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8

9 **A BILL**

10  
11 TO AMEND CHAPTER 1, TITLE 44, CODE OF LAWS OF  
12 SOUTH CAROLINA, 1976, RELATING TO THE  
13 DEPARTMENT OF HEALTH AND ENVIRONMENTAL  
14 CONTROL, SO AS TO RENAME THE CHAPTER THE  
15 "DEPARTMENT OF BEHAVIORAL AND PUBLIC HEALTH"  
16 AND TO REORGANIZE THE CHAPTER TO CREATE THE  
17 DIVISION OF PUBLIC HEALTH, TO DELEGATE TO THE  
18 DIVISION THE RESPONSIBILITIES OF THE DEPARTMENT  
19 OF HEALTH AND ENVIRONMENTAL CONTROL  
20 PERTAINING TO PUBLIC HEALTH, TO ABOLISH THE  
21 DEPARTMENT AND BOARD OF HEALTH AND  
22 ENVIRONMENTAL CONTROL, TO PROVIDE FOR THE  
23 APPOINTMENT OF A DIRECTOR OF THE DEPARTMENT BY  
24 THE GOVERNOR, AND TO TRANSFER  
25 ENVIRONMENTALLY RELATED RESPONSIBILITIES OF  
26 THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL  
27 CONTROL TO THE DIVISION OF ENVIRONMENTAL  
28 CONTROL OF THE DEPARTMENT OF AGRICULTURE; TO  
29 AMEND CHAPTER 9, TITLE 44, RELATING, IN PART, TO  
30 THE DEPARTMENT OF MENTAL HEALTH, SO AS TO  
31 CREATE THE DIVISION OF MENTAL HEALTH WITHIN THE  
32 DEPARTMENT OF BEHAVIORAL AND PUBLIC HEALTH, TO  
33 MAKE CONFORMING CHANGES REFLECTING THE  
34 TRANSFER OF RESPONSIBILITIES TO THE DIVISION, AND  
35 TO ABOLISH THE DEPARTMENT OF MENTAL HEALTH  
36 AND THE MENTAL HEALTH COMMISSION; TO AMEND  
37 CHAPTER 49, TITLE 44, RELATING TO THE DEPARTMENT  
38 OF ALCOHOL AND OTHER DRUG ABUSE SERVICES, SO AS  
39 CREATE THE DIVISION OF ALCOHOL AND OTHER DRUG  
40 ABUSE SERVICES WITHIN THE DEPARTMENT OF  
41 BEHAVIORAL AND PUBLIC HEALTH, TO MAKE  
42 CONFORMING CHANGES REFLECTING THE TRANSFER OF

1 RESPONSIBILITIES TO THE DIVISION, AND TO ABOLISH  
2 THE DEPARTMENT OF ALCOHOL AND OTHER DRUG  
3 ABUSE SERVICES; BY ADDING CHAPTER 57 TO TITLE 46  
4 SO AS TO CREATE A DIVISION OF ENVIRONMENTAL  
5 PROTECTION WITHIN THE DEPARTMENT OF  
6 AGRICULTURE AND TRANSFER TO THE DIVISION THE  
7 DIVISIONS, OFFICES, AND PROGRAMS OF THE  
8 DEPARTMENT OF HEALTH AND ENVIRONMENTAL  
9 CONTROL THAT PERFORM FUNCTIONS RELATED TO  
10 ENVIRONMENTAL REGULATION AND PROTECTION; TO  
11 AMEND SECTION 46-3-10, RELATING TO THE DUTIES OF  
12 THE DEPARTMENT OF AGRICULTURE, SO AS TO ADD THE  
13 ADMINISTRATION OF THE DIVISION OF  
14 ENVIRONMENTAL PROTECTION; TO AMEND SECTION  
15 1-30-10, AS AMENDED, RELATING TO DEPARTMENTS OF  
16 STATE GOVERNMENT, SO AS TO DELETE THE  
17 DEPARTMENT OF ALCOHOL AND OTHER DRUG ABUSE  
18 SERVICES, THE DEPARTMENT OF HEALTH AND  
19 ENVIRONMENTAL CONTROL, AND THE DEPARTMENT OF  
20 MENTAL HEALTH, AND TO ADD THE DEPARTMENT OF  
21 BEHAVIORAL AND PUBLIC HEALTH; TO AMEND SECTION  
22 1-30-20, RELATING TO THE DEPARTMENT OF ALCOHOL  
23 AND OTHER DRUG ABUSE SERVICES, SO AS TO CHANGE  
24 THE REFERENCE TO THE DEPARTMENT OF BEHAVIORAL  
25 AND PUBLIC HEALTH; AND TO REPEAL SECTION 1-30-45  
26 RELATING TO THE DEPARTMENT OF HEALTH AND  
27 ENVIRONMENTAL CONTROL AND SECTION 1-30-70  
28 RELATING TO THE DEPARTMENT OF MENTAL HEALTH.

29

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

32

33 SECTION 1. Effective July 1, 2015:

34 (1) there is created the Department of Behavioral and Public  
35 Health;

36 (2) the divisions, offices, and programs of the Department of  
37 Health and Environmental Control that perform health-related  
38 functions shall become a division of the Department of Behavioral  
39 and Public Health with the director of the department being deemed  
40 the head of the division unless otherwise specified, and all relevant  
41 powers and duties assigned to the Department of Health and  
42 Environmental Control being transferred to and devolved upon the  
43 Department of Behavioral and Public Health;

[ ]

1 (3) the divisions, offices, and programs of the Department of  
2 Alcohol and Other Drug Abuse Services shall become a division of  
3 the Department of Behavioral and Public Health with the director of  
4 the department being deemed the head of the division unless  
5 otherwise specified, and all powers and duties assigned to the  
6 Department of Alcohol and Other Drug Abuse Services being  
7 transferred to and devolved upon the Department of Behavioral and  
8 Public Health;

9 (4) the divisions, offices, and programs of the Department of  
10 Mental Health shall become a division of the Department of  
11 Behavioral and Public Health with the director of the department  
12 being deemed the head of the division unless otherwise specified,  
13 and all powers and duties assigned to the Department of Mental  
14 Health being transferred to and devolved upon the Department of  
15 Behavioral and Public Health;

16 (5) the divisions, offices, and programs of the Department of  
17 Health and Environmental Control that perform functions related to  
18 regulation and protection of the environment shall become a  
19 division of the Department of Agriculture with the director of that  
20 department being deemed the head of the division unless otherwise  
21 specified, and all relevant powers and duties assigned to the  
22 Department of Health and Environmental Control being transferred  
23 to and devolved upon the Department of Agriculture; and

24 (6) the South Carolina Department of Alcohol and Other Drug  
25 Abuse Services, South Carolina Mental Health Commission, the  
26 South Carolina Department of Mental Health, the South Carolina  
27 Department of Health and Environmental Control, and the South  
28 Carolina Board of Health and Environmental Control shall be  
29 abolished.

30  
31 SECTION 2. Chapter 1, Title 44 of the 1976 Code is amended to  
32 read:

33  
34 "CHAPTER 1

35  
36 Department of ~~Health and Environmental Control~~  
37 Behavioral and Public Health

38  
39 Article 1

40  
41 General Provisions  
42

1 Section 44-1-10. There is created the Department of Behavioral  
2 and Public Health comprised of:

- 3 (1) the Division of Public Health;  
4 (2) the Division of Alcohol and Other Drug Abuse Services; and  
5 (3) the Division of Mental Health.

6  
7 ~~Section 44-1-20. There is created the South Carolina Department~~  
8 ~~of Health and Environmental Control which shall be administered~~  
9 ~~under the supervision of the South Carolina Board of Health and~~  
10 ~~Environmental Control. The board shall consist of eight members,~~  
11 ~~one from each congressional district, and one from the State at large~~  
12 ~~to be appointed by the Governor, upon the advice and consent of the~~  
13 ~~Senate. The member who is appointed at large shall serve as the~~  
14 ~~chairman of the board. The Governor may remove the chairman of~~  
15 ~~the board pursuant to Section 1-3-240(B); however, the Governor~~  
16 ~~only may remove the other board members pursuant to Section~~  
17 ~~1-3-240(C). The terms of the members shall be for four years and~~  
18 ~~until their successors are appointed and qualify. All vacancies shall~~  
19 ~~be filled in the manner of the original appointment for the unexpired~~  
20 ~~portion of the term only. In making these appointments, race,~~  
21 ~~gender, and other demographic factors should be considered to~~  
22 ~~ensure nondiscrimination, inclusion, and representation to the~~  
23 ~~greatest extent possible of all segments of the population of the~~  
24 ~~State; however, consideration of these factors in making an~~  
25 ~~appointment in no way creates a cause of action or basis for an~~  
26 ~~employee grievance for a person appointed or for a person who fails~~  
27 ~~to be appointed. (A) The Governor shall appoint a Director of the~~  
28 ~~Department of Behavioral and Public Health pursuant to Section~~  
29 ~~1-30-10(B)(1) who manages the department and who may appoint~~  
30 ~~deputies for the divisions pursuant to Section 1-30-10(E).~~

31 (B) If a vacancy occurs in the department when the Senate is not  
32 in session, the Governor may appoint a director to fill the vacancy  
33 until the Senate acts on the appointment.

34 (C) The director is subject to removal by the Governor as  
35 provided for in Section 1-3-240.

36 (D) Until the Governor appoints the initial director after creation  
37 of the department on July 1, 2015, the Director of the Department  
38 of Alcohol, Drug and Other Drug Abuse Services shall serve as the  
39 Director of the Department of Behavioral and Public Health.

40  
41 ~~Section 44-1-30. The Board shall meet at least quarterly and the~~  
42 ~~members shall receive such compensation for their services as is~~  
43 ~~provided by law for members of boards and commissions. The~~

1 director shall have all authority and duties as provided for in Chapter  
2 30, Title 1.

3  
4 ~~Section 44-1-40. The board shall select a director for the~~  
5 ~~department who shall serve a four year term and who shall have~~  
6 ~~such authority and perform such duties as may be directed by the~~  
7 ~~board. The salary of the director shall be fixed by the board, upon~~  
8 ~~approval of the State Budget and Control Board. For any vacancy~~  
9 ~~occurring in the office of director on or after February 1, 1995, the~~  
10 ~~board, after consultation with and approval by the Governor, must~~  
11 ~~submit the name of its appointee to the Senate for the Senate's~~  
12 ~~advice and consent. On or after February 1, 1995, the board may~~  
13 ~~remove a director only after consultation with and approval by the~~  
14 ~~Governor.~~

15  
16 ~~Section 44-1-50. The board may conduct such administrative~~  
17 ~~reviews as may be required by law, as considered necessary by the~~  
18 ~~board to render a final agency determination in matters involving~~  
19 ~~the issuance, denial, renewal or revocation of permits, licenses, or~~  
20 ~~other actions of the department which may give rise to a contested~~  
21 ~~case pursuant to Chapter 23 of Title 1.~~

22 ~~The board shall provide for the administrative organization of the~~  
23 ~~department and shall consolidate and merge existing duties,~~  
24 ~~functions, and officers of the former agencies as may be necessary~~  
25 ~~for economic and efficient administration. Provided, however, that~~  
26 ~~the board may appoint such advisory boards as it considers~~  
27 ~~necessary to carry out the functions of Sections 44-1-10 to 44-1-70,~~  
28 ~~and there shall be provided a compensation for their services as~~  
29 ~~provided by the law for members of boards and commissions.~~

30  
31 ~~Section 44-1-60. (A) All department decisions of the~~  
32 ~~Department of Behavioral and Public Health involving the issuance,~~  
33 ~~denial, renewal, suspension, or revocation of permits, licenses,~~  
34 ~~certificates, or other actions of the department which may give rise~~  
35 ~~to a contested case shall must be made using the procedures set forth~~  
36 ~~in this section.~~

37 ~~(B) The department staff shall comply with all requirements for~~  
38 ~~public notice, receipt of public comments, and public hearings~~  
39 ~~before making a department decision. To the maximum extent~~  
40 ~~possible, the department shall use a uniform system of public notice~~  
41 ~~of permit applications, opportunity for public comment, and public~~  
42 ~~hearings.~~

1       ~~(C) The initial decision involving the issuance, denial, renewal,~~  
2 ~~suspension, or revocation of permits, licenses, or other action of the~~  
3 ~~department shall be a staff decision.~~

4       ~~(D)(C)~~ In making a staff decision ~~on any~~ about a permit, license,  
5 certification or other approval, the department ~~staff~~ shall take into  
6 consideration all material comments received in response to the  
7 public notice in determining whether to issue, deny or condition  
8 ~~such a~~ permit, license, certification or other approval. At the time  
9 that ~~such staff a~~ decision is made, the department shall issue a  
10 department written decision; and shall base its ~~department~~ decision  
11 on the administrative record, which ~~shall~~ must consist of the  
12 application and supporting exhibits, all public comments and  
13 submissions, and other documents contained in the supporting file  
14 for the permit, license, certification or other approval. The  
15 administrative record ~~may~~ also may include material readily  
16 available at the department, or published materials which are  
17 generally available and need not be physically included in the same  
18 file as the rest of the record as long as such materials are specifically  
19 referred to in the department decision. The department ~~decision~~  
20 need not be issued for routine permits for which no adverse public  
21 comments have been received is not required to issue a written  
22 decision for issuance of routine permits for which the department  
23 has not received adverse public comments.

