

SECTION 3. Section 61-2-145 of the S.C. Code is amended to read:

Section 61-2-145. (A) In addition to all other requirements, a person licensed or permitted to sell alcoholic beverages for on-premises consumption, which remains open after five o'clock p.m. to sell alcoholic beverages for on-premises consumption, is required to maintain a liquor liability insurance policy or a general liability insurance policy with a liquor liability endorsement ~~for a total coverage~~with an annual aggregate limit of at least one million dollars during the period of the biennial permit or license, unless the person licensed or permitted to sell alcoholic beverages qualifies under the terms of a liquor liability risk mitigation program pursuant to subsection (E). Failure to maintain this coverage during the period of the biennial permit or license constitutes grounds for suspension or revocation of the permit or license and is sufficient grounds for the department to seek an emergency revocation order as provided in Sections 12-60-1340 and 1-23-370(c). An insurance policy issued pursuant to this section must provide for minimum coverage of at least fifty percent of the total aggregate limit, per occurrence, given rise to the claim.

(B) The department shall add this requirement to all applications and renewals for biennial permits or licenses to sell alcoholic beverages for

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on-premises consumption, in which the permittees and licensees remain open and sell alcoholic beverages for on-premises consumption after five o'clock p.m. Each applicant or person renewing its license or permit, to whom this requirement applies, shall provide the department with documentation of a liquor liability insurance policy or a general liability insurance policy with a liquor liability endorsement in the required amounts.

(C) Each insurer writing liquor liability insurance policies or general liability insurance policies with a liquor liability endorsement to a person licensed or permitted to sell alcoholic beverages for on-premises consumption, in which the person so licensed or permitted remains open to sell alcoholic beverages for on-premises consumption after five o'clock p.m., must notify the department in a manner prescribed by department regulation of the lapse or termination of the liquor liability insurance policy or the general liability insurance policy with a liquor liability endorsement within thirty days of the lapse or termination.

(D) For the purposes of this section, the term "alcoholic beverages" means beer, wine, alcoholic liquors, and alcoholic liquor by the drink as defined in Chapter 4, Title 61, and Chapter 6, Title 61.

(E) A person licensed or permitted to sell alcoholic beverages for on-premises consumption, which remains open after five o'clock p.m. to sell alcoholic beverages for on-premises consumption, may qualify for liquor liability risk mitigation. A person qualifies if the person and the entity for which the person obtained the license or permit:

(1) stop serving alcohol by twelve o'clock a.m. A person meeting the requirements of this item may reduce the required annual aggregate limit by one hundred thousand dollars, and an additional one hundred thousand dollars for each hour earlier until six o'clock p.m.;

(2) complete an alcohol server training course pursuant to Title 61, Chapter 3;

(3) have less than forty percent of its total sales deriving from alcohol sales; or

(4) are a nonprofit organization which is exempt from taxation pursuant to Section 501(c) of Title 26 of United States Code, as amended, or the entity is engaging in a single event for which a Beer and Wine Special Event License or Liquor Special Event Permit is obtained.

(5) A person meeting the requirement of item (2) or (3) may reduce the required annual aggregate limit by one hundred thousand dollars each. An entity meeting the requirements of item (4) may reduce the annual aggregate limit by five hundred thousand dollars. A person complying with any combination of items (1)-(4) must receive the

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permitted reduction in the required annual aggregate limit for each item the entity complies with provided a person licensed or permitted to sell alcoholic beverages for on-premises consumption, which remains open after five o'clock p.m. to sell alcoholic beverages for on-premises consumption, must at all times maintain coverage with an annual aggregate limit of at least two hundred fifty thousand dollars during the period of the biennial permit or license.

(6) Insurers must establish liquor liability mitigation measures and offer premium discounts for compliance therewith that reduce the risk to the general public associated with the service of on-premises consumption of alcohol.

(F) For purposes of this section, the calculation of total sales shall include sales of alcohol sold for on-premises consumption and all food and nonalcoholic beverages sold on the premises where the alcohol is sold, including food and nonalcoholic beverages sold by third-party vendors.

SECTION 4. Title 61 of the S.C. Code is amended by adding:

**CHAPTER 3**

**Alcohol Server Training**

Section 61-3-100. For the purposes of this chapter, the following definitions apply:

(1) "Alcohol" means beer, wine, alcoholic liquors, or any other type of alcoholic beverage that contains any amount of alcohol and is used as a beverage for human consumption.

(2) "Alcohol server" means an individual who sells, serves, transfers, or dispenses alcohol for on-premises consumption at permitted or licensed premises and may include a permittee, licensee, manager, or other employee of a permittee or licensee. "Alcohol server" does not include an individual employed or volunteering on a temporary basis for a one-time special event, such as a banquet, or at an event that has a temporary permit to sell beer, wine, or alcoholic liquors by the drink and does not include an individual transferring alcohol from one location to another as a distributor, wholesaler, or as otherwise lawfully authorized to transfer alcohol from one location to another by this title; and does not include an individual who cannot lawfully serve or deliver alcohol pursuant to Sections 61-4-90(D) and 61-6-2200.

(3) "Alcohol server certificate" means an authorization issued by the department for an individual to be employed or engaged as an alcohol server for on-premises consumption.

(4) "DAODAS" means the South Carolina Department of Alcohol and Other Drug Abuse Services.

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(5) “Department” means the South Carolina Department of Revenue.

(6) “Division” means the South Carolina Law Enforcement Division.

(7) “Employee” means a person who is employed by a permittee or a licensee.

(8) “Licensee” means a person issued a license by the department pursuant to Title 61 to sell, serve, transfer, or dispense alcoholic liquors or alcoholic liquor by the drink for on-premises consumption.

(9) “Manager” means an individual employed by a permittee or licensee who manages, directs, or controls the sale, service, transfer, or dispensing of alcoholic beverages for on-premises consumption at the permitted or licensed premises.

(10) “Permittee” means a person issued a permit by the department pursuant to Title 61 to sell, serve, transfer, or dispense beer, wine, ale, porter, or other malted beverages for on-premises consumption.

(11) “Program” means an alcohol server training and education course and examination approved by the department with input from DAODAS and the division that is administered by authorized providers.

(12) “Provider” means an individual, partnership, corporation, or other legal entity authorized by the department that offers and administers a program.

Section 61-3-110. (A) An entity may not qualify for the liquor liability mitigation program pursuant to Section 61-2-145(E)(2) unless all employees who are employed as an alcohol server or a manager on permitted or licensed premises obtain, within sixty calendar days of employment, an alcohol server certificate pursuant to the provisions of this chapter. If a permittee or licensee functions or is employed as an alcohol server or manager on the permitted or licensed premises, then the permittee or licensee must also complete training on responsible alcohol server training and obtain an alcohol server certificate pursuant to the provisions of this chapter. An alcohol server shall not consume alcohol or be mentally or physically impaired by alcohol, drugs, or controlled substances while serving alcohol.

(B) Each permittee or licensee shall maintain at all times on its permitted or licensed premises copies of the alcohol server certificates of the permittee or licensee, if applicable, and the alcohol server certificates of each manager and each alcohol server then employed by the permittee or licensee. Copies of the alcohol server certificate must be made available, upon request, to the department, the division, or the agents and employees of each. For the purposes of enforcement of the provisions of this chapter, a permittee or licensee must also make

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available to the department or the division, when requested, the hire date of an alcohol server.

(C) Failure to produce a copy of an alcohol server certificate when an alcohol server has been employed for sixty calendar days subjects the permittee or licensee to noncompliance with Section 61-2-145(E).

Section 61-3-120. (A)(1) The department, in collaboration with DAODAS and the division, is authorized to approve alcohol server training programs, based on best-evidence practice standards, offered by providers. A program that has not received approval within sixty days from submission shall be considered denied. A provider may appeal denial pursuant to Section 61-2-260 and the South Carolina Administrative Procedures Act.

(2) A provider must provide alcohol server training programs to all applicable individuals free of charge.

(B) The curricula of each program must include the following subjects:

(1) state laws and regulations pertaining to:

- (a) the sale and service of alcoholic beverages;
- (b) the permitting and licensing of sellers of alcoholic beverages;
- (c) impaired driving or driving under the influence of alcohol or drugs;

(d) liquor liability issues;

(e) the carrying of concealed weapons by authorized permit holders into businesses selling and serving alcoholic beverages; and

(f) life consequences, such as the loss of education scholarships, to minors relating to the unlawful use, transfer, or sale of alcoholic beverages;

(2) the effect that alcohol has on the body and human behavior including, but not limited to, its effect on an individual's ability to operate a motor vehicle when intoxicated;

(3) information on blood alcohol concentration and factors that change or alter blood alcohol concentration;

(4) the effect that alcohol has on an individual when taken in combination with commonly used prescription or nonprescription drugs or with illegal drugs;

(5) information on recognizing the signs of intoxication and methods for preventing intoxication;

(6) methods of recognizing problem drinkers and techniques for intervening with and refusing to serve problem drinkers;

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(7) methods of identifying and refusing to serve or sell alcoholic beverages to individuals under twenty-one years of age and intoxicated individuals;

(8) methods for properly and effectively checking the identification of an individual, for identifying illegal identification, and for handling situations involving individuals who have provided illegal identification;

(9) South Carolina law enforcement information; and

(10) other topics related to alcohol server education and training designated by the department, in collaboration with DAODAS and the division, to be included.

(C) The department shall approve only online-designed training programs that meet each of the following criteria:

(1) a program must cover the content specified in subsection (B);

(2) the content in a program must clearly identify and focus on the knowledge, skills, and abilities needed to responsibly serve alcoholic beverages and must be developed using best practices in instructional design and exam development to ensure that the program is fair and legally defensible;

(3) a program shall be offered online;

(4) online training must be at least four hours, be available in English and Spanish, and include a test;

(5) online or computer-based training programs must use linear navigation that requires the completion of a module before the course proceeds to the next module, with no content omitted; be interactive; have audio for content; and include a test;

(6) training and testing must be conducted online. All tests must be monitored by an online proctor. A passing grade for a test, as provided by the program, is required; and

(7) training certificates are issued by the provider only after training is complete and a test has been passed successfully.

Within ten business days after a training is completed, each provider must give to the department a report of all individuals who have successfully completed the training and testing. The provider must also maintain these records for at least five years following the end of the training program for purposes of verifying certification validity by the department or the division.

(D) The department, in collaboration with DAODAS and the division, may suspend or revoke the authorization of a provider that the department determines has violated the provisions of this chapter. If a provider's authorization is suspended or revoked, then that provider must cease operations in this State immediately and refund any money paid to

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it by individuals enrolled in that provider's program at the time of the suspension or revocation.

Section 61-3-130. (A) The provider of a program that is authorized by the department must pay a fee, in an amount to be determined by the department, not to exceed five hundred dollars per year, renewable each year. State agency providers are exempt from payment. Each fee shall be deposited into the Responsible Alcohol Server Training Fund to assist with the costs associated with implementation and enforcement of the provisions of this chapter.

(B) The Responsible Alcohol Server Training Fund is a revolving fund, and no funds deposited therein shall revert to the general fund of the state treasury.

(C) On or before the second Tuesday of each year, the department, with the assistance of the division, must make a report of all income and expenditures made from the Responsible Alcohol Server Training Fund as of December thirty-first of the previous year. A copy of the report shall be given to the Governor, the Speaker of the House of Representatives, and the President of the Senate; posted on the websites of the department and the division; and recorded in the journals of each body of the General Assembly at the beginning of each legislative year.

Section 61-3-140. (A)(1) The department must issue an alcohol server certificate to each applicant who completes an approved program or a recertification program and who provides other information as may be required by the department in an application form that is available on the department's website. A person must apply for an alcohol server certificate within six months of completing a program. The department, if circumstances warrant the issuance of a temporary alcohol server certificate, may issue a temporary alcohol server certificate that is valid for a period of no more than thirty calendar days.

(2) The department, in collaboration with DAODAS and the division, may issue an alcohol server certificate to an individual from outside of the State who applies for an alcohol server certificate if the individual has an alcohol server certificate from a nationally recognized or comparable, state-recognized alcohol server certification program that the department, DAODAS, and the division find meets or exceeds the programs offered in this State.

(B) Alcohol server certificates shall not be issued to graduates of programs that are not approved by the department.

(C) An alcohol server certificate is the property of the individual to whom it is issued and is transferrable among employers.

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(D) Alcohol server certificates are valid for a period of five years from the date that the alcohol server certificate was issued. After the five-year period, a new or recertified alcohol server certificate must be obtained pursuant to the provisions of this chapter.

(E) Upon expiration of an alcohol server certificate, the individual to whom the alcohol server certificate was issued may obtain recertification in accordance with regulations promulgated by the department and approved by the General Assembly.

(F) The department must issue and renew alcohol server certificates for all qualifying applicants free of charge.

(G) An applicant must be deemed to be a qualifying applicant for the purpose of alcohol server certificate issuance and renewal if they have successfully completed all training and testing requirements as found in Section 61-3-120.

Section 61-3-150. As a requirement for application or renewal of a permit or license for on-premises consumption under Chapter 4, Title 61 or Chapter 6, Title 61, a permittee or licensee for on-premises consumption seeking to utilize Section 61-2-145(E) must submit to the department proof that the permittee or licensee, if applicable, and each manager and alcohol server employed by the permittee or licensee during the upcoming or prior permit or license period have or have held valid alcohol server certificates at all times that alcoholic beverages were sold, served, or dispensed.

Section 61-3-160. The division and the department are responsible for enforcement of the provisions of this chapter. The department is responsible for bringing administrative actions for violations of the provisions of this chapter or related regulations, and those actions shall proceed according to the provisions of Section 61-2-260 and the South Carolina Administrative Procedures Act.

SECTION 5. Section 61-6-2220 of the S.C. Code is amended to read:

Section 61-6-2220. A person or establishment licensed to sell alcoholic liquors or liquor by the drink pursuant to this article may not knowingly sell these beverages to persons in an intoxicated condition; these sales are considered violations of the provisions thereof and subject to the penalties contained herein.

SECTION X. Section 15-38-15(F) of the S.C. Code is amended to read:

(F) This section does not apply to a defendant whose conduct is determined to be wilful, wanton, reckless, grossly negligent, ~~or intentional or conduct involving the use, sale, or possession of alcohol~~ ~~or~~ the illegal or illicit use, sale, or possession of drugs.



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SECTION 6. The South Carolina Department of Insurance must publish an annual report summarizing liquor liability insurance rate trends, including the number and amount of premium increases, the reasons cited for the increases, and any regulatory actions taken. The annual report must be sent to the Chairman of the House of Representatives Judiciary Committee and Chairman of the Senate Judiciary Committee by January thirtieth of each year.

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

Renumber sections to conform.

