

South Carolina General Assembly
122nd Session, 2017-2018

A216, R255, H4487

STATUS INFORMATION

General Bill

Sponsors: Reps. Henderson, Hewitt, Robinson-Simpson, Fry, West, Atwater, Erickson, Norrell, Weeks, Douglas, Ridgeway, Dillard, Huggins and W. Newton

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Introduced in the House on January 9, 2018

Introduced in the Senate on March 27, 2018

Last Amended on May 1, 2018

Passed by the General Assembly on May 10, 2018

Governor's Action: May 18, 2018, Signed

Summary: Controlled substances, scheduling

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
12/13/2017	House	Prefiled
12/13/2017	House	Referred to Committee on Medical, Military, Public and Municipal Affairs
1/9/2018	House	Introduced and read first time (House Journal-page 128)
1/9/2018	House	Referred to Committee on Medical, Military, Public and Municipal Affairs (House Journal-page 128)
1/23/2018	House	Member(s) request name added as sponsor: Fry, West, Atwater, Erickson, Norrell, Weeks, Douglas, Ridgeway, Dillard, Huggins
2/1/2018	House	Member(s) request name added as sponsor: W.Newton
3/8/2018	House	Committee report: Favorable with amendment Medical, Military, Public and Municipal Affairs (House Journal-page 4)
3/20/2018	House	Amended (House Journal-page 21)
3/20/2018	House	Debate adjourned until Wed., 3-21-18 (House Journal-page 34)
3/21/2018	House	Requests for debate-Rep(s). Henderson, Whitemire, Forrest, Fry, Hiott, Daning, Bryant, Bennett, Dillard, Burns, Arrington, Crosby (House Journal-page 14)
3/22/2018	House	Requests for debate removed-Rep(s). Hiott, Forrest, Whitemire, Crosby, Bennett, Arrington, Burns, Henderson, Fry (House Journal-page 31)
3/22/2018	House	Amended (House Journal-page 31)
3/22/2018	House	Read second time (House Journal-page 31)
3/22/2018	House	Roll call Yeas-107 Nays-0 (House Journal-page 35)
3/22/2018	House	Unanimous consent for third reading on next legislative day (House Journal-page 36)
3/23/2018	House	Read third time and sent to Senate (House Journal-page 3)
3/27/2018	Senate	Introduced and read first time (Senate Journal-page 7)
3/27/2018	Senate	Referred to Committee on Medical Affairs (Senate Journal-page 7)
4/19/2018	Senate	Committee report: Favorable with amendment Medical Affairs (Senate Journal-page 7)
4/20/2018		Scrivener's error corrected
4/26/2018	Senate	Committee Amendment Adopted (Senate Journal-page 44)
4/27/2018		Scrivener's error corrected
5/1/2018	Senate	Amended (Senate Journal-page 44)

5/1/2018	Senate	Read second time (Senate Journal-page 44)
5/1/2018	Senate	Roll call Ayes-37 Nays-0 (Senate Journal-page 44)
5/2/2018		Scrivener's error corrected
5/8/2018	Senate	Read third time and returned to House with amendments (Senate Journal-page 45)
5/10/2018	House	Concurred in Senate amendment and enrolled (House Journal-page 56)
5/10/2018	House	Roll call Yeas-103 Nays-0 (House Journal-page 57)
5/14/2018		Ratified R 255
5/18/2018		Signed By Governor
5/25/2018		Effective date 05/18/18
5/31/2018		Act No. 216

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VERSIONS OF THIS BILL

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(A216, R255, H4487)