24       ~~(E)(D)(1) Notice of a~~ The department decision must be sent shall  
25 send a notice of a decision by certified mail, returned receipt  
26 requested to the applicant, permittee, licensee, certificate holder,  
27 and affected persons who have requested in writing to be notified.  
28 Affected persons may request in writing to be notified by regular  
29 mail or electronic mail in lieu of certified mail. ~~Notice of staff~~  
30 ~~decisions for which a department decision is not required pursuant~~  
31 ~~to subsection (D) must be provided~~ The department shall send notice  
32 of a decision which the department is not required to provide in  
33 writing pursuant to subsection (C) by mail, delivery, or other  
34 appropriate means to the applicant, permittee, licensee, certificate  
35 holder, and affected persons who have requested in writing to be  
36 notified.

37       ~~(2) The staff decision becomes the final agency decision~~  
38 ~~fifteen calendar days after notice of the staff decision has been~~  
39 ~~mailed to the applicant, unless a written request for final review~~  
40 ~~accompanied by a filing fee is filed with the department by the~~  
41 ~~applicant, permittee, licensee, or affected person.~~

42       ~~(3) The filing fee must be in the amount of one hundred~~  
43 ~~dollars unless the department establishes a fee schedule by~~

1 regulation after complying with the requirements of Article 1,  
2 Chapter 23, Title 1. This fee must be retained by the department in  
3 order to help defray the costs of the proceedings and legal expenses.

4 ~~(F) No later than sixty calendar days after the date of receipt of~~  
5 ~~a request for final review, a final review conference must be~~  
6 ~~conducted by the board, its designee, or a committee of three~~  
7 ~~members of the board appointed by the chair. If the board declines~~  
8 ~~in writing to schedule a final review conference or if a final review~~  
9 ~~conference is not conducted within sixty calendar days, the staff~~  
10 ~~decision becomes the final agency decision, and an applicant,~~  
11 ~~permittee, licensee, or affected person requests pursuant to~~  
12 ~~subsection (G) a contested case hearing before the Administrative~~  
13 ~~Law Court. The department shall set the place, date, and time for the~~  
14 ~~conference; give the applicant and affected persons at least ten~~  
15 ~~calendar days' written notice of the conference; and advise the~~  
16 ~~applicant that evidence may be presented at the conference. The~~  
17 ~~final review conference must be held as follows:~~

18 ~~(1) Final review conferences are open to the public; however,~~  
19 ~~the officers conducting the conference may meet in closed session~~  
20 ~~to deliberate on the evidence presented at the conference. The~~  
21 ~~burden of proof in a conference is upon the moving party. During~~  
22 ~~the course of the final review conference, the staff must explain the~~  
23 ~~staff decision and the materials relied upon in the administrative~~  
24 ~~record to support the staff decision. The applicant or affected party~~  
25 ~~shall state the reasons for protesting the staff decision and may~~  
26 ~~provide evidence to support amending, modifying, or rescinding the~~  
27 ~~staff decision. The staff may rebut information and arguments~~  
28 ~~presented by the applicant or affected party and the applicant or~~  
29 ~~affected party may rebut information and arguments presented by~~  
30 ~~the staff. Any final review conference officer may request additional~~  
31 ~~information and may question the applicant or affected party, the~~  
32 ~~staff, and anyone else providing information at the conference.~~

33 ~~(2) After the final review conference, the board, its designee,~~  
34 ~~or a committee of three members of the board appointed by the chair~~  
35 ~~shall issue a written final agency decision based upon the evidence~~  
36 ~~presented. The decision may be announced orally at the conclusion~~  
37 ~~of the final review conference or it may be reserved for~~  
38 ~~consideration. The written decision must explain the basis for the~~  
39 ~~decision and inform the parties of their right to request a contested~~  
40 ~~case hearing before the Administrative Law Court. In either event,~~  
41 ~~the written decision must be mailed to the parties no later than thirty~~  
42 ~~calendar days after the date of the final review conference. Within~~  
43 ~~thirty calendar days after the receipt of the decision pursuant to item~~

1 (1) an applicant, permittee, licensee, certificate holder, or affected  
2 person desiring to contest the ~~final~~ agency decision may request a  
3 contested case hearing before the Administrative Law Court, in  
4 accordance with the Administrative Procedures Act. The court shall  
5 give consideration to the provisions of Section 1-23-330 regarding  
6 the department's specialized knowledge.

7 ~~(3) Prior to the initiation of the final review conference, an~~  
8 ~~applicant, permittee, licensee, or affected person must be notified of~~  
9 ~~their right to request a transcript of the proceedings of the final~~  
10 ~~review conference. If a transcript is requested, the applicant,~~  
11 ~~permittee, licensee, or affected person making the request is~~  
12 ~~responsible for all costs.~~

13 ~~(G) An applicant, permittee, licensee, or affected person may file~~  
14 ~~a request with the Administrative Law Court for a contested case~~  
15 ~~hearing within thirty calendar days after:~~

16 ~~(1) notice is mailed to the applicant, permittee, licensee, and~~  
17 ~~affected persons that the board declined to hold a final review~~  
18 ~~conference; or~~

19 ~~(2) the sixty calendar day deadline to hold the final review~~  
20 ~~conference lapses and no conference has been held; or~~

21 ~~(3) the final agency decision resulting from the final review~~  
22 ~~conference is received by the parties.~~

23 ~~(H) Applicants, permittees, licensees, and affected persons are~~  
24 ~~encouraged to engage in mediation during the final review process.~~

25 ~~(I) The department may promulgate regulations providing for~~  
26 ~~procedures for final reviews.~~

27 ~~(J) Any statutory deadlines applicable to permitting and~~  
28 ~~licensing programs administered by the department must be~~  
29 ~~extended to all for this final review process.~~

30 ~~(E) If any a~~ deadline provided for in this section falls on a  
31 Saturday, Sunday, or state holiday, the deadline must be extended  
32 until the next calendar day that is not a Saturday, Sunday, or state  
33 holiday.

34  
35 Article 3

36  
37 Division of Public Health

38  
39 Section 44-1-70. All rules and regulations promulgated by the  
40 Board shall be null and void unless approved by a concurrent  
41 resolution of the General Assembly at the session of the General  
42 Assembly following their promulgation. There is established the  
43 Division of Public Health within the Department of Behavioral and

1 Public Health. The division is be vested with all the functions,  
2 powers, and duties of the divisions, offices, and programs of the  
3 Department of Health and Environmental Control on June 30, 2015,  
4 that perform functions related to public health.  
5

6 Section 44-1-80. (A) The ~~Board of Health and Environmental~~  
7 ~~Control~~ Department of Behavioral and Public Health or its  
8 designated agents must investigate the reported causes of  
9 communicable or epidemic disease and must enforce or prescribe  
10 these preventive measures as may be needed to suppress or prevent  
11 the spread of these diseases by proper quarantine or other measures  
12 of prevention, as may be necessary to protect the citizens of the  
13 State. The ~~Board of Health and Environmental Control~~ department  
14 or its designated agents shall declare, when the facts justify it, any  
15 place as infected and, in case of hydrophobia or other diseases  
16 transmitted from animals to man, must declare such animal or  
17 animals quarantined, and must place all such restrictions upon  
18 ingress and egress of persons or animals therefrom as may be, in its  
19 judgment, necessary to prevent the spread of disease from the  
20 infected locality.

21 (B)(1) Whenever the ~~board~~ department learns of a case of a  
22 reportable illness or health condition, an unusual cluster, or a  
23 suspicious event that it reasonably believes has the potential to cause  
24 a public health emergency, as defined in Section 44-4-130, it is  
25 authorized to notify the appropriate public safety authority, tribal  
26 authorities, and federal health and public safety authorities.

27 (2) The sharing of information on reportable illnesses, health  
28 conditions, unusual clusters, or suspicious events between  
29 authorized personnel must be restricted to information necessary for  
30 the treatment, control, investigation, and prevention of a public  
31 health emergency. Restriction of access to this information to those  
32 authorized personnel for the protection of public health ensures  
33 compliance with all state and federal health information privacy  
34 laws.

35 (3) The ~~board~~ department and its agents ~~must~~ shall have full  
36 access to medical records and nonmedical records when necessary  
37 to investigate the causes, character, and means of preventing the  
38 spread of a qualifying health event or public health emergency. For  
39 purposes of this item, 'nonmedical records' ~~mean~~ means records of  
40 entities, including businesses, health facilities, and pharmacies,  
41 which are needed to adequately identify and locate persons believed  
42 to have been potentially exposed or known to have been infected  
43 with a contagious disease.

1 (4) An order of the ~~board~~ department given to effectuate the  
2 purposes of this subsection is enforceable immediately by the public  
3 safety authority.

4 (5) For purposes of this subsection, the terms qualifying  
5 health event, public health emergency, and public safety authority  
6 have the same meanings as provided in Section 44-4-130.  
7

8 Section 44-1-90. The ~~State Board of Health and Environmental~~  
9 ~~Control~~ Department of Behavioral and Public Health or its  
10 designated agents, when it is deemed necessary by the municipal  
11 officers of any town or city or the governing body of any county,  
12 may (a) visit cities, towns, villages, or localities where disease is  
13 prevalent or threatened, (b) investigate and advise with the local  
14 authorities or persons as to such measures as may tend to prevent  
15 the spread of disease or to remove or abate causes that may tend to  
16 cause or intensify disease, (c) advise, when practicable or possible,  
17 as to measures of sanitation or hygiene, and (d) investigate and  
18 advise as to all matters respecting water supply, sewage, drainage,  
19 ventilation, heating, lighting, or other measures connected with  
20 public sanitation or safety.  
21

22 Section 44-1-100. All sheriffs and constables in the several  
23 counties of this State and police officers and health officers of cities  
24 and towns must aid and assist the Director of the ~~Department of~~  
25 ~~Health and Environmental Control~~ Division of Public Health and  
26 must carry out and obey his orders, or those of the ~~Department of~~  
27 ~~Health and Environmental Control~~ division, to enforce and carry out  
28 any and all restrictive measures and quarantine regulations that may  
29 be prescribed. During a state of public health emergency, as defined  
30 in Section 44-4-130, the director may request assistance in enforcing  
31 orders issued pursuant to this chapter and pursuant to Chapter 4,  
32 Title 44, from the public safety authority, as defined in Section  
33 44-4-130, other state law enforcement authorities, and local law  
34 enforcement. The public safety authority may request assistance  
35 from the South Carolina National Guard in enforcing orders made  
36 pursuant to this chapter or pursuant to Chapter 4, Title 44.  
37

38 Section 44-1-110. (A) The Department of ~~Health and~~  
39 ~~Environmental Control~~ Behavioral and Public Health is invested  
40 with all the rights and charged with all the duties pertaining to  
41 organizations of like character and is the sole advisor of the State in  
42 all questions involving the protection of the public health within its  
43 limits.

1       (B) ~~It shall~~ The department, through its representatives, shall  
2 investigate the causes, character, and means of preventing the  
3 epidemic and endemic diseases as the State is liable to suffer from  
4 and the influence of climate, location, and occupations, habits,  
5 drainage, scavenging, water supply, heating, and ventilation. It  
6 ~~shall have~~ has, upon request, full access to the medical records,  
7 tumor registries, and other special disease record systems  
8 maintained by physicians, hospitals, and other health facilities as  
9 necessary to carry out its investigation of these diseases. No  
10 physician, hospital, or health facility, or person in charge of these  
11 records is liable in any action-at-law for permitting the examination  
12 or review. Patient-identifying information elicited from these  
13 records and registries must be kept confidential by the department,  
14 ~~and the information~~ is exempt from the provisions of Chapter 4,  
15 ~~of~~ Title 30. ~~The department~~ shall supervise and control the  
16 quarantine system of the State. ~~It~~ and may establish quarantine both  
17 by land and sea.