Amend title to conform.

Senator GOLDFINCH explained the amendment.

Senator JOHNSON spoke on the amendment.

Senator SABB spoke on the amendment.

### **RECESS**

At 5:00 P.M., Senator MASSEY asked unanimous consent, with Senator SABB retaining the floor, to recessed from business for fifteen minutes.

Senator RANKIN objected.

Senator SABB continued speaking on the amendment.

### **OBJECTION**

At 5:27 P.M., Senator MASSEY asked unanimous consent, with Senator SABB retaining the floor, to recessed from business for fifteen minutes.

Senator RANKIN objected.

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**OBJECTION**

At 5:28 P.M., Senator BENNETT asked unanimous consent, with Senator SABB retaining the floor, to receded from business for fifteen minutes.

Senator RANKIN objected.

**RECESS**

At 5:29 P.M., Senator MASSEY moved to receded from business for fifteen minutes.

The "ayes" and "nays" were demanded and taken, resulting as follows:

**Ayes 26; Nays 18**

**AYES**

Adams	Alexander	Bennett
Campsen	Cash	Chaplin
Climer	Corbin	Cromer
Davis	Elliott	Grooms
Hembree	Johnson	Martin
Massey	Nutt	Ott
Reichenbach	Rice	Sutton
Turner	Verdin	Williams
Young	Zell	

**Total--26**

**NAYS**

Allen	Devine	Fernandez
Gambrell	Garrett	Goldfinch
Graham	Hutto	Jackson
Kennedy	Kimbrell	Leber
Matthews	Rankin	Sabb
Stubbs	Tedder	Walker

**Total--18**

The Senate agreed to stand in recess.

At 8:28 P.M., the Senate resumed

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**Objection**

Senator MASSEY asked unanimous consent to proceed to Amendment No. 7.

Senator GOLDFINCH objected.

**Motion Adopted**

On motion of Senator MASSEY, the amendment was carried over.

**Amendment No. 3A**

Senator GOLDFINCH proposed the following amendment (SR-244.KM0034S), which was carried over:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

SECTION 1.A. Section 15-38-15 of the S.C. Code is amended to read:

Section 15-38-15. (A) In an action to recover damages in tort; ~~resulting from personal injury, wrongful death, or damage to property or to recover damages for economic loss or for noneconomic loss such as mental distress, loss of enjoyment, pain, suffering, loss of reputation, or loss of companionship resulting from tortious conduct, if indivisible damages are determined to be proximately caused by more than one defendant, joint and several liability does not apply to any defendant whose conduct is determined to be less than fifty percent of the total fault for the indivisible damages as compared with the total of: (i) the fault of all the defendants; and (ii) the fault (comparative negligence), if any, of plaintiff. A defendant whose conduct is determined to be less than fifty percent of the total fault shall only be liable for that percentage of the indivisible damages determined by the jury or trier of fact.~~

(1) The jury-trier of fact shall determine the percentage of fault of the claimant/plaintiff, of the defendant or defendants, and of any nonparty whose tortious act or omission was proven to be a proximate cause of the claimant's/plaintiff's alleged damages. For purposes of apportioning fault on the verdict form, a "nonparty" means an individual or entity who has previously settled a claim arising out of the same tortious act or occurrence with the plaintiff, or if more than one plaintiff, who has previously settled with any plaintiff in the same civil action. The jury may not be informed of any immunity defense that is available to the nonparty. In assessing percentage of fault, the jury or the court shall consider the fault of all persons or entities whose alleged act or omission was a proximate cause of the alleged damage, regardless of whether the person or entity was or could have been named as a party. The percentage of fault of the parties to the action may total less than one hundred

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~~percent if the jury finds that fault contributing to the claimant's loss has also come from a nonparty or nonparties.~~

~~(2) If the percentage of fault of the claimant is greater than fifty percent of the total fault involved in the act or omission that caused the claimant's damage, then the jury shall return a verdict for the defendant and no further jury deliberation is required.~~ A settling party shall be placed on the verdict form if there is any evidence sufficient to survive a South Carolina Rules of Civil Procedure Rule 50 Directed Verdict Motion that the settling party was proximate cause, in whole or in part, of the plaintiff's damages.

~~(3) If the percentage of fault of the plaintiff is greater than fifty percent of the total fault involved in the act or omission that caused the plaintiff's damages, then the jury shall return a verdict for the defendant and no further jury deliberation is required.~~

~~(3)(4) If the plaintiff's percentage of fault of the claimant is not greater than fifty percent of the total fault involved in the tortious act or omission that caused the claimant's damage, then the jury shall determine the total amount of damages that the claimant plaintiff would be entitled to recover if comparative fault were disregarded.~~

~~(4)(5) Upon the completion of subitem (3)(4), the court shall enter judgment for the claimant-plaintiff against each defendant in an amount equal to the total amount of damages awarded in subitem (3)(4) multiplied by the percentage of fault assigned to each respective defendant in subitem (1).~~

~~(5) The court may determine that two or more persons are to be treated as a single party. Such treatment must be used where two or more persons acted in concert or where, by reason of agency, employment, or other legal relationship, a party is vicariously responsible for another party.~~

~~(B) Apportionment of percentages of fault among defendants is to be determined as specified in subsection (C).~~

~~(1) specify the amount of damages;~~

~~(2) determine the percentage of fault, if any, of plaintiff and the amount of recoverable damages under applicable rules concerning "comparative negligence"; and~~

~~(3) upon a motion by at least one defendant, where there is a verdict under items (1) and (2) above for damages against two or more defendants for the same indivisible injury, death, or damage to property, specify in a separate verdict under the procedures described at subitem (b) below the percentage of liability that proximately caused the~~

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~~indivisible injury, death, damage to property, or economic loss from tortious conduct, as determined by item (1) above, that is attributable to each defendant whose actions are a proximate cause of the indivisible injury, death, or damage to property. In determining the percentage attributable to each defendant, any fault of the plaintiff, as determined by item (2) above, will be included so that the total of the percentages of fault attributed to the plaintiff and to the defendants must be one hundred percent. In calculating the percentage of fault attributable to each defendant, inclusion of any percentage of fault of the plaintiff (as determined in item (2) above) shall not reduce the amount of plaintiff's recoverable damages (as determined under item (2) above).~~

~~—(a) For this purpose, the court may determine that two or more persons are to be treated as a single party. Such treatment must be used where two or more defendants acted in concert or where, by reason of agency, employment, or other legal relationship, a defendant is vicariously responsible for the conduct of another defendant.~~

~~—(b) After the initial verdict awarding damages is entered and before the special verdict on percentages of liability is rendered, the parties shall be allowed oral argument, with the length of such argument subject to the discretion of the trial judge, on the determination of the percentage attributable to each defendant. However, no additional evidence shall be allowed.~~

~~—(D) A defendant shall retain the right to assert that another potential tortfeasor, whether or not a party, contributed to the alleged injury or damages and/or may be liable for any or all of the damages alleged by any other party.~~

~~—(E) Notwithstanding the application of this section, setoff from any settlement received from any potential tortfeasor prior to the verdict shall be applied in proportion to each defendant's percentage of liability as determined pursuant to subsection (C).~~

~~—(F) This section does not apply to a defendant whose conduct is determined to be wilful, wanton, reckless, grossly negligent, or intentional or conduct involving the use, sale, or possession of alcohol or the illegal or illicit use, sale, or possession of drugs.~~

(B) Within one hundred eighty days of commencement of an action or by leave of court for good cause shown, a defendant may move to add as a party any person or entity to the verdict form who may be liable to the plaintiff, if the defendant has a reasonable basis to believe that the person's or entity's act or omission was a proximate cause of the plaintiff's alleged damages, which must be set forth in its motion. Nothing in this section is intended to modify or alter any other statutory

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prerequisite a party must meet to add another party to the lawsuit, including but not limited to the provisions of Section 15-36-100. A defendant who moves to add another person or entity is subject to the following:

(1) notice of the pleading filed in accordance with subsection (B) must be served on the added party and all existing parties;

(2) any party, including the one added, may make any motion at the appropriate time, including, but not limited to, a motion pursuant to Rules 12, 50, and 56 of the South Carolina Rules of Civil Procedure to dismiss or otherwise remove the added party from the verdict form. The court shall apply the same standard to the dismissal or removal of an added party, as it would to any party;

(3) the plaintiff may, within sixty days of proof of service required pursuant to subitem (1), amend the plaintiff's pleading to assert any claim against the added party arising out of the occurrence that is the subject matter of the pending litigation. The claim asserted in the amended pleading will be deemed to have arisen out of the original occurrence and the amendment relates back to the order granting the motion to add a party to the verdict form; and

(4) in order for the trier of fact to allocate any or all fault to an added party for the purpose of apportioning damages, the defendant bears the burden of proof that the added party's conduct was a proximate cause of the plaintiff's injuries unless the plaintiff's pleading is amended to assert a direct claim against the added party.

(C) The following are excluded from being added as a party to the verdict form:

(1) a person or entity not subject to civil liability or payment of damages in a civil action due to worker's compensation statutes or U.S. Bankruptcy Code;

(2) a person or entity where the plaintiff's damages arise in whole or in part from assault, battery, sexual assault, sexual abuse, sexual misconduct, financial fraud, theft, or intoxication related to the occurrence that is the subject of an underlying dram shop complaint;

(3) a person whose fault is imputed to the defendant or whose fault is based upon the fault of the nonparty for which a defendant is vicariously liable;

(4) a person involved in a case where the causes of action involve strict liability;

(5) causes of action involving PFAS, asbestos, or environmental torts. In such cases liability shall be determined in accordance with other

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applicable statutory law and common law principles governing such torts; or

(6) causes of action involving personal injury toxic torts where the liability standard for causation is not a “but for” test. In such cases, liability shall be determined in accordance with other applicable statutory law and common law principles, governing such toxic torts.

(D) A defendant shall not be entitled to a setoff for monies paid by a settling party if the settling party is on the verdict form. A defendant can elect the setoff from the settling party in lieu of placing that person or entity on the verdict form.

(E) Nothing in this section shall be construed as eliminating the empty chair defense, which is the defendant’s right to assert that another potential tortfeasor, whether or not a party, contributed to the alleged injury or damages or may be liable for any or all of the damages alleged by the plaintiff.

(F) This section does not apply to an action commenced as of March, 13, 2025 by the State, a State agency, a municipality, a county, a local government, a regional public authority, a special purpose district, a public utility, or any other governmental entity or political subdivision, including, but not limited to, claims seeking recovery of public funds, remediation costs, or other damages arising from acts or omissions of third parties that result in harm to public health, safety, infrastructure, or the environment. In such actions, liability shall be determined in accordance with other applicable statutory law and common law principles governing such torts.

(G) This section does not apply to a defendant who is determined to be intoxicated at the time of the conduct or whose conduct is determined to be willful, wanton, reckless, grossly negligent, or intentional or conduct involving the illegal or illicit use, sale, or possession of drugs.

B. Section 15-38-20 of the S.C. Code is repealed.

C. Section 15-38-30 of the S.C. Code is repealed.

D. Section 15-38-40 of the S.C. Code is repealed.

SECTION 2.A. Chapter 3, Title 15 of the S.C. Code is amended by adding:

Section 15-3-710. (A) As used in this section:

(1) "Alcohol" means beer, wine, alcoholic liquors, or alcoholic beverages as defined in Section 61-6-20; alcoholic liquor by the drink or alcoholic beverage by the drink as defined in Section 61-6-20; or any other type of alcoholic beverage that contains any amount of alcohol and is used as a beverage for human consumption.

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(2) "Licensee" means any person or entity licensed to sell alcohol by the State of South Carolina or any agency or department thereof. The term "licensee" includes any owner, partner, manager, agent, employee, landlord, or other person or entity engaged in a single business enterprise with another licensee or permittee or one for whose conduct a licensee or permittee may be vicariously liable.

(3) "Visibly intoxicated" means an individual who displayed visible signs and symptoms of intoxication that would have been obvious to a ~~reasonable person~~ trained alcohol server under the circumstances.

(4) A "trained alcohol server" means an alcohol server who has completed the training required by Chapter 3 of Title 61.

(B) Except as provided in this section, a licensee is not liable in a civil action arising out of the sale, service or furnishing of alcohol. A licensee that knowingly sells, serves, or otherwise furnishes alcohol to an individual is civilly liable to a third party for damages arising out of the sale of alcohol to that individual if the sale of the alcohol was a proximate cause of bodily injury, death, or property damage to the third party and if:

— (1) ~~the individual was visibly intoxicated at the time the alcohol was sold by the licensee; or~~

— (2) ~~at the time the alcohol was sold, the licensee knew or should have known that the individual would become intoxicated based on factors that would be obvious to a reasonable person including, but not limited to, the licensee's knowledge of the number of alcoholic beverages served to the individual while on the licensee's premises.~~

(C)(1) ~~A licensee that knowingly sells, serves, or furnishes alcohol to an individual under the age of twenty one years old is civilly liable to that individual for damages arising out of the sale of alcohol to that individual if the sale of the alcohol was a proximate cause of bodily injury, death, or property damage to the individual and if~~ A person other than the intoxicated individual, who has suffered bodily injury, death, or property damage caused by the acts or omissions of the intoxicated individual possesses a civil cause of action against a licensee if the person shows, by the preponderance of the evidence that the licensee:

— (1)(a) ~~the individual was visibly intoxicated at the time the alcohol was sold by the licensee~~ knowingly sold, served or directly furnished alcohol to an individual who was visibly intoxicated; or

— (2)(b) ~~at the time the alcohol was sold, the licensee knew or should have known that the individual would become intoxicated based on factors that would be obvious to a reasonable person including, but not limited to, the licensee's knowledge of the number of alcoholic~~



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beverages served to the individual while on the licensee's premises sold, served or directly furnished alcohol to an individual with knowledge of the individual's intoxication based on the reasonable inferences of a trained alcohol server drawn from the totality of the circumstances while the individual was on the licensee's premises. The reasonable inferences of the individual's intoxication include, but are not limited to, the number of alcoholic beverages the licensee sold, served, or directly furnished to the individual, what type and how much alcohol the individual consumed, the amount of time elapsed, and the number of persons in the individual's party;

(c) knowingly sold served or directly furnished alcohol to a person under the age of twenty-one.

(2) A licensee that affirmatively proves a forensic digital identification system was used to confirm the validity of an underaged person's identification has not knowingly sold, served, or furnished alcohol to that underaged person for the purposes of this subsection.

(D) For a licensee to be liable under of subsection (C), the licensee's sale, service, or direct furnishing of alcohol to the intoxicated individual must be a proximate cause of the person's bodily injury, death, or property damage.