AN ACT TO AMEND SECTION 44-53-160, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SCHEDULING OF CONTROLLED SUBSTANCES, SO AS TO REQUIRE NOTIFICATION TO THE CODE COMMISSIONER OF CERTAIN SCHEDULING CHANGES; TO AMEND SECTION 44-53-280, RELATING TO REGISTRATIONS TO MANUFACTURE, DISTRIBUTE, OR DISPENSE CONTROLLED SUBSTANCES, SO AS TO ELIMINATE REGISTRATION RENEWAL GRACE PERIODS; TO AMEND SECTION 44-53-290, RELATING IN PART TO REGISTRATIONS ISSUED TO PRACTITIONERS TO DISPENSE NARCOTICS FOR MAINTENANCE OR DETOXIFICATION TREATMENTS AND TO NURSE PRACTITIONERS AND PHYSICIAN ASSISTANTS TO PRESCRIBE SCHEDULE V DRUGS, SO AS TO CHANGE CERTAIN REQUIREMENTS; TO AMEND SECTION 44-53-480, RELATING TO THE DEPARTMENT OF NARCOTICS AND DANGEROUS DRUGS WITHIN THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION (SLED), SO AS TO ELIMINATE ENFORCEMENT OF DRUG LAWS AS A FUNCTION OF DHEC; AND TO REPEAL SECTION 44-53-560 RELATING TO THE TRANSFER OF AGENTS FROM DHEC TO SLED.

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

Scheduling of controlled substances, notifications

SECTION 1. Section 44-53-160 of the 1976 Code is amended to read:

“Section 44-53-160. (A)(1) Annually, within thirty days after the convening of each regular session of the General Assembly, the department shall recommend to the General Assembly any additions, deletions, or revisions in the schedules of controlled substances enumerated in Sections 44-53-190, 44-53-210, 44-53-230, 44-53-250, and 44-53-270 which the department deems necessary. Except as otherwise provided in this section, the department shall not make any additions, deletions, or revisions in the schedules until after notice and an opportunity for a hearing is afforded to all interested parties. In making a recommendation to the General Assembly regarding a substance, the department shall consider the following:

- (a) the actual or relative potential for abuse;

- (b) the scientific evidence of the substance's pharmacological effect, if known;
- (c) the state of current scientific knowledge regarding the substance;
- (d) the history and current pattern of abuse;
- (e) the scope, duration, and significance of abuse;
- (f) the risk to public health;
- (g) the potential of the substance to produce psychic or physiological dependence liability;
- (h) whether the substance is an immediate precursor of a substance already controlled pursuant to this chapter; and
- (i) whether the substance has an accepted or recognized medical use.

(2) After considering the factors listed in subsection (A)(1), the department shall make a recommendation to the General Assembly specifying to what schedule the substance should be added, deleted, or rescheduled, if the department finds that the substance has a potential for abuse.

(B) Except as otherwise provided in this section, during the time the General Assembly is not in session, the department may add, delete, or reschedule a substance as a controlled substance after providing notice and a hearing to all interested parties. The addition, deletion, or rescheduling of a substance pursuant to this subsection has the full force of law unless overturned by the General Assembly. Upon the addition, deletion, or rescheduling of a substance, the department shall forward copies of the change to the Chairmen of the Medical Affairs Committee and the Judiciary Committee of the Senate, the Medical, Military, Public and Municipal Affairs Committee, and the Judiciary Committee of the House of Representatives, and to the Clerks of the Senate and House, and shall post the schedules on the department's website indicating the change and specifying the effective date of the change.

(C) If a substance is added, deleted, or rescheduled as a controlled substance pursuant to federal law or regulation, the department shall, at the first regular or special meeting of the South Carolina Board of Health and Environmental Control within thirty days after publication in the federal register of the final order designating the substance as a controlled substance or rescheduling or deleting the substance, add, delete, or reschedule the substance in the appropriate schedule. The addition, deletion, or rescheduling of a substance by the department pursuant to this subsection has the full force of law unless overturned by the General Assembly. The addition, deletion, or rescheduling of a substance by the department pursuant to this subsection must be in substance identical with the order published in the federal register

effecting the change in federal status of the substance. Upon the addition, deletion, or rescheduling of a substance, the department shall forward copies of the change to the Chairmen of the Medical Affairs Committee and the Judiciary Committee of the Senate, the Chairman of the Medical, Military, Public and Municipal Affairs Committee, the Chairman of the Judiciary Committee of the House of Representatives, the Clerks of the Senate and House, and the Code Commissioner, and shall post the schedules on the department's website indicating the change and specifying the effective date of the change.