18  
19       Section 44-1-130. The Department of ~~Health and Environmental~~  
20 ~~Control~~ Behavioral and Public Health may divide the State into  
21 health districts and establish in these districts advisory boards of  
22 health which shall consist of representatives from each county in the  
23 district. Boards of health now existing in the districts shall have  
24 representation on the district advisory board. Counties not having  
25 local boards of health ~~shall~~ must be represented by individuals  
26 appointed by the county legislative delegation. The number of  
27 members of a district advisory board ~~shall~~ must be determined by  
28 the department with due consideration to the population and  
29 community needs of the district. District advisory boards of health  
30 ~~shall be~~ are subject to the supervisory and advisory control of the  
31 department. District advisory boards are charged with the duty of  
32 advising the district medical director or administrator in all matters  
33 of sanitary interest and scientific importance bearing upon the  
34 protection of the public health. The district medical director or  
35 administrator ~~shall be~~ is the secretary of the advisory board, and the  
36 district advisory board shall elect annually from its membership a  
37 chairman.

38  
39       Section 44-1-140. The Department of ~~Health and Environmental~~  
40 ~~Control~~ Behavioral and Public Health may make, adopt,  
41 promulgate, and enforce reasonable rules and regulations from time  
42 to time requiring and providing for:

1           ~~(1) For the thorough sanitation and disinfection of all~~  
2 ~~passenger cars, sleeping cars, steamboats and other vehicles of~~  
3 ~~transportation in this State and all convict camps, penitentiaries,~~  
4 ~~jails, hotels, schools and other places used by or open to the public;~~

5           ~~(2) For the sanitation of hotels, restaurants, cafes, drugstores,~~  
6 ~~hot dog and hamburger stands, and all other places or establishments~~  
7 ~~providing eating or drinking facilities and all other places known as~~  
8 ~~private nursing homes or places of similar nature, operated for gain~~  
9 ~~or profit;~~

10           ~~(3) For the production, storing, labeling, transportation, and~~  
11 ~~selling of milk and milk products, filled milk and filled milk~~  
12 ~~products, imitation milk and imitation milk products, synthetic milk~~  
13 ~~and synthetic milk products, milk derivatives and any other products~~  
14 ~~made in semblance of milk or milk products;~~

15           ~~(4) For the sanitation and control of abattoirs, meat markets,~~  
16 ~~whether the same be definitely provided for that purpose or used in~~  
17 ~~connection with other business, and bottling plants;~~

18           ~~(5) For the classification of waters and for the safety and~~  
19 ~~sanitation in the harvesting, storing, processing, handling and~~  
20 ~~transportation of mollusks, fin fish and crustaceans;~~

21           ~~(6) For the control of disease bearing insects, including the~~  
22 ~~impounding of waters;~~

23           ~~(7)(1) For the safety, safe operation and sanitation of public~~  
24 ~~swimming pools and other public bathing places, construction,~~  
25 ~~tourist and trailer camps, and fairs;~~

26           ~~(8) For the control of industrial plants, including the~~  
27 ~~protection of workers from fumes, gases and dust, whether~~  
28 ~~obnoxious or toxic;~~

29           ~~(9) For the use of water in air humidifiers;~~

30           ~~(10)(2) For the care, segregation and isolation of persons~~  
31 ~~having or suspected of having any communicable, contagious, or~~  
32 ~~infectious disease; and~~

33           ~~(11) For the regulation of the methods of disposition of garbage~~  
34 ~~or sewage and any like refuse matter in or near any village, town or~~  
35 ~~city of the State, incorporated or unincorporated, and to abate~~  
36 ~~obnoxious and offensive odors caused or produced by septic tank~~  
37 ~~toilets by prosecution, injunction or otherwise;~~

38           ~~(12)(3) For the thorough investigation and study of the~~  
39 ~~causes of all diseases, epidemic and otherwise, in this State, the~~  
40 ~~means for the prevention of contagious disease and the publication~~  
41 ~~and distribution of such information as may contribute to the~~  
42 ~~preservation of the public health and the prevention of disease; and~~

1 (13) For alteration of safety glazing material standards and the  
2 defining of additional structural locations as hazardous areas, and  
3 for notice and hearing procedures by which to effect these changes.

4 (B) The department may make separate orders and rules to meet  
5 any emergency not provided for by general rules and regulations,  
6 for the purpose of suppressing nuisances conditions dangerous to  
7 the public health and communicable, contagious and infectious  
8 diseases, and other danger to the public life and health.  
9

10 Section 44-1-143. (A) For the purposes of this section:

11 (1) ~~'Home based food production operation' means an~~  
12 ~~individual, operating out of the individual's dwelling, who prepares,~~  
13 ~~processes, packages, stores, and distributes nonpotentially~~  
14 ~~hazardous foods for sale directly to a person.~~

15 (2) ~~'Nonpotentially hazardous foods' are candy and baked~~  
16 ~~goods that are not potentially hazardous foods.~~

17 (3) ~~'Person' means an individual consumer.~~

18 (4) ~~'Potentially hazardous foods' includes:~~

19 (a) ~~an animal food that is raw or heat treated; a plant food~~  
20 ~~that is heat treated or consists of raw seed sprouts; cut melons; cut~~  
21 ~~leafy greens; cut tomatoes or mixtures of cut tomatoes not modified~~  
22 ~~to prevent microorganism growth or toxin formation; garlic in oil~~  
23 ~~mixtures not modified to prevent microorganism growth or toxin~~  
24 ~~formation;~~

25 (b) ~~certain foods that are designated as Product Assessment~~  
26 ~~Required (PA) because of the interaction of the pH and Aw values~~  
27 ~~in these foods. Below is a table indicating the interaction of pH and~~  
28 ~~Aw for control of spores in food heat treated to destroy vegetative~~  
29 ~~cells and subsequently packaged:~~

30

	Aw values	pH values	
		4.6 or less	>4.6 - 5.6 >5.6
(1)	<0.92	non-PHF	non-PHF
(2)	>0.92 - 0.95	non-PHF	PHF
(3)	>0.95	non-PHF	PHF

36

37 Foods in item (2) with a pH value greater than 5.6 and foods in item  
38 (3) with a pH value greater than 4.6 are considered potentially  
39 hazardous unless a product assessment is conducted pursuant to the  
40 2009 Federal Drug Administration Food Code.

41 (B) ~~The operator of the home based food production operation~~  
42 ~~must take all reasonable steps to protect food items intended for sale~~

1 from contamination while preparing, processing, packaging,  
2 storing, and distributing the items, including, but not limited to:  
3 (1) maintaining direct supervision of any person, other than  
4 the operator, engaged in the processing, preparing, packaging, or  
5 handling of food intended for sale;  
6 (2) prohibiting all animals, including pets, from entering the  
7 area in the dwelling in which the home-based food production  
8 operation is located while food items are being prepared, processed,  
9 or packaged and prohibiting these animals from having access to or  
10 coming in contact with stored food items and food items being  
11 assembled for distribution;  
12 (3) prohibiting all domestic activities in the kitchen while the  
13 home-based food production operation is processing, preparing,  
14 packaging, or handling food intended for sale;  
15 (4) prohibiting any person who is infected with a  
16 communicable disease that can be transmitted by food, who is a  
17 carrier of organisms that can cause a communicable disease that can  
18 be transmitted by food, who has an infected wound, or who has an  
19 acute respiratory infection from processing, preparing, packaging,  
20 or handling food intended for sale by the home-based food  
21 production operation; and  
22 (5) ensuring that all people engaged in processing, preparing,  
23 packaging, or handling food intended for sale by the home-based  
24 food production operation are knowledgeable of and follow safe  
25 food handling practices.  
26 (C) Each home-based food production operation shall maintain  
27 a clean and sanitary facility to produce nonpotentially hazardous  
28 foods including, but not limited to:  
29 (1) department approved water supply;  
30 (2) a separate storage place for ingredients used in foods  
31 intended for sale;  
32 (3) a properly functioning refrigeration unit;  
33 (4) adequate facilities, including a sink with an adequate hot  
34 water supply to meet the demand for the cleaning and sanitization  
35 of all utensils and equipment;  
36 (5) adequate facilities for the storage of utensils and  
37 equipment;  
38 (6) adequate hand washing facilities separate from the utensil  
39 and equipment cleaning facilities;  
40 (7) a properly functioning toilet facility;  
41 (8) no evidence of insect or rodent activity; and  
42 (9) department approved sewage disposal, either onsite  
43 treatment or publicly provided.

1       (D) All food items packaged at the operation for sale must be  
2 properly labeled. The label must comply with federal laws and  
3 regulations and must include:

4           (1) the name and address of the home-based food production  
5 operation;

6           (2) the name of the product being sold;

7           (3) the ingredients used to make the product in descending  
8 order of predominance by weight; and

9           (4) a conspicuous statement printed in all capital letters and in  
10 a color that provides a clear contrast to the background that reads:  
11 ~~“NOT FOR RESALE — PROCESSED AND PREPARED BY A~~  
12 ~~HOME-BASED FOOD PRODUCTION OPERATION THAT IS~~  
13 ~~NOT SUBJECT TO SOUTH CAROLINA’S FOOD SAFETY~~  
14 ~~REGULATIONS.”~~

15       (E) Home-based food operations only may sell, or offer to sell,  
16 food items directly to a person for his own use and not for resale. A  
17 home-based food operation may not sell, or offer to sell, food items  
18 at wholesale. Food produced from a home-based food production  
19 operation must not be considered to be from an approved source, as  
20 required of a retail food establishment pursuant to Regulation 61.25.

21       (F) A home-based food production operation is not a retail food  
22 establishment and is not subject to regulation by the department  
23 pursuant to Regulation 61.25.

24       (G) The provisions of this section do not apply to an operation  
25 with net earnings of less than five hundred dollars annually but that  
26 would otherwise meet the definition of a home-based food operation  
27 provided in subsection (A)(1).

28       (H) A home-based food production operation may apply for an  
29 exemption from inspection and label review by the South Carolina  
30 Department of Agriculture under Section 39-25-10, et seq., if its  
31 annual sales are less than fifteen thousand dollars. Exemption forms  
32 must be provided by the South Carolina Department of Agriculture.  
33

34       Section 44-1-145. (A) Notwithstanding any other provision of  
35 law, ground beef or any food containing ground beef prepared by a  
36 food service provider for public consumption must be cooked to  
37 heat all parts of the food to at least one hundred fifty five degrees  
38 Fahrenheit (sixty eight degrees Celsius), unless otherwise ordered  
39 by the immediate consumer.

40       (B) The food service provider, its business or its employees or  
41 agents, are not liable for any adverse affects to the purchaser or  
42 anyone else for providing a ground beef product cooked at an  
43 internal temperature less than one hundred fifty five degrees

1 Fahrenheit (sixty-eight degrees Celsius), if providing the product is  
2 at the request of the purchaser and if the food service provider has  
3 notified the purchaser in advance that a possible health risk may  
4 exist by eating the product. The notice must state that a possible  
5 health risk may exist in eating undercooked ground beef at an  
6 internal temperature less than one hundred fifty-five degrees  
7 Fahrenheit (sixty-eight degrees Celsius), and be given to the  
8 purchaser:

- 9 (1) in writing;
- 10 (2) as stated on the menu; or
- 11 (3) by visible sign warning.

12 (C) In order for an immediate consumer or purchaser, as used in  
13 this section, to request or order ground beef to be cooked to a  
14 temperature less than one hundred fifty-five degrees Fahrenheit  
15 (sixty-eight degrees Celsius), the individual must be eighteen years  
16 of age or older.

17  
18 Section 44-1-148. ~~Fresh meat or fresh meat products sold to a~~  
19 ~~consumer may not be offered to the public for resale for human~~  
20 ~~consumption if the fresh meat or fresh meat products have been~~  
21 ~~returned by the consumer.~~

22  
23 Section 44-1-150. (A) ~~Except as provided in Section 44-1-151,~~  
24 ~~a~~ A person who after notice violates, disobeys, or refuses, omits, or  
25 neglects to comply with a regulation of the Department of ~~Health~~  
26 ~~and Environmental Control~~ Behavioral and Public Health, made by  
27 the department pursuant to Section 44-1-140, is guilty of a  
28 misdemeanor and, upon conviction, must be fined not more than two  
29 hundred dollars or imprisoned for thirty days.