(E)(1) A person who was nineteen years of age or older at the time of the sale, service, or direct furnishing of alcohol by a licensee does not possesses a civil cause of action against a licensee for the sale, service, or furnishing of alcohol if:

(a) at the time the person suffered bodily injury or death, the person was riding as a passenger in a motor vehicle operated by the intoxicated individual with the knowledge of the operator's intoxication;  
or

(b) at the time the person suffered property damage, the person had placed the damaged property in the possession, custody or control of the intoxicated individual with knowledge of the individual's intoxication; the individual's addiction to intoxicants; or the individual's habit of becoming intoxicated and the individual's propensity to operate a motor vehicle while intoxicated.

(2) A licensee who affirmatively proves a forensic digital identification system was used to confirm the validity of an underaged person's identification has not knowingly sold, served, or furnished alcohol to that underaged person for the purposes of this subsection.

(F) A person who was under the age of nineteen years at the time of the sale, service or direct furnishing of alcohol by a licensee possesses a

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civil cause of action against the licensee if that person shows, by the preponderance of the evidence, that:

(1) the licensee knowingly sold, served, or directly furnished alcohol to the person under the age of nineteen; and

(2) the licensee's sale, service, or direct furnishing of alcohol to the person under the age of nineteen was a proximate cause of that person's bodily injury, death, or property damage.

(G) A licensee who affirmatively proves a forensic digital identification system approved by the South Carolina Law Enforcement Division was used to confirm the validity of the person's identification has not knowingly sold, served, or furnished alcohol to that person for the purposes of subsection (F).

~~(D)~~(H) Upon the death of any party, the action or right of action authorized by this section will survive to or against the party's personal representative.

~~(E)~~(I) ~~No~~A licensee is not chargeable with knowledge of acts by which a person becomes intoxicated at other locations ~~unknown to the licensee.~~

(J) If an attorney initiates or maintains a civil action against a Licensee under this section when a reasonable attorney in the same circumstances would not conclude that under the facts, the civil action against that Licensee was justifiably initiated or maintained under this section, then the court shall award that Licensee reasonable attorneys' fees of not less than five thousand dollars and costs to be paid by that person to that Licensee upon a motion made within ten days following the conclusion of a trial and after a verdict has been rendered, or a case has been dismissed by summary judgment, directed verdict, or judgment notwithstanding the verdict.

~~—Section 15-3-720. An individual who is at least twenty one years of age is prohibited from recovering damages from a licensee pursuant to Section 15-3-710 if the individual:~~

~~—(1) knowingly rode as a passenger in a motor vehicle that was operated by a driver who was visibly intoxicated and the driver's intoxication was a proximate cause of the individual's damages; or~~

~~—(2) knowingly rode as a passenger in a motor vehicle that was operated by a driver the individual knew or should have known would become intoxicated based on factors that would be obvious to a reasonable person including, but not limited to, the individual's knowledge of the number of alcoholic beverages the driver consumed and the driver's intoxication was a proximate cause of the individual's damages.~~

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~~Section 15-3-730. Upon entering judgment against a licensee in an action filed pursuant to Section 15-3-710, the clerk of court shall forward a copy of the complaint and judgment to the Department of Revenue for investigation pursuant to Section 61-4-590.~~

B. Section 61-4-580(B) of the S.C. Code is amended to read:

(B) In addition to civil liability as provided by law, including as provided in Section 15-3-710, a violation of any provision of this section is a ground for the revocation or suspension of the holder's permit. A permittee or licensee who violates any provision of this section:

(1) for a first offense, shall be fined two thousand five hundred dollars by the department;

(2) for a second offense within a two year of the first offense, shall have its alcohol license or permit suspended for up to fourteen days as determined by the department; and

(3) for a third offense within three years of the first offense, shall have its alcohol license or permit revoked.

SECTION 3.A. Title 61 of the S.C. Code is amended by adding:

#### CHAPTER 3

##### Alcohol Server Training

Section 61-3-100. For the purposes of this chapter, the following definitions apply:

(1) "Alcohol" means beer, wine, alcoholic liquors, or any other type of alcoholic beverage that contains any amount of alcohol and is used as a beverage for human consumption.

(2) "Alcohol server" means an individual who sells alcohol for on-premises consumption at permitted or licensed premises and may include a permittee, licensee, manager, or other employee of a permittee or licensee. "Alcohol server" does not include an individual employed or volunteering on a temporary basis for a one-time special event, such as a banquet, or at an event that has a temporary permit to sell beer, wine, or alcoholic liquors by the drink and does not include an individual transferring alcohol from one location to another as a distributor, wholesaler, or as otherwise lawfully authorized to transfer alcohol from one location to another by this title; and does not include an individual who cannot lawfully serve or deliver alcohol pursuant to Sections 61-4-90(D) and 61-6-2200.

(3) "Alcohol server certificate" means an authorization issued by the department for an individual to be employed or engaged as an alcohol server for on-premises consumption.

(4) "DAODAS" means the South Carolina Department of Alcohol and Other Drug Abuse Services.

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(5) "Department" means the South Carolina Department of Revenue.

(6) "Division" means the South Carolina Law Enforcement Division.

(7) "Employee" means a person who is employed for at least ten hours a week by a permittee or a licensee.

(8) "Licensee" means a person issued a license by the department pursuant to Title 61 to sell, serve, transfer, or dispense alcoholic liquors or alcoholic liquor by the drink for on-premises consumption.

(9) "Manager" means an individual permittee, an individual licensee, and any person employed by a permittee or licensee who manages, directs, or controls the sale, service, transfer, or dispensing of alcoholic beverages for on-premises consumption at the permitted or licensed premises.

(10) "Permittee" means a person issued a permit by the department pursuant to Title 61 to sell, serve, transfer, or dispense beer, wine, ale, porter, or other malted beverages for on-premises consumption.

(11) "Program" means an alcohol server training and education course and examination approved by the department with input from DAODAS and the division that is administered by authorized providers.

(12) "Provider" means an individual, partnership, corporation, or other legal entity authorized by the department that offers and administers a program.

Section 61-3-110. (A) An alcohol server or manager must complete alcohol server training and obtain an alcohol server certificate pursuant to the provisions of this chapter. If an alcohol server or manager does not have a current alcohol server certificate at the time of employment in that capacity, then the licensee or permittee must require that the alcohol server or manager obtain alcohol server training and submit an application to the department as required pursuant to Section 61-3-130 within thirty calendar days of employment in that capacity ~~provide alcohol server training within sixty calendar days of employment~~. An alcohol server shall not be ~~mentally or physically impaired~~ intoxicated by alcohol, ~~drugs, or controlled substances~~ while serving alcohol on behalf of the licensee.

(B) A permittee or licensee shall maintain ~~at all times~~ on its permitted or licensed premises physical or electronic copies of the alcohol server certificates ~~for the permittee or licensee, its managers, and alcohol servers~~ for the duration of employment. Copies of the alcohol server certificate must be made available, upon request, to the department, the division, or the agents and employees of each. For the purposes of enforcement of the provisions of this chapter, a permittee or licensee;

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(1) must also make available to the department or the division, when requested, the hire date of an a manager or alcohol server began employment in that capacity; and

(2) must be excused for the failure to produce the alcohol server certificate if that failure is due to a provider's failure to report the successful completion of training and testing or the department's failure to issue a certificate to an applicant who has met the requirements of Section 61-3-130.

~~—(C) Failure to produce a copy of an alcohol server certificate when an alcohol server has been employed for one hundred twenty calendar days subjects the permittee or licensee to noncompliance with Section 61-2-145(E).~~

Section 61-3-120. (A)(1) The department shall approve alcohol server training programs offered by providers that are based on best evidence practice standards. The department may collaborate with DAODAS and the division to determine appropriate providers for the purposes of this chapter. The department shall approve or deny a program within sixty days of application by a provider. A provider may appeal a denial pursuant to Section 61-2-260 and the South Carolina Administrative Procedures Act.

(2) A provider may charge a licensee, permittee, or individual seeking training for the purpose of employment as an alcohol server or manager a fee not to exceed fifty dollars per participant.

(B) The curricula of each program must include the following subjects:

(1) state laws and regulations pertaining to:

(a) the sale and service of alcoholic beverages;

(b) the permitting and licensing of sellers of alcoholic beverages;

(c) impaired driving or driving under the influence of alcohol or drugs;

(d) liquor liability issues;

(e) the carrying of concealed weapons by authorized permit holders into businesses selling and serving alcoholic beverages; and

(f) life consequences, such as the loss of education scholarships, to minors relating to the unlawful use, transfer, or sale of alcoholic beverages;

(2) the effect that alcohol has on the body and human behavior including, but not limited to, its effect on an individual's ability to operate a motor vehicle when intoxicated;

(3) information on blood alcohol concentration and factors that change or alter blood alcohol concentration;

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(4) the effect that alcohol has on an individual when taken in combination with commonly used prescription or nonprescription drugs or with illegal drugs;

(5) information on recognizing the signs of intoxication and methods for preventing intoxication;

(6) methods of recognizing problem drinkers and techniques for intervening with and refusing to serve problem drinkers;

(7) methods of identifying and refusing to serve or sell alcoholic beverages to individuals under twenty-one years of age and intoxicated individuals;

(8) methods for properly and effectively checking the identification of an individual, for identifying illegal identification, and for handling situations involving individuals who have provided illegal identification;

(9) South Carolina law enforcement information including, but not limited to, the most recently published official statistics on drunk driving accidents, injuries, and deaths in South Carolina; and

(10) other topics related to alcohol server education and training designated by the department, in collaboration with DAODAS and the division, to be included.

(C) The department shall approve only online designed training programs that meet each of the following criteria:

(1) a program must cover the content specified in subsection (B);

(2) the content in a program must clearly identify and focus on the knowledge, skills, and abilities needed to responsibly serve alcoholic beverages and must be developed using best practices in instructional design and exam development to ensure that the program is fair and legally defensible;

(3) a program shall be offered online;

(4) online training must be at least four hours, be available in English and Spanish, and include a test;

(5) online or computer-based training programs must use linear navigation that requires the completion of a module before the course proceeds to the next module, with no content omitted, be interactive, have audio for content, and include a test;

(6) training and testing must be conducted online. All tests must be monitored by an online proctor. A passing grade for a test, as provided by the program, is required; and

(7) training certificates are issued by the provider only after training is complete and a test has been passed successfully.

(D) Within ten business days after a training is completed, each provider must give to the department a report of all individuals who have

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successfully completed the training and testing. The provider must also maintain these records for at least five years following the end of the training program for purposes of verifying certification validity by the department or the division.

(E) The department, in collaboration with DAODAS and the division, may suspend or revoke the authorization of a provider that the department determines has violated the provisions of this chapter. If a provider's authorization is suspended or revoked, then that provider must cease operations in this State immediately and refund any money paid to it by individuals enrolled in that provider's program at the time of the suspension or revocation.

Section 61-3-130. (A)(1) The department must issue an alcohol server certificate to each applicant who completes an approved program or a recertification program and who provides other information as may be required by the department in an application form that is available on the department's website. An individual must apply for an alcohol server certificate within six months of completing a program. The department, if circumstances warrant the issuance of a temporary alcohol server certificate, may issue a temporary alcohol server certificate that is valid for a period of no more than thirty calendar days.

(2) The department, in collaboration with DAODAS and the division, may issue an alcohol server certificate to an individual from outside of the State who applies for an alcohol server certificate if the individual has an alcohol server certificate from a nationally recognized or comparable, state recognized alcohol server certification program that the department, DAODAS, and the division find meets or exceeds the programs offered in this State.

(B) Alcohol server certificates shall not be issued to graduates of programs that are not approved by the department.

(C) An alcohol server certificate is the property of the individual to whom it is issued and is transferrable among employers. An individual must reimburse a licensee or permittee that paid for the cost of alcohol server training if the individual leaves the employment of the licensee or permittee within six months of its issuance.

(D) Alcohol server certificates are valid for a period of ~~five~~three years from the date that the alcohol server certificate was issued. After the ~~five~~three-year period, a new or recertified alcohol server certificate must be obtained pursuant to the provisions of this chapter.

(E) Upon expiration of an alcohol server certificate, the individual to whom the alcohol server certificate was issued may obtain recertification in accordance with regulations promulgated by the department.

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(F) The department shall not charge a fee to issue and renew alcohol server certificates to qualifying applicants.

(G) An applicant must be deemed to be a qualifying applicant for the purpose of alcohol server certificate issuance and renewal if they have successfully completed all training and testing requirements as found in Section 61-3-120.

~~Section 61-3-140. As a requirement for application or renewal of a permit or license for on premises consumption under Chapter 4, Title 61 or Chapter 6, Title 61, a permittee or licensee for on premises consumption seeking to utilize Section 61-2-145(E) must submit to the department proof that the permittee or licensee, if applicable, and each manager and alcohol server employed by the permittee or licensee during the upcoming or prior permit or license period have or have held valid alcohol server certificates at all times that alcoholic beverages were sold, served, or dispensed.~~The division and the department are responsible for enforcement of the provisions of this chapter. The department is responsible for bringing administrative actions for violations of the provisions of this chapter or related regulations, and those actions shall proceed according to the provisions of Section 61-2-260 and the South Carolina Administrative Procedures Act.

~~Section 61-3-150. The division and the department are responsible for enforcement of the provisions of this chapter. The department is responsible for bringing administrative actions for violations of the provisions of this chapter or related regulations, and those actions shall proceed according to the provisions of Section 61-2-260 and the South Carolina Administrative Procedures Act.~~In addition to civil and criminal penalties available for violations of the provisions of Title 61, a permittee or licensee that violates the provisions of this chapter, upon a final administrative determination:

(1) for a first offense, shall be fined one thousand dollars by the department;

(2) for a second offense not related to the first offense and within three years of the first offense, shall be fined five thousand dollars by the department;

(3) for a third offense not related to a prior offense and within three years of the first offense, shall be fined ten thousand dollars or have its alcohol license and permit suspended for up to sixty days as determined by the department; and

(4) for a fourth offense not related to the first offense and within three years of the first offense, shall have its alcohol license or permit revoked.



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~~—Section 61-3-160. In addition to civil and criminal penalties available for violations of the provisions of Title 61, a permittee or licensee that violates the provisions of this chapter, upon a final administrative determination:~~

~~—(1) for a first offense, shall have its alcohol license or permit suspended for six months; and~~

~~—(2) for a second offense not related to the first offense, shall have its alcohol license or permit revoked.~~

B. Section 61-2-60 of the S.C. Code is amended by adding:

(9) regulations governing the development, implementation, education, and enforcement of responsible alcohol server training provisions.

C. Section 61-6-2220 of the S.C. Code is amended to read:

Section 61-6-2220. A person or establishment licensed to sell alcoholic liquors or liquor by the drink pursuant to this article may not knowingly sell these beverages to persons in an intoxicated condition; these sales are considered violations of the provisions thereof and subject to the penalties contained herein.

D. This SECTION takes effect ~~six~~nine months after the effective date of this act.

SECTION 4. ~~Section 38-90-20(A) of the S.C. Code is amended to read:~~

~~—(A) A captive insurance company, when permitted by its articles of incorporation, articles of organization, operating agreement, or charter, may apply to the director for a license to provide any and all insurance, except workers' compensation insurance written on a direct basis, authorized by this title; however:~~

~~—(1) a pure captive insurance company may not insure any risks other than those of its parent, affiliated companies, controlled unaffiliated business, risks assumed from a risk pool for the purpose of risk sharing, or a combination of them;~~

~~—(2) an association captive insurance company may not insure any risks other than those of the member organizations of its association and their affiliated companies;~~

~~—(3) an industrial insured captive insurance company may not insure any risks other than those of the industrial insureds that comprise the industrial insured group and their affiliated companies;~~

~~—(4) a special purpose captive insurance company may provide insurance or reinsurance, or both, for risks as approved by the director;~~

~~—(5) a captive insurance company may not provide personal motor vehicle or homeowner's insurance coverage written on a direct basis;~~

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~~—(6) a captive insurance company may not accept or cede reinsurance except as provided in Section 38-90-110.~~

SECTION 5. Chapter 73, Title 38 of the S.C. Code is amended by adding:

Section 38-73-550.(A) Due to the mandatory requirement for commercial casualty coverage contained in S.C. Code Section 61-2-145, the availability of affordable commercial casualty coverage, including liquor liability coverage, is found to be essential to South Carolina's hospitality industry and South Carolina citizens.

(B) By January thirty-first of each year, the director must prepare and submit a report to the President of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Banking and Insurance Committee, the Chairman of the House Labor, Commerce and Industry Committee, the Chairman of the Senate Judiciary Committee, and the Chairman of the House Judiciary Committee regarding the status of commercial general liability and liquor liability markets, including the insurance industry's participation and profitability in the commercial general liability market and the liquor liability sub-line of that market. The report shall be posted in an electronic format on the department's website within five days of its submission. The report shall include, but not be limited to, the following:

(1) the number of policies written in South Carolina that provide coverage for liquor liability in South Carolina, whether as a stand-alone product or as a part of another commercial liability insurance product;

(2) the volume of earned premiums associated with the coverage provided by insurers for liquor liability in South Carolina and written in South Carolina;

(3) The number of claims closed with payments and the volume of those payments associated with liquor liability coverage written in South Carolina;

(4) The number of claims open and the volume of actual reserves on those claims associated with liquor liability coverage written in South Carolina;

(5) The volume of reserves for incurred but not reported claims associated with liquor liability coverage;

(6) the sum of subrogation and salvage associated with liquor liability coverage written in South Carolina;

(7) the volume of combined losses as a percentage of premiums associated with liquor liability coverage written in South Carolina and the methodology of its determination;

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(8) the amount of profit as a percentage of premiums associated with liquor liability coverage written in South Carolina and the methodology of its determination;

(9) the number of insurers participating in commercial general liability market and the liquor liability sub-line of that market;

(10) the director's conclusions as to the availability of commercial general liability and liquor liability coverage and the trends in changes in the rates for that coverage; and

(11) the director's recommendations to continue to improve the availability of insurance coverage as mandated in Section 61-2-145 and the rates associated with that coverage.

SECTION 6. Section 61-2-145 of the S.C. Code is amended to read:

Section 61-2-145. (A) In addition to all other requirements, a person licensed or permitted to sell alcoholic beverages for on-premises consumption, which remains open after five o'clock p.m. to sell alcoholic beverages for on-premises consumption, is required to maintain a liquor liability insurance policy or a general liability insurance policy with a liquor liability endorsement for a total coverage of at least one million dollars during the period of the biennial permit or license. Failure to maintain this coverage constitutes grounds for suspension or revocation of the permit or license.

(B) The department shall add this requirement to all applications and renewals for biennial permits or licenses to sell alcoholic beverages for on-premises consumption, in which the permittees and licensees remain open and sell alcoholic beverages for on-premises consumption after five o'clock p.m. Each applicant or person renewing its license or permit, to whom this requirement applies, shall provide the department with documentation of a liquor liability insurance policy or a general liability insurance policy with a liquor liability endorsement in the required amounts.

(C) Each insurer writing liquor liability insurance policies or general liability insurance policies with a liquor liability endorsement to a person licensed or permitted to sell alcoholic beverages for on-premises consumption, in which the person so licensed or permitted remains open to sell alcoholic beverages for on-premises consumption after five o'clock p.m., must notify the department in a manner prescribed by department regulation of the lapse or termination of the liquor liability insurance policy or the general liability insurance policy with a liquor liability endorsement within thirty days of the lapse or termination. An insurer who fails to notify the department in accordance with this section may be civilly liable for damages sustained by a third party who suffers

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injury or death as a proximate result of the insured's violation of Section 15-3-710 during a period in which the insured's liquor liability insurance had lapsed or had been terminated.

(D) For the purposes of this section, the term "alcoholic beverages" means beer, wine, alcoholic liquors, and alcoholic liquor by the drink as defined in Chapter 4, Title 61, and Chapter 6, Title 61.

(E) Permittees and licensees selling alcoholic beverages at any time between the hours of 12:00 a.m. and 4:00 a.m. shall use a forensic digital identification system that validates the identification of any person attempting to enter the premises as a patron.

SECTION 7. Section 15-7-30(A)(9) of the S.C. Code is amended to read:

(9) "Nonresident individual" means a person who is not domiciled in this State-, John Doe, or an unknown defendant, as provided in Section 38-37-180.

SECTION 8. Section 56-5-6540(C) of the S.C. Code is amended to read:

(C) A violation of this article ~~is not negligence per se or contributory negligence, and is not admissible as evidence of comparative negligence~~ in a civil action if the violation is a proximate cause of the claimed damages.

SECTION 9. Section 38-77-150(A) of the S.C. Code is amended to read:

(A) No automobile insurance policy or contract may be issued or delivered unless it contains a provision by endorsement or otherwise, herein referred to as the uninsured motorist provision, undertaking to pay the insured all sums which he is legally entitled to recover as compensatory damages from the owner or operator of an uninsured motor vehicle, within limits which may be no less than the requirements of Section 38-77-140. The uninsured motorist provision is not required to include coverage for punitive or exemplary damages. The uninsured motorist provision also must provide for no less than twenty-five thousand dollars coverage for injury to or destruction of the property of the insured in any one accident but may provide an exclusion of the first two hundred dollars of the loss or damage. The director or his designee may prescribe the form to be used in providing uninsured motorist coverage and when prescribed and promulgated no other form may be used.

SECTION 10. Section 38-77-160 of the S.C. Code is amended to read:

Section 38-77-160. Automobile insurance carriers shall offer, at the option of the insured, uninsured motorist coverage up to the limits of the

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insured's liability coverage in addition to the mandatory coverage prescribed by Section 38-77-150. Such carriers shall also offer, at the option of the insured, underinsured motorist coverage up to the limits of the insured liability coverage to provide coverage in the event that compensatory damages are sustained in excess of the liability limits carried by an at-fault insured or underinsured motorist or in excess of any damages cap or limitation imposed by statute. In the mandatory offer of underinsured motorists coverage, automobile insurance carriers are not required to include coverage for punitive or exemplary damages. If, however, an insured or named insured is protected by uninsured or underinsured motorist coverage in excess of the basic limits, the policy shall provide that the insured or named insured is protected only to the extent of the coverage he has on the vehicle involved in the accident. If none of the insured's or named insured's vehicles is involved in the accident, coverage is available only to the extent of coverage on any one of the vehicles with the excess or underinsured coverage. Benefits paid pursuant to this section are not subject to subrogation and assignment.

No action may be brought under the underinsured motorist provision unless copies of the pleadings in the action establishing liability are served in the manner provided by law upon the insurer writing the underinsured motorist provision. The insurer has the right to appear and defend in the name of the underinsured motorist in any action which may affect its liability and has thirty days after service of process on it in which to appear. The evidence of service upon the insurer may not be made a part of the record. In the event the automobile insurance insurer for the putative at-fault insured chooses to settle in part the claims against its insured by payment of its applicable liability limits on behalf of its insured, the underinsured motorist insurer may assume control of the defense of action for its own benefit. No underinsured motorist policy may contain a clause requiring the insurer's consent to settlement with the at-fault party.

SECTION 11. Section 15-78-30(g) of the S.C. Code is amended to read:

(g) "Occurrence" means an unfolding sequence of events which proximately flow from a single act of negligence; including continuous or repeated exposure to substantially the same harmful conditions. For purposes of this section, multiple events—acts of negligence occurring without a break in the causal chain that result in substantially the same damages shall be considered one occurrence.

SECTION 12. Section 15-78-120 of the S.C. Code is amended to read:

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Section 15-78-120. (a) For any action or claim for damages brought under the provisions of this chapter, the liability shall not exceed the following limits:

(1) Except as provided in Section 15-78-120(a)(3), no person shall recover in any action or claim brought hereunder a sum exceeding ~~three~~ five hundred thousand dollars because of loss arising from a single occurrence regardless of the number of agencies or political subdivisions involved.

(2) Except as provided in Section 15-78-120(a)(4), the total sum recovered hereunder arising out of a single occurrence shall not exceed ~~six hundred thousand~~ one million dollars regardless of the number of agencies or political subdivisions or claims or actions involved.

(3) No person may recover in any action or claim brought hereunder against any governmental entity and caused by the tort of any licensed physician or dentist, employed by a governmental entity and acting within the scope of his profession, a sum exceeding ~~one two million two hundred thousand~~ one two million dollars because of loss arising from a single occurrence regardless of the number of agencies or political subdivisions involved.

(4) The total sum recovered hereunder arising out of a single occurrence of liability of any governmental entity for any tort caused by any licensed physician or dentist, employed by a governmental entity and acting within the scope of his profession, may not exceed ~~one two million two hundred thousand~~ one two million dollars regardless of the number of agencies or political subdivisions or claims or actions involved.

(5) The provisions of Section 15-78-120(a)(3) and (a)(4) shall in no way limit or modify the liability of a licensed physician or dentist, acting within the scope of his profession, with respect to any action or claim brought hereunder which involved services for which the physician or dentist was paid, should have been paid, or expected to be paid at the time of the rendering of the services from any source other than the salary appropriated by the governmental entity or fees received from any practice plan authorized by the employer whether or not the practice plan is incorporated and registered with the Secretary of State.

(b) No award for damages under this chapter shall include punitive or exemplary damages or interest prior to judgment.

(c) In any claim, action, or proceeding to enforce a provision of this chapter, the signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion, or other paper; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well-grounded in fact and is warranted by existing law or a

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good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

(d) At the end of each calendar year, the Revenue and Fiscal Affairs Office, Board of Economic Advisors must determine the increase or decrease in the ratio of the Consumer Price Index to the index as of December 31 of the previous year, and the limitation on compensation for all claims pursuant to items (1), (2), (3), or (4) in subsection (a) must be increased or decreased accordingly. As soon as practicable after this adjustment is calculated, the Director of the Revenue and Fiscal Affairs Office shall submit the revised limitation on compensation to the State Register for publication pursuant to Section 1-23-40(2), and the revised limitation becomes effective upon publication in the State Register. For purposes of this subsection, "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the United States Department of Labor, Bureau of Labor Statistics.

SECTION 13. Section 15-32-220(E) of the S.C. Code is amended to read:

(E)(1) The limitations for noneconomic damages rendered against any ~~health care~~ healthcare provider or ~~health care~~ healthcare institution do not apply if the jury or court determines that the defendant ~~was grossly negligent, wilful, wanton, or reckless, and such conduct was the proximate cause of the claimant's noneconomic damages, or if the defendant has engaged in fraud or misrepresentation related to the claim, or if the defendant altered or destroyed medical records with the purpose of avoiding a claim or liability to the claimant;~~

~~\_\_\_\_\_ (1)(a) had an intent to harm and did in fact harm the claimant~~ was grossly negligent, wilful, wanton, or reckless;

~~\_\_\_\_\_ (2)(b) has pled guilty to or been convicted of a felony arising out of the same act or course of conduct complained of by the plaintiff and that the act or course of conduct is a proximate cause of the plaintiff's damages; or~~

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~~(3)(c) acted or failed to act while under the influence of alcohol; or drugs that are not otherwise lawfully prescribed and administered in accordance with a valid prescription, or any intentionally consumed glue, aerosol, or other toxic vapor to the degree that his judgment was materially and appreciably impaired; or~~

~~(d) was subjected to disciplinary proceedings before the Department of Labor, Licensing and Regulation that resulted in suspension or revocation of the defendant's professional license as a result of the act or course of conduct complained of by the plaintiff and that act or course of conduct is a proximate cause of the plaintiff's damages.~~

~~(2) If the limitations for noneconomic damages are found to be inapplicable pursuant to the jury or court finding that the defendant's conduct fell within one of the exceptions herein, then the maximum limit of civil liability for the defendant, regardless of the number of claims or causes of action, shall not exceed ten times the current limitation on noneconomic damages, as adjusted pursuant to (F).~~

SECTION 14. Section 33-56-180 of the S.C. Code is amended to read:

Section 33-56-180. (A) A person sustaining an injury or dying by reason of the tortious act of commission or omission of an employee of a charitable organization, when the employee is acting within the scope of his employment, may recover in an action brought against the charitable organization only the actual damages he sustains in an amount not exceeding the limitations on liability imposed in the South Carolina Tort Claims Act in Chapter 78 of Title 15. An action against the charitable organization pursuant to this section constitutes a complete bar to any recovery by the claimant, by reason of the same subject matter, against the employee of the charitable organization whose act or omission gave rise to the claim unless it is alleged and proved by clear and convincing evidence; ~~in the action that the employee acted in a reckless, wilful, or grossly negligent manner, and the employee must be joined properly as a party defendant.~~

~~(1) was grossly negligent, wilful, wanton, or reckless;~~

~~(2) has pled guilty to or been convicted of a felony arising out of the same act or course of conduct complained of by the plaintiff and that the act or course of conduct is a proximate cause of the plaintiff's damages;~~

~~(3) acted or failed to act while under the influence of alcohol or drugs to the degree that his judgement was materially or appreciably impaired; or~~

~~(4) was subjected to disciplinary proceedings before the Department of Labor, Licensing and Regulation that resulted in the suspension or~~



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revocation of the Defendant's professional license in any state as a result of a similar act or similar course of conduct complained of by the plaintiff and the act or course of conduct is a proximate cause of the plaintiff's damages.