30 (B) A person who after notice violates a rule, regulation, permit,  
31 permit condition, final determination, or order of the department  
32 issued pursuant to Section 44-1-140 is subject to a civil penalty not  
33 to exceed one thousand dollars a day for each violation.

34 (C) Fines collected pursuant to subsection (B) must be remitted  
35 by the department to the State Treasurer for deposit in the state  
36 general fund.

37 (D) The term ‘notice’ as used in this section means either actual  
38 notice or constructive notice.

39 (E) ~~This section does not apply to fines levied under Section~~  
40 ~~44-1-140(8) or any other areas regulated by the South Carolina~~  
41 ~~Occupational Health and Safety Act, Section 41-12-10 et seq.~~

42

1 Section 44-1-151. Notwithstanding any other provision of law, all  
2 shellfish involved in any violation of law, including any regulation,  
3 regarding shellfish may be confiscated and disposed of at the  
4 discretion of the arresting officer. Any person convicted of a second  
5 offense of harvesting shellfish in any polluted area shall, upon such  
6 conviction, be fined not less than two hundred dollars and not more  
7 than five hundred dollars or imprisoned for not less than thirty days  
8 and not more than sixty days. Any person convicted of a third or  
9 subsequent offense of harvesting shellfish in any polluted area shall,  
10 upon such conviction, be fined not less than five hundred dollars and  
11 not more than one thousand or imprisoned for not less than sixty  
12 days and not more than ninety days. All equipment, including, but  
13 not limited to, vehicles, boats, motors, trailers, harvesting  
14 equipment, weapons, spotlights, bags, boxes, or tools, used or in any  
15 other manner involved in a first offense of harvesting shellfish in  
16 any polluted area, may be impounded at the discretion of the  
17 arresting officer. The equipment impounded shall be delivered to the  
18 sheriff of the county in which the arrest was made and shall be  
19 retained by the sheriff. Such equipment may not be returned to the  
20 owner until the case has been finally disposed of. All equipment,  
21 including, but not limited to, vehicles, boats, motors, trailers,  
22 harvesting equipment, weapons, spotlights, bags, boxes, or tools,  
23 used or in any other manner involved in a second, third, or  
24 subsequent offense of harvesting shellfish in any polluted area, shall  
25 be confiscated. All such confiscated equipment shall be sold at  
26 auction by the sheriff of the county in which such second, third, or  
27 subsequent offense took place and by a representative of the State  
28 Department of Health and Environmental Control, except for  
29 weapons, which, following confiscation, shall be disposed of in the  
30 manner set forth in Sections 16-23-50, 16-23-460, and 16-23-500.

31  
32 Section 44-1-152. Notwithstanding any other provision of law, all  
33 revenue from any fine or any forfeiture of bond for any violation of  
34 any shellfish law or regulation provided by this title must be  
35 deposited monthly with the treasurer of the county in which the  
36 arrest for such violation was made. One third of such revenue must  
37 be retained by the county treasurer to be used for the general  
38 operating needs of the county pursuant to the direction of the  
39 governing body of the county. Two thirds of such revenue must be  
40 remitted quarterly to the state Department of Health and  
41 Environmental Control of which one half is to be used in enforcing  
42 shellfish laws and regulations and one half of such revenue must be  
43 remitted quarterly to the state's general fund. All monies derived

1 from auction sales of confiscated equipment pursuant to Section  
2 44-1-151 must be deposited, retained, remitted, and used in the same  
3 manner as provided in this section for all revenue derived from any  
4 fine or any violation of any shellfish law or regulation. A report of  
5 fines for forfeitures of bonds regarding shellfish violations must be  
6 sent to the state Department of Health and Environmental Control  
7 monthly by each magistrate and clerk of court in this State. A report  
8 of monies derived from auction of sales of confiscated equipment  
9 must be sent to the state Department of Health and Environmental  
10 Control monthly by each sheriff.

11  
12 Section 44-1-155. When any person is apprehended by a shellfish  
13 patrolman upon a charge of violating the health and sanitary aspects  
14 of shellfish, crab, and shrimp laws or regulations, such person upon  
15 being served with a summons by the patrolman may in lieu of being  
16 immediately brought before the proper judicial officer enter into a  
17 formal recognizance or deposit a proper sum of money in lieu of a  
18 recognizance or incarceration with the patrolman as bail which shall  
19 be not less than the minimum nor more than the maximum fine, but  
20 in no case to exceed one hundred dollars. The bail shall be turned  
21 over to the proper judicial officer. A receipt for the sum so deposited  
22 shall be given to the person by the patrolman. The summons duly  
23 served shall give the judicial officer jurisdiction to dispose of the  
24 matter. Upon receipt of bail the patrolman shall release the person  
25 so charged and he may appear in court at the time stated in and  
26 required by the summons.

27  
28 Section 44-1-160. Nothing contained in Section 44-1-140 shall in  
29 any way ~~abridge or limit~~ abridges or limits the right of any a person  
30 to maintain or prosecute ~~any proceedings, civil or criminal, a civil~~  
31 or criminal proceeding against a person maintaining a nuisance.

32  
33 Section 44-1-165. (A) ~~There is established within the~~  
34 ~~Department of Health and Environmental Control the Expedited~~  
35 ~~Review Program to provide an expedited process for permit~~  
36 ~~application review. Participation in this program is voluntary and~~  
37 ~~the program must be supported by expedited review fees~~  
38 ~~promulgated in regulation pursuant to subsection (B)(1). The~~  
39 ~~department shall determine the project applications to review, and~~  
40 ~~the process may be applied to any one or all of the permit programs~~  
41 ~~administered by the department.~~

42 (B)(1) ~~Before January 1, 2009, the department shall promulgate~~  
43 ~~regulations necessary to carry out the provisions of this Section. The~~

1 regulations shall include, but are not limited to, definitions of  
2 'completeness' for applications submitted, consideration of joint  
3 federal state permitting activities, standards for applications  
4 submitted that advance environmental protection, and expedited  
5 process application review fees.

6 (2) Regulations promulgated pursuant to this Section must not  
7 alter public notice requirements for any permits, certifications, or  
8 licenses issued by the department.

9 (C) Until such time as regulations are promulgated pursuant to  
10 subsection (B), the department shall conduct a pilot expedited  
11 review program to determine the most environmentally sound, cost  
12 efficient, and economically beneficial process for implementation  
13 of a statewide expedited review program. The department shall  
14 determine which permit programs, or subcomponents of a program,  
15 to include in the pilot program and also may establish pilot program  
16 expedited process application fees.

17 (D) There is created the Expedited Review Fund that is separate  
18 and distinct from the general fund of the State and all other funds.  
19 Fees established in regulation pursuant to subsection (B)(1) and  
20 assessed pursuant to subsection (C) must be credited to the fund and  
21 used for the costs of implementing the expedited review program.  
22 Interest accruing to the fund must be retained by the fund and used  
23 for the same purposes. Revenue in the fund not expended during a  
24 fiscal year, including fees generated pursuant to subsection (C),  
25 must be carried forward to the succeeding fiscal year and must be  
26 used for the same purposes.

27 (E) No later than January 1, 2008, the department shall report to  
28 the Board of Health and Environmental Control the department's  
29 findings on the implementation of the pilot expedited review  
30 program provided for in subsection (C).

31  
32 Section 44-1-170. The ~~Department of Health and Environmental~~  
33 ~~Control~~ Division of Public Health may direct and supervise the  
34 action of the local boards of health in incorporated cities and towns  
35 and in all townships in all matters pertaining to ~~such~~ these local  
36 boards.

37  
38 Section 44-1-180. The ~~Department of Health and Environmental~~  
39 ~~Control~~ Behavioral and Public Health may establish charges for  
40 maintenance and medical care for all persons served in state health  
41 centers and other health facilities under the jurisdiction of the  
42 department and by personnel of the department and of the health  
43 units under its jurisdiction in homes and any other places where

1 health services are needed. The terms ‘medical care’ and ‘health  
2 services’ include the services of physicians, dentists, optometrists,  
3 nurses, sanitarians, physical therapists, medical social workers,  
4 occupational therapists, health aides, speech therapists, X-ray  
5 technologists, dietitians, nutritionists, laboratory technicians, and  
6 other professional and subprofessional health workers. The charges,  
7 which may be adjusted from time to time, ~~shall~~ must be reasonable  
8 and based on the total costs of the services rendered, including  
9 operating costs, depreciation costs, and all other elements of costs.

10  
11 Section 44-1-190. The Department of ~~Health and Environmental~~  
12 ~~Control~~ Behavioral and Public Health shall make such  
13 investigations as it deems necessary to determine which persons or  
14 which of the parents, guardians, trustees, committees, or other  
15 persons or agencies legally responsible therefor are financially able  
16 to pay the expenses of the care and treatment, and may contract with  
17 any person or agency for the care and treatment of any person to the  
18 extent permitted by the resources available to the department. The  
19 department may require any county or state agency to furnish  
20 information which would be helpful to it in making the  
21 investigations. In arriving at the amount to be charged, the  
22 department shall have due regard for the financial condition and  
23 estate of the person, his present and future needs and the present and  
24 future needs of his lawful dependents, and whenever considered  
25 necessary to protect him or his dependents, may agree to accept a  
26 sum less than the actual cost of services. ~~No~~ A person ~~shall~~ may not  
27 be deprived of available health services solely because of inability  
28 to pay. ~~No fees shall~~ A fee must not be charged for services which  
29 in the judgment of the department should be made freely available  
30 in order to protect and promote the public health.

31  
32 Section 44-1-200. The Department of ~~Health and Environmental~~  
33 ~~Control~~ Behavioral and Public Health may provide home health  
34 services to those persons living in areas of the State in which  
35 adequate home health services are not available and may charge fees  
36 for such services. Home health services ~~shall~~ must include care of  
37 the ill and disabled rendered at home including, but not limited to,  
38 bedside care, treatment, and rehabilitation services. In order that it  
39 may provide such services, the department may employ the  
40 necessary personnel, including nurses, physical therapists, speech  
41 therapists, occupational therapists, medical social workers, home  
42 health aides, nutritionists, and supervisory personnel, and may  
43 purchase equipment and materials necessary to maintain an

1 effective program. The department shall, wherever possible, assist  
2 and advise nonprofit agencies or associations in the development of  
3 home health services programs and may enter into agreements with  
4 such agencies or associations specifying the type of assistance and  
5 advice it will provide.  
6

7 Section 44-1-210. All fees and charges collected pursuant to  
8 Sections 44-1-180 to 44-1-200, including vital statistics fees as now  
9 provided by law, ~~shall~~ must be deposited in the State Treasury and  
10 ~~shall~~ must be used in the operation of the public health program of  
11 the bureau, division, district health unit, or local county health  
12 department which performed the services for which the fees and  
13 charges were collected. An annual report ~~shall~~ must be made to the  
14 ~~State Budget and Control Board~~ Department of Administration  
15 of the receipts and expenditures made under the provisions of Sections  
16 44-1-180 to 44-1-200.  
17

18 Section 44-1-215. Notwithstanding Section 13-7-85, the  
19 Department of ~~Health and Environmental Control~~ Behavioral and  
20 Public Health may retain all funds generated in excess of those funds  
21 remitted to the general fund in ~~fiscal year~~ Fiscal Year 2000-2001  
22 from fees listed in Regulation R61-64 Title B.  
23

24 Section 44-1-220. All skilled and intermediate care nursing  
25 facilities licensed by the Department of ~~Health and Environmental~~  
26 ~~Control~~ Behavioral and Public Health ~~must~~ be required to  
27 furnish an item-by-item billing for all charges to the patient or the  
28 person paying ~~such~~ the bill, upon request by ~~such~~ the patient or  
29 person. Items which remain unpaid are not required to be itemized  
30 again. ~~Such requests~~ A request for itemized billing ~~shall remain~~  
31 remains in effect until further notification by the patient or person  
32 paying ~~such~~ the bill. Provided, that the provision herein ~~shall~~ does  
33 not apply to the contracted amount of a state or federal agency. Any  
34 amount above ~~such~~ a contract ~~shall~~ must be itemized as provided  
35 herein.  
36

37 Section 44-1-230. The Department of ~~Health and Environmental~~  
38 ~~Control~~ Behavioral and Public Health shall give consideration to  
39 any benefits available to an individual, including private, group, or  
40 other insurance benefits, to meet, in whole or in part, the cost of any  
41 medical or health services. ~~Such benefits shall~~ Benefits must be  
42 utilized insofar as possible; provided, however, the availability of  
43 ~~such~~ benefits ~~shall~~ must not be the sole basis for determining

1 eligibility for program services of the department. Insurance carriers  
2 ~~shall~~ must not deny payment of benefits otherwise available to the  
3 insured solely on the basis that an individual has applied for, or has  
4 been deemed eligible to receive, or has received, services, or on the  
5 basis that payments have been made for services by the department.  
6

7 Section 44-1-260. Upon conducting an early periodic screening,  
8 diagnosis, and treatment screening (EPSDT), or another physical  
9 examination of a child from which it is determined that the child  
10 may benefit from the use of assistive technology, the department or  
11 person conducting the screening or examination may refer the child  
12 to an appropriate agency for an assistive technology evaluation. For  
13 purposes of this section, 'assistive technology' means a device or  
14 service which is used to increase, maintain, or improve the  
15 functional capacities of an individual with a disability. An 'assistive  
16 technology device' ~~is~~ means an item, piece of equipment, or product  
17 system, whether acquired commercially, off the shelf, modified, or  
18 customized that is used to increase, maintain, or improve the  
19 functional capacities of an individual with a disability including, but  
20 not limited to, aids for daily living, augmentative communication  
21 devices, wheelchairs, and mobility aids, seating and positioning  
22 aids, computer aids, environmental controls, home and workplace  
23 modifications, prosthetics and orthotics, or aids for vision or hearing  
24 impairments. An 'assistive technology service' ~~is~~ means a service  
25 that directly assists an individual with a disability in the selection,  
26 acquisition, or use of an assistive technology device.  
27

28 Section 44-1-280. ~~The Board and Department of Health and~~  
29 ~~Environmental Control~~ Department of Behavioral and Public Health  
30 in establishing priorities and funding for programs and services  
31 which impact on children and families during the first years of a  
32 child's life, within the powers and duties granted to it, must support,  
33 as appropriate, the South Carolina First Steps to School Readiness  
34 initiative, as established in ~~Title 59, Chapter 152~~ Chapter 152, Title  
35 59, at the state and local levels.  
36

37 ~~Section 44-1-290. A corporation or person whose only purpose~~  
38 ~~is furnishing, supplying, marketing, or selling treated effluent for~~  
39 ~~irrigation purposes, shall not be considered a public utility for~~  
40 ~~purposes of Title 58 by virtue of the furnishing, supplying,~~  
41 ~~marketing, or selling of the treated effluent, provided that the~~  
42 ~~effluent has not been permitted for consumption by the department~~  
43 ~~or other regulatory agency.~~

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~~Section 44-1-300. The department shall not use any funds appropriated or authorized to the department to enforce Regulation 61-25 to the extent that its enforcement would prohibit a church or charitable organization from preparing and serving food to the public on their own premises at not more than one function a month or not more than twelve functions a year.”~~

SECTION 3. Chapter 9, Title 44 of the 1976 Code is amended to read:

“CHAPTER 9

State Department Division of Mental Health,  
Department of Behavioral and Public Health

Section 44-9-10. There is hereby created the State Department Division of Mental Health within the Department of Behavioral and Public Health which ~~shall have~~ has jurisdiction over all of the state’s mental hospitals, clinics and centers, joint state and community sponsored mental health clinics and centers, and facilities for the treatment and care of alcohol and drug addicts, including the authority to name each facility.

Section 44-9-20. All the powers and duties vested in the South Carolina Mental Health Commission immediately ~~prior to before~~ March 26, 1964, are hereby transferred to and vested in the Division of Mental Health, Department of Mental Health Behavioral and Public Health. All records, files, and other papers belonging to the South Carolina Mental Health Commission ~~shall~~ must be continued as part of the records and files of the Department Division of Mental Health, Department of Behavioral and Public Health.

~~Section 44-9-30. (A)(1) There is created the governing board for the State Department of Mental Health known as the South Carolina Mental Health Commission. The commission shall consist of seven members, one from each congressional district, appointed by the Governor, upon the advice and consent of the Senate.~~

~~(2) The Governor shall consider consumer and family representation when appointing members.~~

~~(B) The members serve for terms of five years and until their successors are appointed and qualify. The terms of no more than two members may expire in one year. The Governor may remove a~~

1 member pursuant to the provisions of Section 1-3-240. A vacancy  
2 must be filled by the Governor for the unexpired portion of the term.

3 (C) ~~The commission shall determine policies and promulgate~~  
4 ~~regulations governing the operation of the department and the~~  
5 ~~employment of professional and staff personnel.~~

6 (D) ~~The members shall receive the same subsistence, mileage,~~  
7 ~~and per diem provided by law for members of state boards,~~  
8 ~~committees, and commissions.~~

9  
10 Section 44-9-40. ~~The Mental Health Commission~~ Director of the  
11 Department of Behavioral and Public Health shall appoint and  
12 remove a state director of Mental Health, who is chief executive of  
13 ~~the State Department of Mental Health~~ the Director of the Division  
14 of Mental Health. ~~Subject to the supervision and control of the~~  
15 ~~Mental Health Commission,~~ The state division director shall  
16 administer the policies and regulations ~~established by the~~  
17 ~~commission of the department.~~ The division director must be a  
18 person of proven executive and administrative ability with  
19 appropriate education and substantial experience in the field of  
20 mental illness treatment. ~~The director must appoint and remove all~~  
21 ~~other officers and employees of the Department of Mental Health,~~  
22 ~~subject to the approval of the Mental Health Commission.~~

23  
24 Section 44-9-50. ~~The Department~~ Division of Mental Health may  
25 be divided into ~~such divisions~~ subdivisions as may be authorized by  
26 the Director of ~~Mental Health and approved by the commission~~ the  
27 Department of Behavioral and Public Health. ~~One of the divisions~~  
28 ~~must be a Division on Alcohol and Drug Addiction which shall have~~  
29 ~~primary responsibility in the State for treatment of alcohol and drug~~  
30 ~~addicts.~~ One of the divisions subdivisions must be a Division the  
31 Office for Long Term Care which ~~shall have~~ has primary  
32 responsibility for care and treatment of elderly persons with mental  
33 and physical disabilities to the extent that their needs are not met in  
34 other facilities either public or private.

35  
36 Section 44-9-60. ~~The director of the Department of Mental Health~~  
37 Director of the Department of Behavioral and Public Health may  
38 appoint a director of each hospital. Each director must be  
39 knowledgeable in the treatment of the mentally ill and in hospital  
40 administration. The director of each hospital under the jurisdiction  
41 of the Department of ~~Mental Health~~ Behavioral and Public Health  
42 is responsible for the employment of all personnel at the hospital,  
43 subject to the approval of the director of the department. The

1 director of the department may serve as director of one or more  
2 hospitals or other mental health facilities.

3  
4 Section 44-9-70. The ~~State department of Mental Health~~  
5 Department of Behavioral and Public Health is hereby designated as  
6 the state's mental health authority for purposes of administering  
7 federal funds allotted to South Carolina under the provisions of the  
8 National Mental Health Act, as amended. The ~~State department~~  
9 Division of Mental Health is ~~further~~ designated as the state ~~agency~~  
10 entity authorized to administer minimum standards and  
11 requirements for mental health clinics as conditions for participation  
12 in federal-state grants-in-aid under the provisions of the National  
13 Mental Health Act, as amended, and is authorized to promote and  
14 develop community mental health outpatient clinics. Provided, that  
15 nothing in this article ~~shall~~ may be construed to prohibit the  
16 operation of outpatient mental health clinics by the South Carolina  
17 Medical College Hospital in Charleston. ~~Provided, further, that~~  
18 ~~nothing herein shall be construed to include any of the functions or~~  
19 ~~responsibilities now granted the Department of Health and~~  
20 ~~Environmental Control, or the administration of the State Hospital~~  
21 ~~Construction Act (Hill Burton Act), as provided in the 1976 Code~~  
22 ~~of Laws and amendments thereto.~~

23  
24 Section 44-9-80. Payments made to a mental health facility which  
25 are derived in whole or in part from federal funds which become  
26 available after June 30, 1967, and which are provided with the  
27 stipulation that they be used to improve services to patients ~~shall~~ are  
28 ~~be~~ considered fees from paying patients under the terms of Act  
29 No. 1100 of 1964 but may be utilized by the ~~State department~~  
30 Division of Mental Health to improve South Carolina's  
31 comprehensive mental health program.

32  
33 Section 44-9-90. The ~~commission~~ Division of Mental Health  
34 shall:

35 ~~(1) form a body corporate in deed and in law with all the powers~~  
36 ~~incident to corporations;~~

37 ~~(2)~~(1) cooperate with persons in charge of penal correctional  
38 institutions in this State for the purpose of providing proper care and  
39 treatment for mental patients confined in ~~penal~~ these institutions  
40 because of emergency;

41 ~~(3)~~(2) inaugurate and maintain an appropriate mental health  
42 education and public relations program;

- 1       ~~(4)~~(3) collect statistics bearing on mental illness, drug addiction,  
2 and alcoholism;
- 3       ~~(5)~~(4) provide vocational training and medical treatment which  
4 must tend to the mental and physical betterment of patients and  
5 which is designed to lessen the increase of mental illness, drug  
6 addiction, and alcoholism;
- 7       ~~(6)~~(5) encourage the directors of hospitals and their medical  
8 staffs in the investigation and study of these subjects and of mental  
9 health treatment in general; and
- 10       ~~(7)~~(6) provide a statewide system for the delivery of mental  
11 health services to treat, care for, reduce, and prevent mental illness  
12 and provide mental health services for citizens of this State, whether  
13 or not in a hospital. The system must include services to prevent or  
14 postpone the commitment or recommitment of citizens to hospitals.

15  
16       Section 44-9-100. The ~~commission~~ Department of Behavioral  
17 and Public Health may:

- 18       (1) prescribe the form of and information to be contained in  
19 applications, records, reports, and medical certificates provided for  
20 under this chapter, Chapter 11, Chapter 13, Article 1-~~of~~, Chapter 15,  
21 Chapter 17, Chapter 22, Chapter 23, Chapter 24, Chapter 27,  
22 Chapter 48, and Chapter 52;
- 23       (2) require reports from the director of a state hospital relating  
24 to the admission, examination, diagnosis, discharge, or conditional  
25 discharge of a patient;
- 26       (3) investigate complaints made by a patient or by a person on  
27 behalf of a patient;
- 28       (4) adopt regulations not inconsistent with this chapter, Chapter  
29 11, Chapter 13, Article 1-~~of~~, Chapter 15, Chapter 17, Chapter 22,  
30 Chapter 23, Chapter 24, Chapter 27, Chapter 48, and Chapter 52 as  
31 it may find to be reasonably necessary for the government of all  
32 institutions over which it has authority and of state mental health  
33 facilities and the proper and efficient treatment of persons with a  
34 mental illness or substance abuse disorder;
- 35       (5) take appropriate action to initiate and develop relationships  
36 and agreements with state, local, federal, and private agencies,  
37 hospitals, and clinics as the commission considers necessary to  
38 increase and enhance the accessibility and delivery of emergency  
39 and all other types of mental health services.

40  
41       Section 44-9-110. The ~~Mental Health Commission~~ director may  
42 accept on behalf of the ~~Department of Mental Health~~ Behavioral and  
43 Public Health or any of its facilities or services, gifts, bequests,

1 devises, grants, donations of money or real and personal property of  
2 whatever kind, but ~~no such a gift or grant shall~~ may not be accepted  
3 upon the condition that it ~~shall~~ diminish an obligation due the  
4 department. The ~~Commission~~ director may refuse to accept ~~any~~  
5 ~~such~~ this gift or grant and the acceptance of ~~any such~~ this gift or  
6 grant ~~shall~~ may not incur ~~any an~~ obligation on the part of the State.  
7 ~~Any~~ A gift or grant given to a specific facility or service ~~shall~~ must  
8 be used for that facility or service only, or to its successor. The  
9 ~~Commission~~ director may ~~promulgate~~ make rules and ~~promulgate~~  
10 regulations governing the disposition of ~~such~~ these gifts and grants.

11  
12 Section 44-9-120. The ~~Commission~~ director shall submit an  
13 annual report to the Governor ~~before the eleventh day of~~ by January  
14 eleventh of each year setting forth its activities, the financial affairs,  
15 and the state and condition of the state mental health facilities and  
16 ~~any~~ other statistical information which is usually required of  
17 facilities of the type over which it has charge. The report shall  
18 include ~~any~~ recommendations ~~which~~ that in the opinion of the  
19 ~~Commission~~ director will improve the mental health program of the  
20 State. A copy of the report ~~shall also~~ must be submitted to the  
21 General Assembly.