(B) A judgment against an employee of a charitable organization may not be returned unless a specific finding is made that the ~~employee acted in a reckless, wilful, or grossly negligent manner~~ employee's conduct falls within one or more of the four categories set forth in subsection (A). Any judgment entered individually against each individual employee of the charitable organization shall not exceed the limitations on liability imposed in the South Carolina Tort Claims Act in Chapter 78 of Title 15, and may be entered for actual damages only. In actions where an employee is found to be individually liable, the maximum civil liability, regardless of the number of claims or causes of action, for the charitable organization and each employee, shall not exceed the limitation applicable to one occurrence, as defined by Section 15-78-30(g) for each employee. If the charitable organization for which the employee was acting cannot be determined at the time the action is instituted, the plaintiff may name as a party defendant the employee, and the entity for which the employee was acting must be added or substituted as party defendant when it reasonably can be determined.

~~(B)~~(C) If the actual damages from the injury or death giving rise to the action arose from the use or operation of a motor vehicle and exceed two hundred fifty thousand dollars, this section does not prevent the injured person from recovering benefits pursuant to Section 38-77-160 but in an amount not to exceed the limits of the uninsured or underinsured coverage.

SECTION 15. Chapter 59, Title 38 of the S.C. Code is amended by adding:

Section 38-59-23. (A) An action for bad faith involving a liability, underinsured motorists, or an uninsured motorists insurance claim, including any such action brought under the common law, is not actionable if:

(1) in response to a demand for the policy limits made by the claimant prior to suit being filed on the underlying tort claim, the insurer tenders the policy limits within ninety days after receiving actual notice of a claim that is accompanied by sufficient evidence to support liability and the amount of the claim; or

(2) in response to a demand for the policy limits made by the claimant after suit has been filed on the underlying tort claim, the insurer tenders the policy limits by the later of:

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(a) ten months after the suit was filed, or

(b) thirty days after receiving actual notice of the demand for the policy limits.

(B) If suit is filed on the underlying tort claim less than ninety days after the insurer receives a demand for policy limits, the time period for review and payment provided in (A)(2) applies rather than the time limit provided in (A)(1).

(C)(1) In any bad faith action against an insurer, whether such action is brought under this section or is based on the common law remedy for bad faith, mere negligence or a verdict in excess of the policy limits on the underlying tort claim, by itself, is insufficient to constitute bad faith.

(2) In any action for bad faith against an insurer, the trier of fact may consider whether the insured, claimant, or representative of the insured or claimant did not act in good faith, in which case the trier of fact may reasonably reduce the amount of damages awarded against the insurer.

(D) The insured, claimant, and representative of the insured or claimant have a duty to act in good faith in furnishing information regarding the claim, in making demands of the insurer, in setting deadlines, and in attempting to settle the claim. This duty does not create a separate cause of action but may only be considered for the purpose of reasonably reducing the amount of damages awarded against the insurer as provided in subsection (C)(2).

(E) If two or more third party claimants have competing claims arising out of a single occurrence, which in total may exceed the available policy limits of one or more of the insured parties who may be liable to the third-party claimants, then an insurer is not liable beyond the available policy limits for failure to pay all or any portion of the available policy limits to one or more of the third-party claimants if the insurer issues a global offer for its policy limits within ninety days after receiving notice of the competing claims accompanied by sufficient evidence to support liability and the amount of the claims. If the claims of the competing third-party claimants are found to be in excess of the insurer's policy limits, then the third-party claimants are entitled to a prorated share of the policy limits as determined by the trier of fact.

SECTION 16. Section 15-3-640 of the S.C. Code is amended to read:

Section 15-3-640. (A) No actions to recover damages based upon or arising out of the defective or unsafe condition of an improvement to real property may be brought more than ~~eight-ten~~ years after substantial completion of the improvement. For purposes of this section, an action

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based upon or arising out of the defective or unsafe condition of an improvement to real property includes:

- (1) an action to recover damages for breach of a contract to construct or repair an improvement to real property;
- (2) an action to recover damages for the negligent construction or repair of an improvement to real property;
- (3) an action to recover damages for personal injury, death, or damage to property;
- (4) an action to recover damages for economic or monetary loss;
- (5) an action in contract or in tort or otherwise;
- (6) an action for contribution or indemnification for damages sustained on account of an action described in this section;
- (7) an action against a surety or guarantor of a defendant described in this section;
- (8) an action brought against any current or prior owner of the real property or improvement, or against any other person having a current or prior interest in the real property or improvement;
- (9) an action against owners or manufacturers of components, or against any person furnishing materials, or against any person who develops real property, or who performs or furnishes the design, plans, specifications, surveying, planning, supervision, testing, or observation of construction, or construction of an improvement to real property, or a repair to an improvement to real property.

(B) This section describes an outside limitation of ~~eight~~ ten years after the substantial completion of the improvement, within which normal statutes of limitations continue to run.

(C) A building permit for the construction of an improvement to real property must contain in bold type notice to the owner or possessor of the property of his rights under this section to contract for a guarantee of the structure being free from defective or unsafe conditions beyond ~~eight~~ ten years after substantial completion of the improvement. The Department of Consumer Affairs shall publish in conspicuous places the right of an owner or possessor to contract for extended liability under this section. Nothing in this section prohibits a person from entering into a contractual agreement prior to the substantial completion of the improvement which extends any guarantee of a structure or component being free from defective or unsafe conditions beyond ~~eight~~ ten years after substantial completion of the improvement or component.

(D) For any improvement to real property, a certificate of occupancy issued by a county or municipality, in the case of new construction or completion of a final inspection by the responsible building official in

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the case of improvements to existing improvements, shall constitute proof of substantial completion of the improvement under the provisions of Section 15-3-630, unless the contractor and owner, by written agreement, establish a different date of substantial completion.

SECTION 17. Section 61-4-580(B) of the S.C. Code is amended to read:

~~(B) a violation of any provision of this section is a ground for the revocation or suspension of the holder's permit~~In addition to civil liability by law, including as provided in Section 15-3-710, a permittee or licensee that violates any provision of this section

(1) for a first offense, shall be fined two thousand five hundred dollars by the department;

(2) for a second offense within a two year of the first offense, shall have its alcohol license or permit suspended for up to fourteen days as determined by the department; and

(3) for a third offense within three years of the first offense, shall have its alcohol license or permit revoked.

SECTION 18. Section 15-3-670 of the S.C. Code is repealed.

SECTION 19. 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 20. 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.

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SECTION 21. The provisions contained in SECTION 6, amending Section 6-2-145, are effective July 1, 2026.

SECTION 22. This act takes effect upon approval by the Governor.

Renumber sections to conform.

Amend title to conform.

Senator MASSEY moved to carry over the amendment.

The "ayes" and "nays" were demanded and taken, resulting as follows:

**Ayes 25; Nays 17**

**AYES**

Adams	Alexander	Bennett
Campsen	Cash	Chaplin
Corbin	Cromer	Davis
Elliott	Gambrell	Grooms
Hembree	Johnson	Martin
Massey	Nutt	Rankin
Reichenbach	Rice	Stubbs
Turner	Verdin	Williams
Young		

**Total--25**

**NAYS**

Allen	Devine	Fernandez
Garrett	Goldfinch	Graham
Hutto	Jackson	Kennedy
Kimbrell	Leber	Matthews
Ott	Sabb	Sutton
Tedder	Walker	

**Total--17**

The amendment was carried over.

Senator GOLDFINCH moved that the Senate stand adjourned.

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The "ayes" and "nays" were demanded and taken, resulting as follows:

**Ayes 17; Nays 27**

**AYES**

Allen	Devine	Fernandez
Gambrell	Garrett	Goldfinch
Graham	Hutto	Jackson
Kennedy	Leber	Matthews
Ott	Sabb	Sutton
Tedder	Walker	

**Total--17**

**NAYS**

Adams	Alexander	Bennett
Campsen	Cash	Chaplin
Climer	Corbin	Cromer
Davis	Elliott	Grooms
Hembree	Johnson	Kimbrell
Martin	Massey	Nutt
Rankin	Reichenbach	Rice
Stubbs	Turner	Verdin
Williams	Young	Zell

**Total--27**

The Senate refused to stand adjourned.

**Amendment No. 4**

Senators GOLDFINCH and GARRETT proposed the following amendment (SR-244.KM0020S), which was carried over:

Amend the bill, as and if amended, SECTION 1.A., by striking Section 15-38-15(A)(1), (2), (3), (4), and (5) and inserting:

(1) The jury shall determine the percentage of fault of the ~~claimant~~ plaintiff, of the defendant, and of any nonparty whose act or omission arose out of the same occurrence that is the subject of the underlying complaint and was a proximate cause of the claimant's alleged damages. In assessing the percentage of fault, the jury or the court shall consider the fault of all persons or entities whose alleged act or omission was a proximate cause of the alleged damage, regardless of whether the person or entity was named as a party, subject to the

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limitations contained in subsection (A)(1)(c) and (d).The percentage of fault of the parties to the action may total less than one hundred percent if the jury finds that fault contributing to the plaintiff's damages also came from a non-party, provided that the total percentage of fault assigned to parties and non-parties equals one hundred percent.~~The jury may not be informed of any immunity defense that is available to the nonparty. In assessing percentage of fault, the jury or the court shall consider the fault of all persons or entities whose alleged act or omission was a proximate cause of the alleged damage, regardless of whether the person or entity was or could have been named as a party. The percentage of fault of the parties to the action may total less than one hundred percent if the jury finds that fault contributing to the claimant's loss has also come from a nonparty or nonparties.~~

(a) Prior to a jury or court allocating any or all fault to a non-party, the defendant must affirmatively identify the non-party and plead the facts and cause of action allegedly giving rise to the fault of a non-party in its answer, subject to amendment once as a matter of right in accordance with the South Carolina Rules of Civil Procedure.

(i) Notice of a pleading filed in accordance with (a) shall be served on all parties and the non-party in the manner provided for in the South Carolina Rules of Civil Procedure.

(ii) Any interested party may, at any time after receiving notice of the addition of a non-party, make any motion that would be available to a party, including, but not limited to, Rules 12, 50, or 56 of the South Carolina Rules of Civil Procedure, to dismiss or otherwise remove the non-party from the verdict form. The court will apply the same standard to the dismissal or removal of a non-party as it would to a party.

(ii) Notwithstanding any applicable statute or limitation or repose, the plaintiff may, within sixty days of the proof of service required pursuant to subitem (i), assert any claim against the non-party arising out of the occurrence that is the subject matter of the original complaint.

(b) In order for a jury or court to allocate any or all fault to a non-party for the purpose of apportioning damages, a defendant must prove at trial by a preponderance of the evidence the fault of the non-party in causing the plaintiff's damages. If the court determines that the defendant has failed to meet the burden of proof for the fault of the non-party in causing the plaintiff's damages, the non-party shall not be allocated any fault for the purpose of apportioning damages.

(c) There shall be no allocation of fault to a non-party who is:

(i) immune from liability for the plaintiff's alleged damages;

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(ii) not subject to the court's jurisdiction;  
(iii) not subject to liability for the plaintiff's alleged damages  
because the claim is barred by a statute of limitations or statute of repose;  
(iv) charged with or convicted of any crime in relation to the  
occurrence that is the subject of the underlying complaint;  
(v) directly or indirectly owned, managed, or controlled by a  
defendant, including any non-party with which there is commonality in  
the executives, managers, or officer of a defendant and a non-party; or  
(vi) who the defendant's liability is imputed or based upon the  
fault of the non-party.

(d) There shall be no allocation of fault to a non-party when the  
defendant's liability is based on:

(i) wilful, wanton, reckless, grossly negligent, intentional, or  
criminally chargeable conduct;

(ii) negligence and the non-party's liability is based on any  
basis other than negligence, including, but not limited, to intentional,  
wanton, or reckless misconduct, strict liability or liability pursuant to any  
cause action created by statute;

(iii) strict liability;

(iv) a toxic or environmental tort; or

(v) any cause of action created by statute.

(e) Prior to including a non-party who is engaged in a profession  
designated by Section 15-36-100(G), the party seeking to designate such  
a non-party must comply with the provisions and procedures in Section  
15-36-100 if the fault sought to be attributed to such party arises from  
alleged professional negligence.

(2) If the percentage of fault of the ~~claimant~~-plaintiff is greater than  
fifty percent of the total fault involved in the act or omission that caused  
the ~~claimant's~~-plaintiff's damage, then the jury shall return a verdict for  
the defendant and no further jury deliberation is required.

(3) If the percentage of fault of the ~~claimant~~-plaintiff is not greater  
than fifty percent of the total fault involved in the act or omission that  
caused the ~~claimant's~~-plaintiff's damage, then the jury shall determine  
the total amount of damages the ~~claimant~~-plaintiff would be entitled to  
recover if comparative fault were disregarded. If the percentage of fault  
of any one defendant is greater than fifty percent of the total fault  
involved in the act or omission that caused the plaintiff's damage, then  
that defendant is jointly and severally liable for the total amount of the  
plaintiff's damages.

(4) ~~Upon~~ Except for defendants greater than fifty percent of the total  
fault, ~~upon~~ the completion of subitem (3), the court shall enter judgment



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for the ~~claimant~~ plaintiff against each defendant in an amount equal to the total amount of damages awarded in subitem (3) multiplied by the percentage of fault assigned to each respective defendant in subitem (1).

~~(5) The court may determine that two or more persons are to be treated as a single party. Such treatment must be used where two or more persons acted in concert or where, by reason of agency, employment, or other legal relationship, a party is vicariously responsible for another party.~~ A defendant shall not be entitled to a setoff from any settlement received from any potential tortfeasor prior to the verdict.

Renumber sections to conform.

Amend title to conform.

**Motion Adopted**

On motion of Senator MASSEY, the amendment was carried over.

**Amendment No. 5A**

Senator CROMER proposed the following amendment (SR-244.CEM0046S), which was carried over:

Amend the bill, as and if amended, SECTION 9, by striking Section 38-77-150(A) and inserting:

(A) No automobile insurance policy or contract may be issued or delivered unless it contains a provision by endorsement or otherwise, herein referred to as the uninsured motorist provision, undertaking to pay the insured all sums which he is legally entitled to recover as compensatory damages from the owner or operator of an uninsured motor vehicle, within limits which may be no less than the requirements of Section 38-77-140. The uninsured motorist provision is not required to include coverage for punitive or exemplary damages. The uninsured motorist provision also must provide for no less than ~~twenty-five~~ fifty thousand dollars' coverage for injury to or destruction of the property of the insured in any one accident but may provide an exclusion of the first two hundred dollars of the loss or damage. The director or his designee may prescribe the form to be used in providing uninsured motorist coverage and when prescribed and promulgated no other form may be used.