22  
23 Section 44-9-160. ~~Wherever in~~ In the 1976 Code ~~when~~ reference  
24 is made to the State Hospital, it ~~shall mean~~ means a state hospital;  
25 wherever reference is made requiring the signature of the  
26 superintendent of any mental health facility, it ~~shall mean~~ means  
27 the director or superintendent or his designee; and wherever reference  
28 is made to the State Commissioner of Mental Health, it ~~shall mean~~  
29 means the State Director of the Department of Mental Health  
30 Behavioral and Public Health.”

31  
32 SECTION 4. Chapter 49, Title 44 of the 1976 Code is amended to  
33 read:

34  
35 “CHAPTER 49  
36  
37 Department Division of Alcohol and Other Drug Abuse Services,  
38 Department of Behavioral and Public Health  
39

40 Section 44-49-10. (A) There is established the ~~Department~~  
41 Division of Alcohol and Other Drug Abuse Services within the  
42 Department of Behavioral and Public Health. The ~~department shall~~  
43 be Division of Alcohol and Other Drug Abuse Services is vested

1 with all the functions, powers, and duties, of the ~~South Carolina~~  
2 ~~Commission on Alcoholism and the South Carolina Commission on~~  
3 ~~Alcohol and Drug Abuse~~ Department of Alcohol and Other Drug  
4 Abuse Services related to the delivery of services and shall have full  
5 authority for formulating, coordinating, and administering the state  
6 plans for controlling narcotics and controlled substances and alcohol  
7 abuse and for providing treatment to people with alcohol and drug  
8 addictions.

9 (B) All functions, powers, and duties of the former  
10 commissioner of the narcotics and controlled substances section of  
11 the former State Planning and Grants Division (Division of  
12 Administration in the Office of the Governor) are hereby transferred  
13 to the ~~department~~ division, except those powers and duties related  
14 to the traffic of narcotics and controlled substances as defined in  
15 Section 44-53-130 which ~~shall be~~ are vested in the State Law  
16 Enforcement Division.

17 (C) All ~~rules and~~ regulations promulgated by the ~~commissioner~~  
18 ~~of narcotics and controlled substances~~ Department of Alcohol and  
19 Other Drug Abuse Services shall remain in effect until changed by  
20 the ~~department~~ Department of Behavioral and Public Health.

21 (D) The ~~department~~ Department of Behavioral and Public Health  
22 is authorized to establish a block grant mechanism to provide such  
23 monies as may be ~~appropriated by the Legislature~~ disbursed to the  
24 department for this purpose to each of the agencies designated under  
25 Section 61-12-20(a). The distribution of these monies must be on a  
26 per capita basis according to the most recent United States Census.  
27 The agencies designated under Section 61-12-20(a) must expend  
28 any funds received through this mechanism in accordance with the  
29 county plans required under Section 61-12-20(b).

30 (E) The department is authorized to develop ~~such~~ rules and  
31 regulations not inconsistent with the provisions of this chapter as it  
32 may find to be reasonably appropriate for the government of the  
33 county plans called for in Section 61-12-20(b), and the financial and  
34 programmatic accountability of funds provided under this section  
35 and all other funds provided by the department to agencies  
36 designated under Section 61-12-20(a).

37  
38 Section 44-49-20. The ~~Department~~ Division of Alcohol and  
39 Other Drug Abuse Services ~~shall~~ must be headed by a director  
40 appointed by the ~~Governor, upon the advice and consent of the~~  
41 ~~Senate. The director is subject to removal by the Governor pursuant~~  
42 ~~to the provisions of Section 1-3-240~~ Director of the Department of  
43 Behavioral and Public Health.

1  
2 Section 44-49-40. (A) The ~~department~~ division shall arrange  
3 for the exchange of information between governmental officials  
4 concerning the use and abuse of controlled substances.

5 ~~(B) Results, information, and evidence received from the~~  
6 ~~Department of Health and Environmental Control relating to the~~  
7 ~~regulatory functions of this chapter and Article 3 of Chapter 53,~~  
8 ~~including results of inspections conducted by such department, may~~  
9 ~~be relied upon and acted upon by the department in conformance~~  
10 ~~with its administration and coordinating duties under this Chapter~~  
11 ~~and Article 3 of Chapter 53.~~

12 ~~(C)~~~~(1)~~~~(B)~~ The department division shall:

13 (1) plan, coordinate and cooperate in educational programs  
14 for schools, communities, and general public designed to prevent  
15 and deter misuse and abuse of controlled substances;

16 (2) promote better recognition of the problems of misuse and  
17 abuse of controlled substances within the regulated industry and  
18 among interested groups and organizations;

19 (3) assist the regulated industry, interested groups and  
20 organizations in contributing to the reduction of misuse and abuse  
21 of controlled substances;

22 (4) consult with interested groups and organizations to aid  
23 them in solving administrative and organizational problems;

24 (5) evaluate procedures, projects, techniques, and controls  
25 conducted or proposed as part of educational programs on misuse  
26 and abuse of controlled substances;

27 (6) disseminate the results of research on misuse and abuse of  
28 controlled substances to promote a better public understanding of  
29 what problems exist and what can be done to combat them;

30 (7) assist in the education and training of state and local law  
31 enforcement officials in their efforts to control misuse and abuse of  
32 controlled substances;

33 (8) encourage research on misuse and abuse of controlled  
34 substances;

35 (9) cooperate in establishing methods to assess accurately the  
36 effects of controlled substances and to identify and characterize  
37 controlled substances with potential for abuse;

38 (10) cooperate in making studies and in undertaking programs  
39 of research to;

40 (a) develop new or improved approaches, techniques,  
41 systems, equipment, and devices to strengthen the enforcement of  
42 this section, Sections 44-49-10, ~~44-49-40~~ and 44-49-50, and Article  
43 ~~3 of~~ Chapter 53;

1 (b) determine patterns of misuse and abuse of controlled  
2 substances and the social effects thereof; and

3 (c) improve methods for preventing, predicting,  
4 understanding, and dealing with the misuse and abuse of controlled  
5 substances.

6 ~~(D)~~(C) The department may enter into contracts with public  
7 agencies, institutions of higher education, and private organizations  
8 or individuals for the purpose of conducting research,  
9 demonstrations, or special projects which bear directly on misuse  
10 and abuse of controlled substances.

11 ~~(E)~~(D) The department may enter into contracts for educational  
12 and research activities without performance bonds.

13 ~~(F)~~(E) The department is authorized to accept gifts, bequests,  
14 devises, contributions, and grants, public or private, including  
15 federal funds, or funds from any other source for use in furthering  
16 the purpose of the department. The department is authorized to  
17 administer the grants and contracts arising from the federal program  
18 entitled the Drug-Free Schools and Communities Act of 1986, P.L.  
19 99-570.

20  
21 Section 44-49-50. It ~~shall be~~ is the duty of all departments,  
22 officers, agencies, and employees of the State to cooperate with the  
23 ~~Department~~ Division of Alcohol and Other Drug Abuse Services in  
24 carrying out its functions. The Attorney General shall furnish ~~such~~  
25 legal services as are necessary to the department.

26  
27 Section 44-49-60. The ~~department~~ division shall appoint a  
28 supervisor of adult education for the prevention of alcoholism, who  
29 ~~shall be~~ is responsible for activating and implementing an adequate  
30 alcoholic education program for the citizens of this State above high  
31 school age. The program ~~shall~~ must be designed to prevent or  
32 reduce alcoholism in this State and to create a recognition and  
33 understanding of the problem.

34 ~~In carrying out the provisions of this section the department and~~  
35 ~~the supervisor of adult education for the prevention of alcoholism~~  
36 ~~may consult and work in conjunction with groups such as~~  
37 ~~Alcoholics Anonymous, the Yale Center of Alcohol Studies of Yale~~  
38 ~~University, the Research Council on Problems of Alcohol of the~~  
39 ~~American Association for the Advancement of Science, the South~~  
40 ~~Carolina Medical Association, the department of Mental Health, the~~  
41 ~~Christian Action Council, the Committee on Alcoholism of the~~  
42 ~~South Carolina Conference of Social Work and other groups or~~  
43 ~~agencies that are able to assist in the study, prevention, treatment~~

1 ~~and rehabilitation of alcoholics and in a scientific educational~~  
2 ~~program on the problems of alcohol.~~

3  
4 Section 44-49-70. The ~~department~~ division shall furnish the  
5 supervisor of adult education for the prevention of alcoholism  
6 adequate ways and means to accomplish an effective educational  
7 program for the prevention of alcoholism in this State.

8  
9 Section 44-49-80. The ~~department~~ division shall establish a  
10 program to provide alcohol and drug abuse intervention, prevention,  
11 and treatment services for the public schools of the State. The  
12 ~~department~~ division shall provide staff and support necessary to  
13 administer the program. Funds for this program must be annually  
14 appropriated by the General Assembly from the Education  
15 Improvement Act of 1984 Fund as it determines appropriate. The  
16 appropriated funds must be forwarded to the ~~South Carolina~~  
17 Department of Health and Human Services for disbursal to the  
18 Division of Alcohol and Other Drug Abuse Services from the  
19 Education Improvement Act of 1984 Fund in the manner the State  
20 Treasurer shall direct.”

21  
22 SECTION 5. Title 46 of the 1976 Code is amended by adding:

23  
24 “CHAPTER 57

25  
26 Division of Environmental Control

27  
28 Article 1

29  
30 General Provisions

31  
32 Section 46-57-10. There is created the Division of  
33 Environmental Control within the Department of Agriculture. The  
34 division is vested with all the functions, powers, and duties of the  
35 environmental divisions, offices, and programs of the Department  
36 of Health and Environmental Control on June 30, 2015, including,  
37 but not limited to, functions, powers, and duties provided for in this  
38 chapter and Chapters 2, 56, 93, 95, and 96 of Title 44, Title 48, and  
39 Title 49.

40  
41 Section 46-57-20. (A) The Department of Agriculture may  
42 make, adopt, promulgate, and enforce reasonable rules and  
43 regulations from time to time requiring and providing for:

[ ]

1 (1) the thorough sanitation and disinfection of all passenger  
2 cars, sleeping cars, steamboats, and other vehicles of transportation  
3 in this State and all correctional facilities, jails, hotels, schools, and  
4 other places used by or open to the public;

5 (2) the sanitation of hotels, restaurants, cafes, drugstores, hot  
6 dog and hamburger stands, and all other places or establishments  
7 providing eating or drinking facilities and all other places known as  
8 private nursing homes or places of similar nature, operated for gain  
9 or profit;

10 (3) the production, storing, labeling, transportation, and  
11 selling of milk and milk products, filled milk and filled milk  
12 products, imitation milk and imitation milk products, synthetic milk  
13 and synthetic milk products, milk derivatives, and any other  
14 products made in semblance of milk or milk products;

15 (4) the sanitation and control of abattoirs, meat markets,  
16 whether the same be definitely provided for that purpose or used in  
17 connection with other business, and bottling plants;

18 (5) the classification of waters and for the safety and  
19 sanitation in the harvesting, storing, processing, handling, and  
20 transportation of mollusks, fin fish, and crustaceans;

21 (6) the control of disease-bearing insects, including the  
22 impounding of waters;

23 (7) the control of industrial plants, including the protection of  
24 workers from fumes, gases, and dust, whether obnoxious or toxic;

25 (8) the use of water in air humidifiers;

26 (9) the regulation of the methods of disposition of garbage or  
27 sewage and any like refuse matter in or near any village, town, or  
28 city of the State, incorporated or unincorporated, and to abate  
29 obnoxious and offensive odors caused or produced by septic tank  
30 toilets by prosecution, injunction or otherwise; and

31 (10) the alteration of safety glazing material standards and the  
32 defining of additional structural locations as hazardous areas, and  
33 for notice and hearing procedures by which to effect these changes.

34 (B) The department may make separate orders and rules to meet  
35 any emergency not provided for by general rules and regulations,  
36 for the purpose of suppressing nuisances dangerous to the  
37 environment and public life and health.

38  
39 Section 46-57-30. (A) All decisions of the Department of  
40 Agriculture involving the issuance, denial, renewal, suspension, or  
41 revocation of permits, licenses, or other actions of the department,  
42 which may give rise to a contested case must be made using the  
43 procedures set forth in this section.

1 (B) The department shall comply with all requirements for  
2 public notice, receipt of public comments, and public hearings  
3 before making a decision provided for in subsection (A). To the  
4 maximum extent possible, the department shall use a uniform  
5 system of public notice of permit applications, opportunity for  
6 public comment, and public hearings.

7 (C) In making a decision about a permit, license, certification, or  
8 other approval, the department shall take into consideration all  
9 material comments received in response to the public notice in  
10 determining whether to issue, deny, or condition a permit, license,  
11 certification, or other approval. At the time that a decision is made,  
12 the department shall issue a written decision and shall base its  
13 decision on the administrative record, which must consist of the  
14 application and supporting exhibits, all public comments and  
15 submissions, and other documents contained in the supporting file  
16 for the permit, license, certification, or other approval. The  
17 administrative record also may include material readily available at  
18 the department, or published materials which are generally available  
19 and need not be physically included in the same file as the rest of  
20 the record as long as those materials are referred to specifically in  
21 the department decision. The department is not required to issue a  
22 written decision for issuance of routine permits for which the  
23 department has not received adverse public comments.

24 (D)(1) The department shall send notice of a decision by certified  
25 mail, return receipt requested to the applicant, permittee, licensee,  
26 and affected persons who have requested in writing to be notified.  
27 Affected persons may request in writing to be notified by regular  
28 mail or electronic mail in lieu of certified mail. The department shall  
29 send notice of a decision which the department is not required to  
30 provide in writing pursuant to subsection (C) by mail, delivery, or  
31 other appropriate means to the applicant, permittee, licensee, and  
32 affected persons who have requested in writing to be notified.

33 (2) Within thirty calendar days after the receipt of a decision  
34 pursuant to item (1), an applicant, permittee, licensee, or affected  
35 person desiring to contest the agency decision may request a  
36 contested case hearing before the Administrative Law Court, in  
37 accordance with the Administrative Procedures Act. The court shall  
38 give consideration to the provisions of Section 1-23-330 regarding  
39 the department's specialized knowledge.

40 (E) If a deadline provided for in this section falls on a Saturday,  
41 Sunday, or state holiday, the deadline must be extended until the  
42 next calendar day that is not a Saturday, Sunday, or state holiday.  
43

1 Section 46-57-40. (A) There is established within the Division  
2 of Environmental Control an Expedited Review Program to provide  
3 an expedited process for permit application review. Participation in  
4 this program is voluntary, and the program must be supported by  
5 expedited review fees promulgated in regulation pursuant to  
6 subsection (B)(1). The division shall determine the project  
7 applications to review, and the process may be applied to any one  
8 or all of the permit programs administered by the division.

9 (B)(1) Before January 1, 2009, the Department of Health and  
10 Environmental Control shall promulgate regulations necessary to  
11 carry out the provisions of this section. The regulations must  
12 include, but are not limited to, definitions of ‘completeness’ for  
13 applications submitted, consideration of joint federal-state  
14 permitting activities, standards for applications submitted that  
15 advance environmental protection, and expedited process  
16 application review fees. Beginning July 1, 2015, the Department of  
17 Agriculture shall promulgate regulations it determines necessary to  
18 carry out the purposes of this section.

19 (2) Regulations promulgated pursuant to this section must not  
20 alter public notice requirements for permits, certifications, or  
21 licenses issued by the Department of Agriculture.

22 (C) Until the Department of Health and Environmental Control  
23 promulgates regulations pursuant to subsection (B)(1), it shall  
24 conduct a pilot expedited review program to determine the most  
25 environmentally sound, cost efficient, and economically beneficial  
26 process for implementation of a statewide expedited review  
27 program and shall determine which permit programs, or  
28 subcomponents of a program, to include in the pilot program and  
29 also may establish pilot program expedited process application fees.

30 (D) There is created the Expedited Review Fund that is separate  
31 and distinct from the general fund of the State and all other funds.  
32 Fees established in regulation pursuant to subsection (B) and  
33 assessed pursuant to subsection (C) must be credited to the fund and  
34 used for the costs of implementing the expedited review program.  
35 Interest accruing to the fund must be retained by the fund and used  
36 for the same purposes. Revenue in the fund not expended during a  
37 fiscal year, including fees generated pursuant to subsection (C),  
38 must be carried forward to the succeeding fiscal year and must be  
39 used for the same purposes.

40  
41 Section 46-57-50. A corporation or person whose only purpose  
42 is furnishing, supplying, marketing, or selling treated effluent for  
43 irrigation purposes, is not a public utility for purposes of Title 58 by

1 virtue of the furnishing, supplying, marketing, or selling of the  
2 treated effluent, provided that the effluent has not been permitted for  
3 consumption by the Department of Agriculture or other regulatory  
4 agency.

5  
6 Section 46-57-60. (A) Except as provided in Section  
7 44-57-510, a person who after notice violates, disobeys, or refuses,  
8 omits, or neglects to comply with a regulation of the Department of  
9 Agriculture, made by the department pursuant to Section 44-57-20,  
10 is guilty of a misdemeanor and, upon conviction, must be fined not  
11 more than two hundred dollars or imprisoned for thirty days.

12 (B) A person who after notice violates a rule, regulation, permit,  
13 permit condition, final determination, or order of the department  
14 issued pursuant to Section 44-57-20 is subject to a civil penalty not  
15 to exceed one thousand dollars a day for each violation.

16 (C) Fines collected pursuant to subsection (B) must be remitted  
17 by the department to the State Treasurer for deposit in the state  
18 general fund.

19 (D) The term ‘notice’ as used in this section means either actual  
20 notice or constructive notice.

21 (E) This section does not apply to fines levied pursuant to  
22 Section 44-57-20(7) or any other areas regulated by the South  
23 Carolina Occupational Health and Safety Act, Section 41-12-10, et  
24 seq.

25  
26 Section 46-57-70. Nothing contained in Section 44-57-20 in any  
27 way abridges or limits the right of a person to maintain or prosecute  
28 a civil or criminal proceeding against a person maintaining a  
29 nuisance.

### 30 31 Article 3

#### 32 33 Home-Based Food Production

34  
35 Section 46-57-310. (A) For the purposes of this section:

36 (1) ‘Home-based food production operation’ means an  
37 individual, operating out of the individual’s dwelling, who prepares,  
38 processes, packages, stores, and distributes nonpotentially  
39 hazardous foods for sale directly to a person.

40 (2) ‘Nonpotentially hazardous foods’ means candy and baked  
41 goods that are not potentially hazardous foods.

42 (3) ‘Person’ means an individual consumer.

43 (4) ‘Potentially hazardous foods’ means:

1 (a) an animal food that is raw or heat-treated, a plant food  
2 that is heat-treated or consists of raw seed sprouts, cut melons, cut  
3 leafy greens, cut tomatoes or mixtures of cut tomatoes not modified  
4 to prevent microorganism growth or toxin formation, or garlic-in-oil  
5 mixtures not modified to prevent microorganism growth or toxin  
6 formation;

7 (b) certain foods that are designated as Product Assessment  
8 Required (PA) because of the interaction of the pH and Aw values  
9 in these foods. Below is a table indicating the interaction of pH and  
10 Aw for control of spores in food heat-treated to destroy vegetative  
11 cells and subsequently packaged:

12

	Aw values	pH values		
		4.6 or less	>4.6--5.6	>5.6
15	(1) <0.92	non-PHF	non-PHF	non-PHF
16	(2) >0.92--0.95	non-PHF	non-PHF	PHF
17	(3) >0.95	non-PHF	PHF	PHF

18

19 Foods in item (2) with a pH value greater than 5.6 and foods in item  
20 (3) with a pH value greater than 4.6 are considered potentially  
21 hazardous unless a product assessment is conducted pursuant to the  
22 2009 Federal Drug Administration Food Code.

23 (B) The operator of the home-based food production operation  
24 must take all reasonable steps to protect food items intended for sale  
25 from contamination while preparing, processing, packaging,  
26 storing, and distributing the items including, but not limited to:

27 (1) maintaining direct supervision of any person, other than  
28 the operator, engaged in the processing, preparing, packaging, or  
29 handling of food intended for sale;

30 (2) prohibiting all animals, including pets, from entering the  
31 area in the dwelling in which the home-based food production  
32 operation is located while food items are being prepared, processed,  
33 or packaged and prohibiting these animals from having access to or  
34 coming in contact with stored food items and food items being  
35 assembled for distribution;

36 (3) prohibiting all domestic activities in the kitchen while the  
37 home-based food production operation is processing, preparing,  
38 packaging, or handling food intended for sale;

39 (4) prohibiting any person who is infected with a  
40 communicable disease that can be transmitted by food, who is a  
41 carrier of organisms that can cause a communicable disease that can  
42 be transmitted by food, who has an infected wound, or who has an  
43 acute respiratory infection from processing, preparing, packaging,

1 or handling food intended for sale by the home-based food  
2 production operation; and

3 (5) ensuring that all people engaged in processing, preparing,  
4 packaging, or handling food intended for sale by the home-based  
5 food production operation are knowledgeable of and follow safe  
6 food handling practices.

7 (C) Each home-based food production operation shall maintain  
8 a clean and sanitary facility to produce nonpotentially hazardous  
9 foods including, but not limited to:

10 (1) department-approved water supply;

11 (2) a separate storage place for ingredients used in foods  
12 intended for sale;

13 (3) a properly functioning refrigeration unit;

14 (4) adequate facilities, including a sink with an adequate hot  
15 water supply to meet the demand for the cleaning and sanitization  
16 of all utensils and equipment;

17 (5) adequate facilities for the storage of utensils and  
18 equipment;

19 (6) adequate hand washing facilities separate from the utensil  
20 and equipment cleaning facilities;

21 (7) a properly functioning toilet facility;

22 (8) no evidence of insect or rodent activity; and

23 (9) department-approved sewage disposal, either on-site  
24 treatment or publicly provided.

25 (D) All food items packaged at the operation for sale must be  
26 properly labeled. The label must comply with federal laws and  
27 regulations and must include:

28 (1) the name and address of the home-based food production  
29 operation;

30 (2) the name of the product being sold;

31 (3) the ingredients used to make the product in descending  
32 order of predominance by weight; and

33 (4) a conspicuous statement printed in all capital letters and in  
34 a color that provides a clear contrast to the background that reads:  
35 **‘NOT FOR RESALE - PROCESSED AND PREPARED BY A**  
36 **HOME-BASED FOOD PRODUCTION OPERATION THAT IS**  
37 **NOT SUBJECT TO SOUTH CAROLINA’S FOOD SAFETY**  
38 **REGULATIONS.’**

39 (E) Home-based food operations only may sell, or offer to sell,  
40 food items directly to a person for his own use and not for resale. A  
41 home-based food operation may not sell, or offer to sell, food items  
42 at wholesale. Food produced from a home-based food production

1 operation must not be considered to be from an approved source, as  
2 required of a retail food establishment pursuant to Regulation 61.25.

3 (F) A home-based food production operation is not a retail food  
4 establishment and is not subject to regulation by the department  
5 pursuant to Regulation 61.25.

6 (G) The provisions of this section do not apply to an operation  
7 with net earnings of less than five hundred dollars annually but that  
8 would otherwise meet the definition of a home-based food operation  
9 provided in subsection (A)(1).

10 (H) A home-based food production operation may apply for an  
11 exemption from inspection and label review by the Department of  
12 Agriculture pursuant to Section 39-25-10, et seq., if its annual sales  
13 are less than fifteen thousand dollars. Exemption forms must be  
14 provided by the department.

15  
16 Section 46-57-320. (A) Notwithstanding any other provision of  
17 law, ground beef or any food containing ground beef prepared by a  
18 food service provider for public consumption must be cooked to  
19 heat all parts of the food to at least one hundred fifty-five degrees  
20 Fahrenheit, or sixty-eight degrees Celsius, unless otherwise ordered  
21 by the immediate consumer.

22 (B) The food service provider, its business or its employees or  
23 agents, are not liable for any adverse effects to the purchaser or  
24 anyone else for providing a ground beef product cooked at an  
25 internal temperature less than one hundred fifty-five degrees  
26 Fahrenheit, or sixty-eight degrees Celsius, if providing the product  
27 is at the request of the purchaser and if the food service provider has  
28 notified the purchaser in advance that a possible health risk may  
29 exist by eating the product. The notice must state that a possible  
30 health risk may exist in eating undercooked ground beef at an  
31 internal temperature less than one hundred fifty-five degrees  
32 Fahrenheit, or sixty-eight degrees Celsius, and be given to the  
33 purchaser:

- 34 (1) in writing;
- 35 (2) as stated on the menu; or
- 36 (3) by visible sign warning.

37  
38 Section 46-57-330. Fresh meat or fresh meat products sold to a  
39 consumer may not be offered to the public for resale for human  
40 consumption if the fresh meat or fresh meat products have been  
41 returned by the consumer.