Amend the bill further, by adding an appropriately numbered SECTION to read:

SECTION X. Section 38-77-140 of the S.C. Code is amended to read:

Section 38-77-140. (A) An automobile insurance policy may not be issued or delivered in this State to the owner of a motor vehicle or may not be issued or delivered by an insurer licensed in this State upon a

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motor vehicle then principally garaged or principally used in this State, unless it contains a provision insuring the persons defined as insured against loss from the liability imposed by law for damages arising out of the ownership, maintenance, or use of these motor vehicles within the United States or Canada, subject to limits exclusive of interest and costs, with respect to each motor vehicle, as follows:

(1) ~~twenty-five~~ fifty thousand dollars because of bodily injury to one person in any one accident and, subject to the limit for one person;

(2) ~~fifty~~ one hundred thousand dollars because of bodily injury to two or more persons in any one accident; and

(3) ~~twenty-five~~ fifty thousand dollars because of injury to or destruction of property of others in any one accident.

(B) Nothing in this article prevents an insurer from issuing, selling, or delivering a policy providing liability coverage in excess of these requirements.

Renumber sections to conform.

Amend title to conform.

Senator MASSEY explained the amendment.

**Motion Adopted**

On motion of Senator MASSEY, the amendment was carried over.

**Amendment No. 6**

Senator OTT proposed the following amendment (SR-244.CEM0038S), which was withdrawn:

Amend the bill, as and if amended, SECTION 1.A., Section 15-38-15, by adding a subsection to read:

(C) A defendant shall retain the right to assert that another potential tortfeasor, whether or not a party, contributed to the alleged injury or damages and/or may be liable for any or all of the damages alleged by any other party. To assert another potential tortfeasor, a defendant shall:

(1) if a defendant knows or should know of another potential tortfeasor, the defendant must make such assertion at the time of responsive pleading by identifying the potential tortfeasor; or if the identity is unknown at the time of responsive pleading, the defendant must provide notice of a potential tortfeasor in its pleadings, and within thirty days, the defendant must amend any responsive pleadings to include the identity of the other potential tortfeasor; but

(2) if at any other time the existence of another tortfeasor comes to the defendant's knowledge, the defendant must file leave with court

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pursuant to a motion filed within ten days of discovery to identify and assert that another tortfeasor contributed to the alleged injury or damages.

(D) This section does not apply to a defendant whose conduct is determined to be intentional or conduct involving the illegal or illicit use, sale, or possession of drugs.

Renumber sections to conform.

Amend title to conform.

### **Motion Adopted**

On motion of Senator OTT, with unanimous consent, the amendment was withdrawn.

### **Amendment No. 7A**

Senator JOHNSON proposed the following amendment (SJ-244.MB0014S), which was adopted:

Amend the bill, as and if amended, SECTION 2.A., by striking Section 15-3-710(A)(2) and (3) and inserting:

(2) "Licensee" means any person or entity licensed to sell alcohol for on-premises consumption by the State of South Carolina or any agency or department thereof. The term "licensee" includes any owner, partner, manager, agent, employee, or other person or entity engaged in a single business enterprise with another licensee or permittee or one for whose conduct a licensee or permittee may be vicariously liable.

(3) "Visibly intoxicated" means an individual who displayed visible signs and symptoms of intoxication that would have been obvious to a reasonable person-trained alcohol server under the circumstances.

(4) A "trained alcohol server" means an alcohol server who has completed the training required by Chapter 3 of Title 61.

Amend the bill further, SECTION 2.A., by striking Section 15-3-710(B), (C), (D), and (E) and inserting:

(B) Except as provided in this section, a licensee is not liable in a civil action arising out of the sale, service, or furnishing of alcohol. A licensee that knowingly sells, serves, or otherwise furnishes alcohol to an individual is civilly liable to a third party for damages arising out of the sale of alcohol to that individual if the sale of the alcohol was a proximate cause of bodily injury, death, or property damage to the third party and if:

—(1) the individual was visibly intoxicated at the time the alcohol was sold by the licensee; or

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~~— (2) at the time the alcohol was sold, the licensee knew or should have known that the individual would become intoxicated based on factors that would be obvious to a reasonable person including, but not limited to, the licensee's knowledge of the number of alcoholic beverages served to the individual while on the licensee's premises.~~

~~(C) A licensee that knowingly sells, serves, or furnishes alcohol to an individual under the age of twenty-one years old is civilly liable to that individual for damages arising out of the sale of alcohol to that individual if the sale of the alcohol was a proximate cause of bodily injury, death, or property damage to the individual and if: A person other than the intoxicated individual, who has suffered bodily injury, death, or property damage caused by the acts or omissions of the intoxicated individual possesses a civil cause of action against a licensee if the person shows, by the preponderance of the evidence that the licensee:~~

~~(1) the individual was visibly intoxicated at the time the alcohol was sold by the licensee; or knowingly sold, served, or directly furnished alcohol to an individual who was visibly intoxicated; or~~

~~(2) at the time the alcohol was sold, served, or directly furnished, the licensee knew or should have known that the individual would become intoxicated based on factors that would be obvious to a reasonable person including, but not limited to, the licensee's knowledge of the number of alcoholic beverages served to the individual while on the licensee's premises.~~

~~(D) For a licensee to be liable under subsection (C), the licensee's sale, service, or direct furnishing of alcohol to the intoxicated individual must be a proximate cause of the person's bodily injury, death, or property damage~~

~~(E) A person who was nineteen years of age or older at the time of the sale, service, or direct furnishing of alcohol by a licensee does not possess a civil cause of action against a licensee for the sale, service, or furnishing of alcohol if:~~

~~(1) at the time the person suffered bodily injury or death, the person was riding as a passenger in a motor vehicle operated by an intoxicated individual and had knowledge of the operator's intoxication; or~~

~~(2) at the time the person suffered property damage, the person had placed the damaged property in the possession, custody, or control of the intoxicated individual with knowledge of either:~~

~~(a) the individual's intoxication;~~

~~(b) the individual's addiction to intoxication; or~~

~~(c) the individual's habit of becoming intoxicated and the individual's propensity to operate a motor vehicle while intoxicated.~~

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(F) A person who was under the age of nineteen years at the time of the sale, service, or direct furnishing of alcohol by a licensee possesses a civil cause of action against the licensee if that person shows, by the preponderance of the evidence, that:

(1) the licensee knowingly sold, served, or directly furnished alcohol to the person under the age of nineteen; and

(2) the licensee's sale, service, or direct furnishing of alcohol to the person under the age of nineteen was a proximate cause of the person's bodily injury, death, or property damage.

(G) A licensee who affirmatively proves a forensic digital identification system approved by the South Carolina Law Enforcement Division was used to confirm the validity of the person's identification has not knowingly sold, served, or directly furnished alcohol to that person for the purposes of subsection (F).

(H) Upon the death of any party, the action or right of action authorized by this section will survive to or against the party's personal representative.

~~(E)~~(I) No A licensee is not chargeable with knowledge of acts by which a person becomes intoxicated at other locations ~~unknown to the licensee~~.

(J) If an attorney initiates or maintains a civil actions against a Licensee under this section when a reasonable attorney in the same circumstances would not conclude that under the facts, the civil action against the Licensee was justifiably initiated or maintained under this section, then the court shall award that Licensee reasonable attorneys' fees of not less than five thousand dollars and costs to be paid by that person to that Licensee upon a motion made within ten days following the conclusion of a trial and after a verdict has been rendered, or a case has been dismissed by summary judgment, direct verdict, or judgment notwithstanding the verdict.

Amend the bill further, SECTION 2.A., by deleting Section 15-3-720 and 15-3-730 from the bill.

Amend the bill further, SECTION 2.B., by striking Section 61-4-580(B) and inserting:

(B) In addition to civil liability as provided by law, including as provided in Section 15-3-710, a violation of any provision of this section is a ground for the revocation or suspension of the holder's permit. A permittee or licensee who violates any provision of this section:

(1) for a first offense, shall be fined two thousand five hundred dollars by the department;

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(2) for a second offense within two years of the first offense, shall have its alcohol license or permit suspended for up to fourteen days as determined by the department; and

(3) for a third offense within three years of the first offense, shall have its alcohol license or permit revoked.

Amend the bill further, by deleting SECTION 2.C from the bill.

Amend the bill further, SECTION 3.A., by striking Section 61-3-100(9) and inserting:

(9) "Manager" means an individual permittee, an individual licensee, and any employed by a permittee or licensee who manages, directs, or controls the sale, service, transfer, or dispensing of alcoholic beverages for on-premises consumption at the permitted or licensed premises.

Amend the bill further, SECTION 3.A., by striking Section 61-3-110(A), (B), and (C) and inserting:

(A) An alcohol server or manager must complete alcohol server training and obtain an alcohol server certificate pursuant to the provisions of this chapter. If an alcohol server or manager does not have a current alcohol server certificate at the time of employment in that capacity, then the licensee or permittee must provide alcohol server training within one hundred twenty calendar days of employment. An alcohol server shall not be mentally or physically impaired or intoxicated by alcohol, drugs, or controlled substances while serving alcohol on behalf of the licensee.

(B) A permittee or licensee shall maintain at all times on its permitted or licensed premises physical or electronic copies of the alcohol server certificates for ~~permittee or licensee,~~ its managers, and alcohol servers for the duration of employment. Copies of the alcohol server certificate must be made available, upon request, to the department, the division, or the agents and employees of each. For the purposes of enforcement of the provisions of this chapter;

(1) a permittee or licensee must also make available to the department or the division, when requested, the hire date of a manager or alcohol server began employment in the capacity; and

(2) a permittee or licensee shall be excused for the failure to produce the alcohol server certificate if that failure is due to a provider's failure to report the successful completion of training and testing or the department's failure to issue a certificate to an applicable who has met the requirements of Section 61-3-130.

~~—(C) Failure to produce a copy of an alcohol server certificate when an alcohol server has been employed for one hundred twenty calendar days~~

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~~subjects the permittee or licensee to noncompliance with Section 61-2-145(E).~~

Amend the bill further, SECTION 3.A., by striking Section 61-3-120(B)(9) and inserting:

(9) South Carolina law enforcement information, including, but not limited to, the most recently published official statistics on drunk driving accidents, injuries, and deaths in South Carolina; and

Amend the bill further, SECTION 3.A., by striking Section 61-3-130(D) and inserting:

(D) Alcohol server certificates are valid for a period of ~~five~~three years from the date that the alcohol server certificate was issued. After the ~~five~~three-year period, a new or recertified alcohol server certificate must be obtained pursuant to the provisions of this chapter.

Amend the bill further, SECTION 3.A., by striking Sections 61-3-140, 61-3-150, and 61-3-160 and inserting:

Section 61-3-140. ~~As a requirement for application or renewal of a permit or license for on premises consumption under Chapter 4, Title 61 or Chapter 6, Title 61, a permittee or licensee for on premises consumption seeking to utilize Section 61-2-145(E) must submit to the department proof that the permittee or licensee, if applicable, and each manager and alcohol server employed by the permittee or licensee during the upcoming or prior permit or license period have or have held valid alcohol server certificates at all times that alcoholic beverages were sold, served, or dispensed. The division and the department are responsible for enforcement of the provisions of this chapter. The department is responsible for bringing administrative actions for violations of the provisions of this chapter or related regulations, and those actions shall proceed according to the provisions of Section 61-2-260 and the South Carolina Administrative Procedures Act.~~

~~—Section 61-3-150. The division and the department are responsible for enforcement of the provisions of this chapter. The department is responsible for bringing administrative actions for violations of the provisions of this chapter or related regulations, and those actions shall proceed according to the provisions of Section 61-2-260 and the South Carolina Administrative Procedures Act.~~

~~—Section 61-3-160. In addition to civil and criminal penalties available for violations of the provisions of Title 61, a permittee or licensee that violates the provisions of this chapter, upon a final administrative determination:~~

~~—(1) for a first offense, shall have its alcohol license or permit suspended for six months; and~~

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~~\_\_\_\_\_ (2) for a second offense not related to the first offense, shall have its alcohol license or permit revoked.~~

Amend the bill further, by striking SECTIONS 3.D, and inserting:

D. This SECTION takes effect ~~six~~nine months after the effective date of this act.

Amend the bill further, by deleting SECTION 4, and inserting:

SECTION X. Chapter 73, Title 38 of the S.C. Code is amended by adding:

Section 38-73-550. (A) Due to the mandatory requirement for commercial casualty coverage contained in Section 61-2-145, the availability of affordable commercial casualty coverage, including liquor liability coverage, is found to be essential to South Carolina's hospitality industry and South Carolina citizens.

(B) By January thirty-first of each year, the Director must prepare and submit a report to the President of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Banking and Insurance Committee, the Chairman of the House Labor, Commerce, and Industry Committee, the Chairman of the Senate Judiciary Committee, and the Chairman of the House Judiciary Committee, regarding the status of commercial general liability and liquor liability markets, including the insurance industry's participation and profitability in the commercial general liability market and the liquor liability sub-line of that market. The report shall be posted in an electronic format on the Department's website within five days of its submission. The report shall include, but not be limited to the following:

\_\_\_\_\_ (1) the number of policies written in South Carolina that provide coverage by insurers for liquor liability in South Carolina, whether as a stand-alone product or as another commercial liability insurance product;

\_\_\_\_\_ (2) the volume of earned premiums associated with the coverage provided by the insurers for liquor liability in South Carolina and written in South Carolina;

\_\_\_\_\_ (3) the number of claims closed with payments and the volume of those payments associated with liquor liability coverage written in South Carolina;

\_\_\_\_\_ (4) the number of claims open and the volume of actual reserves on those claims associated with liquor liability coverage written in South Carolina;

\_\_\_\_\_ (5) the volume of reserves for incurred but not reported claims associated with liquor liability coverage;



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(6) the sum of subrogation and salvage associated with liquor liability coverage written in South Carolina;

(7) the volume of combined losses as a percentage of premiums associated with liquor liability coverage written in South Carolina and the methodology of its determination;

(8) the amount of profit as a percentage of premiums associated with liquor liability coverage written in South Carolina and the methodology of its determination;

(9) the number of insurers participating in commercial general liability market and the liquor liability sub-line of that market;

(10) the Director's conclusions as to the availability of commercial general liability and liquor liability coverage and the trends in changes in the rates for that coverage; and

(11) the Director's recommendations to continue to improve the availability of insurance coverage as mandated in Section 61-2-145 and the rates associated with that coverage.

Amend the bill further, by deleting SECTION 5, and inserting:

SECTION X.A. Section 61-2-145 of the S.C. Code is amended to read:

Section 61-2-145. (A) In addition to all other requirements, a person licensed or permitted to sell alcoholic beverages for on-premises consumption, which remains open after five o'clock p.m. to sell alcoholic beverages for on-premises consumption, except for a 501(c) nonprofit corporation is required to maintain a liquor liability insurance policy or a general liability insurance policy with a liquor liability endorsement for a total coverage of at least ~~one million~~ five hundred thousand dollars during the period of the biennial permit or license. A 501(c) nonprofit corporation licensed or permitted to sell alcoholic beverages for on-premises consumption, which remains open after five o'clock p.m. to sell alcoholic beverages for on-premises consumption, is required to maintain a liquor liability insurance policy or a general liability insurance policy with a liquor liability endorsement for a total coverage of at least three hundred thousand dollars during the period of the biennial permit or license. Failure to maintain this coverage constitutes grounds for suspension or revocation of the permit or license.

(B) The department shall add this requirement to all applications and renewals for biennial permits or licenses to sell alcoholic beverages for on-premises consumption, in which the permittees and licensees remain open and sell alcoholic beverages for on-premises consumption after five o'clock p.m. Each applicant or person renewing its license or permit, to whom this requirement applies, shall provide the department with

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documentation of a liquor liability insurance policy or a general liability insurance policy with a liquor liability endorsement in the required amounts.

(C) Each insurer writing liquor liability insurance policies or general liability insurance policies with a liquor liability endorsement to a person licensed or permitted to sell alcoholic beverages for on-premises consumption, in which the person so licensed or permitted remains open to sell alcoholic beverages for on-premises consumption after five o'clock p.m., must notify the department in a manner prescribed by department regulation of the lapse or termination of the liquor liability insurance policy or the general liability insurance policy with a liquor liability endorsement.

(D) For the purposes of this section, the term "alcoholic beverages" means beer, wine, alcoholic liquors, and alcoholic liquor by the drink as defined in Chapter 4, Title 61, and Chapter 6, Title 61.

(E) Permittees and licensees selling alcoholic beverages at any time between the hours of 12:00 a.m. and 4:00 a.m. shall use a forensic digital identification system that validates the identification of any person attempting to enter the premises as a patron.

B. This SECTION takes effect on July 1, 2026, and applies to all policies issues on and after that date.

Amend the bill further, by deleting SECTION 6 from the bill.

Amend the bill further, by adding an appropriately numbered SECTION to read:

SECTION X. Section 15-7-30(A)(9) of the S.C. Code is amended to read:

(9) "Nonresident individual" means a person who is not domiciled in this State, John Doe, or an unknown defendant, as provided in Section 38-37-180.

Amend the bill further, SECTION 7, by striking Section 56-5-6540(C) and inserting:

(C) A violation of this article ~~is not negligence per se or contributory negligence, and is not admissible as evidence of comparative negligence~~ in a civil action if the violation is a proximate cause of the claimed damages.

Amend the bill further, by deleting SECTION 8 from the bill.

Amend the bill further, SECTION 9, by striking Section 38-77-150(A) and inserting:

(A) No automobile insurance policy or contract may be issued or delivered unless it contains a provision by endorsement or otherwise, herein referred to as the uninsured motorist provision, undertaking to pay

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the insured all sums which he is legally entitled to recover as ~~compensatory~~ damages from the owner or operator of an uninsured motor vehicle, within limits which may be no less than the requirements of Section 38-77-140. The uninsured motorist provision is not required to include coverage for punitive or exemplary damages. The uninsured motorist provision also must provide for no less than twenty-five thousand dollars' coverage for injury to or destruction of the property of the insured in any one accident but may provide an exclusion of the first two hundred dollars of the loss or damage. The director or his designee may prescribe the form to be used in providing uninsured motorist coverage and when prescribed and promulgated no other form may be used.

Amend the bill further, SECTION 10, Section 38-77-160, by striking the first undesignated paragraph and inserting:

Automobile insurance carriers shall offer, at the option of the insured, uninsured motorist coverage up to the limits of the insured's liability coverage in addition to the mandatory coverage prescribed by Section 38-77-150. In the offer of uninsured motorist coverage, the automobile insurance carriers shall offer the insured the option to include coverage for punitive or exemplary damages. Such carriers shall also offer, at the option of the insured, underinsured motorist coverage up to the limits of the insured liability coverage to provide coverage in the event that compensatory damages are sustained in excess of the liability limits carried by an at-fault insured or underinsured motorist or in excess of any damages cap or limitation imposed by statute. ~~In the mandatory offer of underinsured motorists coverage, automobile insurance carriers are not required to include coverage for punitive or exemplary damages.~~ The underinsured motorist coverage is not required to include coverage for punitive or exemplary damages. However, in the mandatory offer of underinsured motorists coverage, automobile insurance carriers shall offer the insured the option to include coverage for punitive or exemplary damages but are not required to include coverage for punitive or exemplary damages. If, however, an insured or named insured is protected by uninsured or underinsured motorist coverage in excess of the basic limits, the policy shall provide that the insured or named insured is protected only to the extent of the coverage he has on the vehicle involved in the accident. If none of the insured's or named insured's vehicles is involved in the accident, coverage is available only to the extent of coverage on any one of the vehicles with the excess or underinsured coverage. Benefits paid pursuant to this section are not subject to subrogation and assignment.

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Amend the bill further, SECTION 11, by striking Section 15-78-30(g) and inserting:

(g) "Occurrence" means an unfolding sequence of events which proximately flow from a single act of negligence. ~~For purposes of medical malpractice claims, "occurrence" means an unfolding sequence of events which proximately flow from a single act of negligence~~ including continuous or repeated exposure to substantially the same harmful conditions. For purposes of this section, multiple events acts of negligence occurring without a break in the causal chain that result in substantially the same damages shall be considered one occurrence.

Amend the bill further, by adding an appropriately numbered SECTION to read:

SECTION X. Section 15-78-120 of the S.C. Code is amended to read:

Section 15-78-120. (a) For any action or claim for damages brought under the provisions of this chapter, the liability shall not exceed the following limits:

(1) Except as provided in Section 15-78-120(a)(3), no person shall recover in any action or claim brought hereunder a sum exceeding ~~three~~five hundred thousand dollars because of loss arising from a single occurrence regardless of the number of agencies or political subdivisions involved.

(2) Except as provided in Section 15-78-120(a)(4), the total sum recovered hereunder arising out of a single occurrence shall not exceed ~~six hundred thousand~~one million dollars regardless of the number of agencies or political subdivisions or claims or actions involved.

(3) No person may recover in any action or claim brought hereunder against any governmental entity and caused by the tort of any licensed physician or dentist, employed by a governmental entity and acting within the scope of his profession, a sum exceeding ~~one million two hundred thousand~~two million dollars because of loss arising from a single occurrence regardless of the number of agencies or political subdivisions involved.

(4) The total sum recovered hereunder arising out of a single occurrence of liability of any governmental entity for any tort caused by any licensed physician or dentist, employed by a governmental entity and acting within the scope of his profession, may not exceed ~~one million two hundred thousand~~two million dollars regardless of the number of agencies or political subdivisions or claims or actions involved.

(5) The provisions of Section 15-78-120(a)(3) and (a)(4) shall in no way limit or modify the liability of a licensed physician or dentist, acting within the scope of his profession, with respect to any action or claim

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brought hereunder which involved services for which the physician or dentist was paid, should have been paid, or expected to be paid at the time of the rendering of the services from any source other than the salary appropriated by the governmental entity or fees received from any practice plan authorized by the employer whether or not the practice plan is incorporated and registered with the Secretary of State.

(b) No award for damages under this chapter shall include punitive or exemplary damages or interest prior to judgment.

(c) In any claim, action, or proceeding to enforce a provision of this chapter, the signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion, or other paper; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well-grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

(d) At the end of each calendar year, the Revenue and Fiscal Affairs Office, Board of Economic Advisors must determine the increase or decrease in the ratio of the Consumer Price Index to the index as of December 31 of the previous year, and the limitation on compensation for all claims pursuant to subsections (1), (2), (3), or (4) must be increased or decreased accordingly. As soon as practicable after this adjustment is calculated, the Director of the Revenue and Fiscal Affairs Office shall submit the revised limitation on compensation to the State Register for publication pursuant to Section 1-23-40(2) and the revised limitation becomes effective upon publication in the State Register. For purposes of this subsection "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the United States Department of Labor, Bureau of Labor Statistics.

Amend the bill further, SECTION 12, by striking Section 15-32-220(E)(1), (2), and (3) and inserting:

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(E)(1) The limitations for noneconomic damages rendered against any ~~health care~~ healthcare provider or ~~health care~~ healthcare institution do not apply if the jury or court determines that the defendant ~~was grossly negligent, wilful, wanton, or reckless, and such conduct was the proximate cause of the claimant's noneconomic damages, or if the defendant has engaged in fraud or misrepresentation related to the claim, or if the defendant altered or destroyed medical records with the purpose of avoiding a claim or liability to the claimant;~~

~~\_\_\_\_\_ (1)(a) had an intent to harm and did in fact harm the claimant acted in a wilful, wanton, or reckless manner;~~

~~\_\_\_\_\_ (2)(b) has pled guilty to or been convicted of a felony arising out of the same act or course of conduct complained of by the plaintiff and that the act or course of conduct is a proximate cause of the plaintiff's damages; or~~

~~\_\_\_\_\_ (3)(c) acted or failed to act while under the influence of alcohol, or drugs that are not otherwise lawfully prescribed and administered in accordance with a valid prescription, or any intentionally consumed glue, aerosol, or other toxic vapor to the degree that his judgment was materially and appreciably impaired~~

~~\_\_\_\_\_ (2) If the limitations for noneconomic damages are found to be inapplicable pursuant to the jury or court finding that the defendant's conduct fell within one of the exceptions herein, then the maximum limit of civil liability for the defendant, regardless of the number of claims or causes of action, shall not exceed ten times the current limitation on noneconomic damages, as adjusted pursuant to (F).~~

Amend the bill further by striking SECTION 13 and inserting:

Section 38-59-23. (A) An action for bad faith involving a liability, underinsured motorists, or an uninsured motorists insurance claim, including any such action brought under the common law, is not actionable if:

~~\_\_\_\_\_ (1), in response to a demand for the policy limits made by the claimant prior to suit being filed on the underlying tort claim, the insurer tenders the policy limits within ~~ninety~~ thirty days after receiving actual notice of a claim that is accompanied by sufficient evidence to support liability and the amount of the claim; or,~~

~~\_\_\_\_\_ (2) in response to a demand for the policy limits made by the claimant after suit has been filed on the underlying tort claim, the insurer tenders the policy limits by the later of:~~

~~\_\_\_\_\_ (a) ten months after the suit was filed, or~~

~~\_\_\_\_\_ (b) thirty days after receiving actual notice of the demand for the policy limits.~~

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~~—(B) If suit is filed on the underlying tort claim less than ninety days after the insurer receives a demand for policy limits, the time period for review and payment provided in (A)(2) applies rather than the time limit provided in (A)(1).~~

~~(C)~~(B)(1) In any bad faith action against an insurer, whether such action is brought under this section or is based on the common law remedy for bad faith, mere negligence or a verdict in excess of the policy limits on the underlying tort claim, by itself, is insufficient to constitute bad faith.

(2) In any action for bad faith against an insurer, the trier of fact may consider whether the insured, claimant, or representative of the insured or claimant did not act in good faith, in which case the trier of fact may reasonably reduce the amount of damages awarded against the insurer.

~~(D)~~(C) The insured, claimant, and representative of the insured or claimant have a duty to act in good faith in furnishing information regarding the claim, in making demands of the insurer, in setting deadlines, and in attempting to settle the claim. This duty does not create a separate cause of action but may only be considered for the purpose of reasonably reducing the amount of damages awarded against the insurer as provided in subsection (C)(2).

~~(E)~~(D) If two or more third party claimants have competing claims arising out of a single occurrence, which in total may exceed the available policy limits of one or more of the insured parties who may be liable to the third-party claimants, then an insurer is not liable beyond the available policy limits for failure to pay all or any portion of the available policy limits to one or more of the third-party claimants if the insurer issues a global offer for its policy limits within ~~ninety~~thirty days after receiving notice of the competing claims accompanied by sufficient evidence to support liability and the amount of the claims. If the claims of the competing third-party claimants are found to be in excess of the insurer's policy limits, then the third-party claimants are entitled to a prorated share of the policy limits as determined by the trier of fact.

Amend the bill further, by adding appropriately numbered SECTIONS to read:

SECTION XA. Section 15-3-640 of the S.C. Code is amended to read:

Section 15-3-640. No actions to recover damages based upon or arising out of the defective or unsafe condition of an improvement to real property may be brought more than ~~eight-ten~~ years after substantial completion of the improvement. For purposes of this section, an action

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based upon or arising out of the defective or unsafe condition of an improvement to real property includes:

- (1) an action to recover damages for breach of a contract to construct or repair an improvement to real property;
- (2) an action to recover damages for the negligent construction or repair of an improvement to real property;
- (3) an action to recover damages for personal injury, death, or damage to property;
- (4) an action to recover damages for economic or monetary loss;
- (5) an action in contract or in tort or otherwise;
- (6) an action for contribution or indemnification for damages sustained on account of an action described in this section;
- (7) an action against a surety or guarantor of a defendant described in this section;
- (8) an action brought against any current or prior owner of the real property or improvement, or against any other person having a current or prior interest in the real property or improvement;
- (9) an action against owners or manufacturers of components, or against any person furnishing materials, or against any person who develops real property, or who performs or furnishes the design, plans, specifications, surveying, planning, supervision, testing, or observation of construction, or construction of an improvement to real property, or a repair to an improvement to real property.

This section describes an outside limitation of ~~eight-ten~~ eight years after the substantial completion of the improvement, within which normal statutes of limitations continue to run.

A building permit for the construction of an improvement to real property must contain in bold type notice to the owner or possessor of the property of his rights under this section to contract for a guarantee of the structure being free from defective or unsafe conditions beyond ~~eight~~ ten years after substantial completion of the improvement. The Department of Consumer Affairs shall publish in conspicuous places the right of an owner or possessor to contract for extended liability under this section. Nothing in this section prohibits a person from entering into a contractual agreement prior to the substantial completion of the improvement which extends any guarantee of a structure or component being free from defective or unsafe conditions beyond ~~eight-ten~~ eight years after substantial completion of the improvement or component.

For any improvement to real property, a certificate of occupancy issued by a county or municipality, in the case of new construction or completion of a final inspection by the responsible building official in



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the case of improvements to existing improvements, shall constitute proof of substantial completion of the improvement under the provisions of Section 15-3-630, unless the contractor and owner, by written agreement, establish a different date of substantial completion.

B. This SECTION takes effect one year after the effective date of this Act.

SECTION X. Section 15-3-670 of the S.C. Code is repealed.