42  
43

Article 5

1  
2 Shellfish  
3

4 Section 46-57-510. (A) Notwithstanding any other provision of  
5 law, shellfish that is the subject of a violation of law, including  
6 regulations, may be confiscated and disposed of at the discretion of  
7 the arresting officer.

8 (B) A person convicted of a second offense of harvesting  
9 shellfish in a polluted area, upon conviction, must be fined not less  
10 than two hundred dollars and not more than five hundred dollars or  
11 imprisoned for not less than thirty days and not more than sixty days.

12 (C) A person convicted of a third or subsequent offense of  
13 harvesting shellfish in a polluted area, upon conviction, must be  
14 fined not less than five hundred dollars and not more than one  
15 thousand or imprisoned for not less than sixty days and not more  
16 than ninety days.

17 (D) All equipment including, but not limited to, vehicles, boats,  
18 motors, trailers, harvesting equipment, weapons, spotlights, bags,  
19 boxes, or tools, used or in any other manner involved in a first  
20 offense of harvesting shellfish in any polluted area, may be  
21 impounded at the discretion of the arresting officer. The equipment  
22 impounded must be delivered to the sheriff of the county in which  
23 the arrest was made and must be retained by the sheriff. The  
24 equipment may not be returned to the owner until the case has been  
25 finally disposed of. All equipment including, but not limited to,  
26 vehicles, boats, motors, trailers, harvesting equipment, weapons,  
27 spotlights, bags, boxes, or tools, used or in any other manner  
28 involved in a second, third, or subsequent offense of harvesting  
29 shellfish in a polluted area, must be confiscated. All confiscated  
30 equipment must be sold at auction by the sheriff of the county in  
31 which the second, third, or subsequent offense took place and by a  
32 representative of the Department of Agriculture, except for  
33 weapons, which, following confiscation, must be disposed of in the  
34 manner set forth in Sections 16-23-50, 16-23-460, and 16-23-500.  
35

36 Section 46-57-520. Notwithstanding any other provision of law,  
37 all revenue from a fine or a forfeiture of bond for a violation of a  
38 shellfish law or regulation provided by this title must be deposited  
39 monthly with the treasurer of the county in which the arrest for the  
40 violation was made. One-third of the revenue must be retained by  
41 the county treasurer to be used for the general operating needs of the  
42 county pursuant to the direction of the governing body of the county.  
43 Two-thirds of the revenue must be remitted quarterly to the

1 Department of Agriculture of which one-half is to be used in  
2 enforcing shellfish laws and regulations and one-half is to be  
3 remitted quarterly to the state's general fund. All monies derived  
4 from auction sales of confiscated equipment pursuant to Section  
5 46-57-510 must be deposited, retained, remitted, and used in the  
6 same manner as provided in this section for all revenue derived from  
7 a fine or a violation of a shellfish law or regulation. A report of fines  
8 for forfeitures of bonds regarding shellfish violations must be sent  
9 to the department monthly by each magistrate and clerk of court in  
10 this State. A report of monies derived from auction of sales of  
11 confiscated equipment must be sent to the department monthly by  
12 each sheriff.

13

14 Section 46-57-530. When a person is apprehended by a shellfish  
15 patrolman upon a charge of violating the health and sanitary aspects  
16 of shellfish, crab, and shrimp laws or regulations, the person upon  
17 being served with a summons by the patrolman in lieu of being  
18 immediately brought before the proper judicial officer may enter  
19 into a formal recognizance or deposit a proper sum of money in lieu  
20 of a recognizance or incarceration with the patrolman as bail which  
21 must not be less than the minimum or more than the maximum fine,  
22 but in no case exceed one hundred dollars. The bail must be turned  
23 over to the proper judicial officer. A receipt for the sum deposited  
24 must be given to the person by the patrolman. The summons duly  
25 served must give the judicial officer jurisdiction to dispose of the  
26 matter. Upon receipt of bail the patrolman shall release the person  
27 so charged, and the person may appear in court at the time stated in  
28 and required by the summons.”

29

30 SECTION 6. Section 46-3-10 of the 1976 Code is amended to read:

31

32 “Section 46-3-10. The Department of Agriculture shall:  
33 (1) execute the laws of this State pertaining to agriculture except  
34 ~~such laws as are~~ specifically designated for execution by others; and  
35 (2) administer the Division of Environmental Control.”

36

37 SECTION 7. Section 1-30-10(A) of the 1976 Code, as last  
38 amended by Act 121 of 2014, is further amended to read:

39

40 “(A) There are hereby created, within the executive branch of the  
41 state government, the following departments:

- 42 1. Department of Administration
- 43 2. Department of Agriculture

- 1           3. Department of ~~Alcohol and Other Drug Abuse Services~~  
2 Behavioral and Public Health  
3           4. Department of Commerce  
4           5. Department of Corrections  
5           6. Department of Disabilities and Special Needs  
6           7. Department of Education  
7           ~~8. Department of Health and Environmental Control~~  
8           9. Department of Health and Human Services  
9           ~~10. Department of Insurance~~  
10          ~~11. Department of Juvenile Justice~~  
11          ~~12. Department of Labor, Licensing and Regulation~~  
12          ~~13. Department of Mental Health~~  
13          ~~14. Department of Motor Vehicles~~  
14          ~~15. Department of Natural Resources~~  
15          ~~16. Department of Parks, Recreation and Tourism~~  
16          ~~17. Department of Probation, Parole and Pardon Services~~  
17          ~~18. Department of Public Safety~~  
18          ~~19. Department of Revenue~~  
19          ~~20. Department of Social Services~~  
20          ~~21. Department of Transportation~~  
21          ~~22. Department of Employment and Workforce.~~”  
22

23 SECTION 8. Section 1-30-20 of the 1976 Code is amended to read:

24  
25           “Section 1-30-20. (A) Effective on July 1, ~~1993~~ 2015, the  
26 following agencies, boards, and commissions, including all of the  
27 allied, advisory, affiliated, or related entities as well as the  
28 employees, funds, property and all contractual rights and obligations  
29 associated with any such agency, except for those subdivisions  
30 specifically included under another department, are hereby  
31 transferred to and incorporated in and shall be administered as part  
32 of the Department of ~~Alcohol and Other Drug Abuse Services~~  
33 Behavioral and Public Health:

34           ~~(A) South Carolina Commission on Alcohol and Drug Abuse,~~  
35 ~~formerly provided for at Section 44-49-10, et seq.;~~

36           ~~(B) Drug-free Schools and Communities Program in the~~  
37 ~~Governor’s Office, provided for under grant programs~~

38           (1) the health-related divisions, offices, and programs of the  
39 Department of Health and Environmental Control;

40           (2) the Department of Alcohol and Other Drug Abuse  
41 Services, formerly provided for in Chapter 49, Title 44;

42           (3) the Department of Mental Health, formerly provided for  
43 in Chapter 9, Title 44.

1       (B) Effective on July 1, 2015, the divisions, offices, and  
2 programs of the Department of Health and Environmental Control  
3 performing functions related to regulation and protection of the  
4 environment, including all of the allied, advisory, affiliated, or  
5 related entities as well as the employees, funds, property and all  
6 contractual rights and obligations associated with these divisions,  
7 offices, programs, and other related entities, except for those  
8 subdivisions specifically included under another department, are  
9 hereby transferred to and incorporated in and shall be administered  
10 as part of the Department of Agriculture.”

11  
12 SECTION 9. Sections 1-30-45 and 1-30-70 of the 1976 Code are  
13 repealed.

14  
15 SECTION 10. (A) When the provisions of this act transfer  
16 particular state agencies, departments, boards, commissions,  
17 committees or entities, or sections, divisions or portions thereof  
18 (transferring departments), to another state agency, department,  
19 division or entity or make them a part of another department or  
20 division (receiving departments), the employees, authorized  
21 appropriations, bonded indebtedness if applicable, and real and  
22 personal property of the transferring department also are transferred  
23 to and become part of the receiving department or division unless  
24 otherwise specifically provided. All classified or unclassified  
25 personnel of the affected agency, department, board, commission,  
26 committee, entity, section, division or position employed by these  
27 transferring departments on the effective date of this act, either by  
28 contract or by employment at will, shall become employees of the  
29 receiving department or division, with the same compensation,  
30 classification, and grade level, as applicable. The Department of  
31 Administration shall cause all necessary actions to be taken to  
32 accomplish this transfer and shall in consultation with the agency  
33 head of the transferring and receiving agencies prescribe the manner  
34 in which the transfer provided for in this section shall be  
35 accomplished. The board’s action in facilitating the provisions of  
36 this section are ministerial in nature and shall not be construed as an  
37 approval process over any of the transfers.

38 (B) When an agency, department, entity or official is transferred  
39 to or consolidated with another agency, department, division, entity  
40 or official, regulations promulgated by that transferred agency,  
41 department, entity or official under the authority of former  
42 provisions of law pertaining to it are continued and are considered

1 to be promulgated under the authority of present provisions of law  
2 pertaining to it.

3 (C) References to the names of agencies, departments, entities or  
4 public officials changed by this act, to their duties or functions  
5 herein devolved upon other agencies, departments, entities or  
6 officials, or to provisions of law consolidated with or transferred to  
7 other parts of the 1976 Code are considered to be and must be  
8 construed to mean appropriate references.

9 (D) Employees or personnel of agencies, departments, entities or  
10 public officials, or sections, divisions or portions thereof, transferred  
11 to or made a part of another agency, department, division, or official  
12 pursuant to the terms of this act shall continue to occupy the same  
13 office locations and facilities which they now occupy unless or until  
14 otherwise changed by appropriate action and authorization. The rent  
15 and physical plant operating costs of these offices and facilities, if  
16 any, shall continue to be paid by the transferring agency,  
17 department, entity or official formerly employing these personnel  
18 until otherwise provided by the General Assembly. The records and  
19 files of the agencies that formerly employed these personnel shall  
20 continue to remain the property of these transferring agencies,  
21 except that these personnel shall have complete access to these  
22 records and files in the performance of their duties as new  
23 employees of the receiving agency.

24 (E) Unless otherwise provided herein or by law, all fines, fees,  
25 forfeitures, or revenues imposed or levied by agencies, personnel,  
26 or portions thereof, so transferred to other agencies or departments  
27 must continue to be used and expended for those purposes provided  
28 prior to the effective date of this act. If a portion of these fines, fees,  
29 forfeitures, or revenues were required to be used for the support,  
30 benefit, or expense of personnel transferred, these funds must  
31 continue to be used for these purposes.

32 (F) When the functions of former agencies have been devolved  
33 on more than one department or departmental division, the general  
34 support services of the former agency must be transferred to the  
35 restructured departments or departmental divisions as provided by  
36 the General Assembly in the annual general appropriations act.

37 (G) The Code Commissioner of the Legislative Council shall  
38 cause the changes to the 1976 Code as contained in this act to be  
39 printed in replacement volumes or in cumulative supplements as he  
40 considers practical and economical.

41  
42 SECTION 11. The repeal or amendment by this act of any law,  
43 whether temporary or permanent or civil or criminal, does not affect

1 pending actions, rights, duties, or liabilities founded thereon, or  
2 alter, discharge, release or extinguish any penalty, forfeiture, or  
3 liability incurred under the repealed or amended law, unless the  
4 repealed or amended provision shall so expressly provide. After the  
5 effective date of this act, all laws repealed or amended by this act  
6 must be taken and treated as remaining in full force and effect for  
7 the purpose of sustaining any pending or vested right, civil action,  
8 special proceeding, criminal prosecution, or appeal existing as of the  
9 effective date of this act, and for the enforcement of rights, duties,  
10 penalties, forfeitures, and liabilities as they stood under the repealed  
11 or amended laws.

12  
13 SECTION 12. If any section, subsection, paragraph,  
14 subparagraph, sentence, clause, phrase, or word of this act is for any  
15 reason held to be unconstitutional or invalid, such holding shall not  
16 affect the constitutionality or validity of the remaining portions of  
17 this act, the General Assembly hereby declaring that it would have  
18 passed this act, and each and every section, subsection, paragraph,  
19 subparagraph, sentence, clause, phrase, and word thereof,  
20 irrespective of the fact that any one or more other sections,  
21 subsections, paragraphs, subparagraphs, sentences, clauses, phrases,  
22 or words hereof may be declared to be unconstitutional, invalid, or  
23 otherwise ineffective.

24  
25 SECTION 13. This act takes effect upon approval by the  
26 Governor.

27  
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