Renumber sections to conform.

Amend title to conform.

Senator JOHNSON explained the amendment.

The amendment was adopted.

### **Recorded Vote**

Senator STUBBS desired to be recorded as voting in favor of the adoption of the amendment.

### **Amendment No. 8**

Senator MASSEY proposed the following amendment (SR-244.CEM0044S):

Amend the bill, as and if amended, by striking SECTION 1.A, Section 15-38-15 and inserting:

SECTION 1.A. Section 15-38-15 of the S.C. Code is amended to read:

Section 15-38-15. (A) In an action to recover damages in tort: ~~resulting from personal injury, wrongful death, or damage to property or to recover damages for economic loss or for noneconomic loss such as mental distress, loss of enjoyment, pain, suffering, loss of reputation, or loss of companionship resulting from tortious conduct, that is (i) brought against one defendant, or two defendants who may be treated as a single party, or two or more defendants, and (ii) tried to a jury, the court shall instruct the jury to determine its verdict in the following manner, unless all of the parties agree otherwise: if indivisible damages are determined to be proximately caused by more than one defendant, joint and several liability does not apply to any defendant whose conduct is determined to be less than fifty percent of the total fault for the indivisible damages as compared with the total of: (i) the fault of all the defendants; and (ii) the fault (comparative negligence), if any, of plaintiff. A defendant whose conduct is determined to be less than fifty percent of the total fault shall only be liable for that percentage of the indivisible damages determined by the jury or trier of fact.~~

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(1) The jury trier of fact shall determine the percentage of fault of the ~~claimant~~ plaintiff, of the defendant or defendants, and of any nonparty whose tortious act or omission occurrence was proven to be a proximate cause of the ~~claimant's~~ plaintiff's alleged damages. For purposes of apportioning fault on the verdict form, a "nonparty" means an individual or entity who has previously settled a claim arising out of the same tortious act or occurrence with the plaintiff, or if more than one plaintiff, who has previously settled with any plaintiff in the same civil action. The jury may not be informed of any immunity defense that is available to the nonparty. In assessing percentage of fault, the jury or the court shall consider the fault of all persons or entities whose alleged act or omission was a proximate cause of the alleged damage, regardless of whether the person or entity was or could have been named as a party. The percentage of fault of the parties to the action may total less than one hundred percent if the jury finds that fault contributing to the claimant's loss has also come from a nonparty or nonparties.

(2) If the percentage of fault of the claimant is greater than fifty percent of the total fault involved in the act or omission that caused the claimant's damage, then the jury shall return a verdict for the defendant and no further jury deliberation is required. A settling party shall be placed on the verdict form if there is any evidence sufficient to survive a South Carolina Rules of Civil Procedure Rule 50 Directed Verdict Motion that the settling party was proximate cause, in whole or in part, of the plaintiff's damages.

(3) If the percentage of fault of the plaintiff is greater than fifty percent of the total fault involved in the tortious act or omission that caused the plaintiff's damages, then the jury shall return a verdict for the defendant and no further jury deliberation is required.

(3)(4) If the plaintiff's percentage of fault of the claimant is not greater than fifty percent of the total fault involved in the tortious act or omission that caused the claimant's damage plaintiff's damages, then the jury shall determine the total amount of damages that the claimant plaintiff would be entitled to recover if comparative fault were disregarded.

(4)(5) Upon the completion of subitem (3)(4), the court shall enter judgment for the claimant plaintiff against each defendant in an amount equal to the total amount of damages awarded in subitem (3)(4) multiplied by the percentage of fault assigned to each respective defendant in subitem (1).

(5) The court may determine that two or more persons are to be treated as a single party. Such treatment must be used where two or more

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persons acted in concert or where, by reason of agency, employment, or other legal relationship, a party is vicariously responsible for another party.

~~(B) Apportionment of percentages of fault among defendants is to be determined as specified in subsection (C).~~

~~—(C) (B) The jury, or the court if there is no jury, shall: If there is no jury, then the court shall specify the amount of damages and determine the percentages of fault as prescribed in subsection (A).~~

~~—(1) specify the amount of damages;~~

~~—(2) determine the percentage of fault, if any, of plaintiff and the amount of recoverable damages under applicable rules concerning “comparative negligence”; and~~

~~—(3) upon a motion by at least one defendant, where there is a verdict under items (1) and (2) above for damages against two or more defendants for the same indivisible injury, death, or damage to property, specify in a separate verdict under the procedures described at subitem (b) below the percentage of liability that proximately caused the indivisible injury, death, damage to property, or economic loss from tortious conduct, as determined by item (1) above, that is attributable to each defendant whose actions are a proximate cause of the indivisible injury, death, or damage to property. In determining the percentage attributable to each defendant, any fault of the plaintiff, as determined by item (2) above, will be included so that the total of the percentages of fault attributed to the plaintiff and to the defendants must be one hundred percent. In calculating the percentage of fault attributable to each defendant, inclusion of any percentage of fault of the plaintiff (as determined in item (2) above) shall not reduce the amount of plaintiff’s recoverable damages (as determined under item (2) above).~~

~~—(a) For this purpose, the court may determine that two or more persons are to be treated as a single party. Such treatment must be used where two or more defendants acted in concert or where, by reason of agency, employment, or other legal relationship, a defendant is vicariously responsible for the conduct of another defendant.~~

~~—(b) After the initial verdict awarding damages is entered and before the special verdict on percentages of liability is rendered, the parties shall be allowed oral argument, with the length of such argument subject to the discretion of the trial judge, on the determination of the percentage attributable to each defendant. However, no additional evidence shall be allowed.~~

~~—(D) A defendant shall retain the right to assert that another potential tortfeasor, whether or not a party, contributed to the alleged injury or~~

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damages and/or may be liable for any or all of the damages alleged by any other party.

~~—(E) Notwithstanding the application of this section, setoff from any settlement received from any potential tortfeasor prior to the verdict shall be applied in proportion to each defendant's percentage of liability as determined pursuant to subsection (C).~~

~~—(F) This section does not apply to a defendant whose conduct is determined to be wilful, wanton, reckless, grossly negligent, or intentional or conduct involving the use, sale, or possession of alcohol or the illegal or illicit use, sale, or possession of drugs.~~

(B) Within one hundred eighty days of commencement of an action, or by leave of court for good cause shown, a defendant may move to add to the verdict form any person or entity, not otherwise excluded by subsection (C), who may be, or may have been, liable to the plaintiff if the defendant has a reasonable basis to believe that the person's or entity's act or omission was a proximate cause of the plaintiff's alleged damages, which must be set forth in its motion. If the defendant will assert the person or entity committed an act of professional negligence, the provisions of Section 15-36-100 apply, and the affidavit required pursuant to Section 15-36-100(B) must be filed with the motion.

(1) Any party may make any motion at the appropriate time, including, but not limited to, a motion pursuant to Rules 12, 50, and 56 of the South Carolina Rules of Civil Procedure to dismiss or otherwise remove the added person or entity from the verdict form. The court shall apply the same standard to the dismissal or removal of an added person or entity, as it would to any party.

(2) In order for the trier of fact to allocate any or all fault to an added person or entity, the defendant bears the burden of proof that the added person's or entity's conduct was a proximate cause of the plaintiff's damages unless the plaintiff's pleading is amended to assert a direct claim against the added person or entity pursuant to subitem (3).

(3) The plaintiff may, within sixty days of the court granting a motion pursuant to this section, amend the plaintiff's pleading to assert any claim against the added person or entity arising out of the occurrence that is the subject matter of the pending litigation. This provision applies notwithstanding any statute of limitations as long as the plaintiff would have satisfied the applicable statute of limitations against the added person or entity if the plaintiff had named the added person or entity as a defendant when the suit was commenced.

(a) A person or entity added as a party pursuant to this subitem shall be identified as a defendant in the caption of the action.

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(b) An amended pleading pursuant to this provision must comply with Rule 4 of the South Carolina Rules of Civil Procedure and be served on the added party within sixty days of filing the amended pleading.

(c) A party added pursuant to this provision has the same rights to defend or plead as a defendant under the South Carolina Rules of Civil Procedure.

(C) The following are excluded from being added to the verdict form pursuant to subsection (B):

(1) a person or entity not subject to civil liability or payment of damages in a civil action due to worker's compensation statutes or U.S. Bankruptcy Code;

(2) a person or entity where the plaintiff's damages arise in whole or in part from assault, battery, sexual assault, sexual abuse, sexual misconduct, financial fraud, or theft;

(3) a person whose fault is imputed to the defendant or whose fault is based upon the fault of the nonparty for which a defendant is vicariously liable;

(4) a person involved in a case where the causes of action involve strict liability;

(5) causes of action involving PFAS, asbestos, or environmental torts.

(D) A defendant shall not be entitled to a setoff for monies paid by a nonparty added to the verdict form pursuant to subsection (A) or a person or entity added to the verdict form pursuant to subsection (B). A defendant can elect the setoff from the added nonparty or added person or entity in lieu of placing that nonparty, person, or entity on the verdict form.

(E) Nothing in this section shall be construed as eliminating the empty chair defense, which is the defendant's right to assert that another potential tortfeasor, whether or not a party, contributed to the alleged injury or damages or may be liable for any or all of the damages alleged by the plaintiff.

Amend the bill further by striking Section 1.B, 1.C, and 1.D and inserting:

SECTION X. Section 15-38-20 of the S.C. Code is amended to read:

Section 15-38-20. (A) Except as otherwise provided in this chapter, where two or more persons become jointly or severally liable in tort for the same injury to person or property or for the same wrongful death, there is a right of contribution among them even though judgment has not been recovered against all or any of them.

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(B) The right of contribution exists only in favor of a tortfeasor who has paid more than his pro rata share of the common liability, and his total recovery is limited to the amount paid by him in excess of his pro rata share. No tortfeasor is compelled to make contribution beyond his own pro rata share of the entire liability.

(C) There is no right of contribution in favor of any tortfeasor who has intentionally caused or contributed to the injury or wrongful death.

(D) A tortfeasor who enters into a settlement with a claimant is not entitled to recover contribution from another tortfeasor whose liability for the injury or wrongful death is not extinguished by the settlement nor in respect to any amount paid in a settlement which is in excess of what was reasonable.

(E) A liability insurer, who by payment has discharged in full or in part the liability of a tortfeasor and has thereby discharged in full its obligation as insurer, is subrogated to the tortfeasor's right of contribution to the extent of the amount it has paid in excess of the tortfeasor's pro rata share of the common liability. This provision does not limit or impair any right of subrogation arising from any other relationship.

(F) This chapter does not impair any right of indemnity under existing law. Where one tortfeasor is entitled to indemnity from another, the right of the indemnity obligee is for indemnity and not contribution, and the indemnity obligor is not entitled to contribution from the obligee for any portion of his indemnity obligation.

(G) This chapter does not apply to breaches of trust or of other fiduciary obligation.

(H) The provisions in this section apply only to causes of action where the nonparty tortfeasor was not added to the verdict form pursuant to Section 15-38-15(A)(1) or (C).

SECTION X. Section 15-38-30 of the S.C. Code is amended to read:

Section 15-38-30. In determining the pro rata shares of tortfeasors in the entire liability (1) their relative degrees of fault shall not be considered; (2) if equity requires, the collective liability of some as a group shall constitute a single share; and (3) principles of equity applicable to contribution generally shall apply. This section applies only to causes of action where the nonparty tortfeasor was not added to the verdict form pursuant to Section 15-38-15(A)(1) or (C).

SECTION X. Section 15-38-40 of the S.C. Code is amended to read:

Section 15-38-40. (A) Whether or not judgment has been entered in an action against two or more tortfeasors for the same injury or wrongful death, contribution may be enforced by separate action.

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(B) Where a judgment has been entered in an action against two or more tortfeasors for the same injury or wrongful death, contribution may be enforced in that action by judgment in favor of one against other judgment defendants by motion upon notice to all parties to the action. Provided, however, contribution may not be enforced in the action until the issue of liability and resulting damages against the defendant or defendants named in the action is determined. Once the issue of liability has been resolved, subject to Section 15-38-20(B), a defendant has the right to seek contribution against any judgment defendant and other persons who were not made parties to the action.

(C) If there is a judgment for the injury or wrongful death against the tortfeasor seeking contribution, any separate action by him to enforce contribution must be commenced within one year after the judgment has become final by lapse of time for appeal or after appellate review.

(D) If there is no judgment for the injury or wrongful death against the tortfeasor seeking contribution, his right of contribution is barred unless he has either (1) discharged by payment the common liability within the statute of limitations period applicable to claimant's right of action against him and has commenced his action for contribution within one year after payment, or (2) agreed while action is pending against him to discharge the common liability and has within one year after the agreement paid the liability and commenced his action for contribution.

(E) The recovery of a judgment for an injury or wrongful death against one tortfeasor does not of itself discharge the other tortfeasors from liability for the injury or wrongful death unless the judgment is satisfied. The satisfaction of the judgment does not impair any right of contribution.

(F) The judgment of the court in determining the liability of the several defendants to the claimant for an injury or wrongful death shall be binding as among such defendants in determining their right to contribution.

(G) The provisions in this section apply only to causes of action where the nonparty tortfeasor was not added to the verdict form pursuant to Section 15-38-15(A)(1) or (C).

Renumber sections to conform.

Amend title to conform.

Senator MASSEY explained the amendment.

On motion of Senator MASSEY, the Bill was carried over.

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**LOCAL APPOINTMENTS**

**Confirmations**

Having received a favorable report from the Senate, the following appointments were confirmed in open session:

Initial Appointment, Charleston County Magistrate, with the term to commence April 30, 2023, and to expire April 30, 2027

Mercedes Kay Smith, 9345 Blue House Road, Apartment 14202, Ladson, SC 29456 *VICE* Henry W. Guerard

Initial Appointment, Georgetown County Magistrate, with the term to commence April 30, 2023, and to expire April 30, 2027

Dearis Roper, 519 Gibson Avenue, Murrells Inlet, SC 29576 *VICE* James McKenzie

Initial Appointment, Hampton County Magistrate, with the term to commence April 30, 2022, and to expire April 30, 2026

Lakeshia Allen, 416 Alabama Street, Hampton, SC 29924 *VICE* Gwendolyn Bampfield

Initial Appointment, Richland County Magistrate, with the term to commence April 30, 2023, and to expire April 30, 2027

Barbara M. Bowens, 1141 Old Brickyard Road, Irmo, SC 29063 *VICE* Mildred Rita Metts

**Motion Adopted**

On motion of Senator MASSEY, the Senate agreed to stand adjourned.

**ADJOURNMENT**

At 10:20 P.M., on motion of Senator MASSEY, the Senate adjourned to meet tomorrow at 1:00 P.M.

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