(D) The department shall exclude any nonnarcotic substance from a schedule if the substance may, under the federal Food, Drug, and Cosmetic Act and the laws of this State, be lawfully sold over the counter without a prescription.

(E) The department's addition, deletion, or rescheduling of a substance as a controlled substance is governed by this section and is not subject to the promulgation requirements of Chapter 23, Title 1."

Registrations to manufacture, distribute, or dispense controlled substances

SECTION 2. Section 44-53-280(C) and (D) of the 1976 Code is amended to read:

“(C) A class 20-28 registration, as provided for by the board in regulation, expires October first of each year. The registration of a registrant who fails to renew by October first is canceled. However, registration may be reinstated upon payment of the renewal fees due and a penalty of one hundred dollars if the registrant is otherwise in good standing and presents a satisfactory explanation for failure to renew.

(D) All registrations other than class 20-28, as provided for by the board in regulation, expire on April first of each year. The registration of a registrant who fails to renew by April first is canceled. However, registration may be reinstated upon payment of the renewal fees due and a penalty of one hundred dollars if the registrant is otherwise in good standing and presents a satisfactory explanation for failure to renew.”

Registrations to dispense narcotics for maintenance treatments, registrations issued to certain health care practitioners

SECTION 3. Section 44-53-290(i) and (j) of the 1976 Code is amended to read:

“(i) Practitioners who dispense narcotic drugs to individuals for maintenance treatment or detoxification treatment shall obtain annually a separate registration for that purpose. The board shall register an applicant to dispense but not prescribe narcotic drugs to individuals for maintenance treatment or detoxification treatment, or both:

(1) if the applicant is a practitioner who is otherwise qualified to be registered under the provisions of this article to engage in the treatment with respect to which registration has been sought;

(2) if the board determines that the applicant will comply with standards established by the board respecting security of stocks of narcotic drugs for such treatment, and the maintenance of records in accordance with Section 44-53-340 and the rules issued by the board on such drugs; and

(3) if the board determines that the applicant will comply with standards established by the board respecting the quantities of narcotic drugs which may be provided for unsupervised use by individuals in such treatment.

(j) Pursuant to the procedures set forth in Section 44-53-300, the department may issue a registration to a licensed nurse practitioner, certified nurse-midwife, or clinical nurse specialist authorized to prescribe controlled substances by the State Board of Nursing for South Carolina, consistent with such prescription authorization. The department also may issue a registration, pursuant to the procedures set forth in Section 44-53-300, to a licensed physician assistant authorized to prescribe controlled substances by the State Board of Medical Examiners, consistent with such prescription authorization. A nurse practitioner, certified nurse-midwife, clinical nurse specialist, or physician assistant registered by the department pursuant to this subsection may not acquire, possess, or dispense, other than by prescription, a controlled substance except as provided by law.”

SLED, elimination of drug enforcement role of DHEC

SECTION 4. Section 44-53-480 of the 1976 Code is amended to read:

“Section 44-53-480. (a) The South Carolina Law Enforcement Division shall establish within its Division a Department of Narcotics and Dangerous Drugs, which shall be administered by a director and shall be primarily responsible for the enforcement of all laws pertaining to illicit traffic in controlled and counterfeit substances. The Department of Narcotics and Dangerous Drugs, in discharging its responsibilities concerning illicit traffic in narcotics and dangerous substances and in suppressing the abuse of controlled substances, shall enforce the State

plan formulated in cooperation with the Narcotics and Controlled Substance Section as such plan relates to illicit traffic in controlled and counterfeit substances.

As part of its duties the Department of Narcotics and Dangerous Drugs shall:

(1) Assist the Commission on Alcohol and Drug Abuse in the exchange of information between itself and governmental and local law-enforcement officials concerning illicit traffic in and use and abuse of controlled substances.

(2) Assist the commission in planning and coordinating training programs on law enforcement for controlled substances at the local and state level.

(3) Establish a centralized unit which shall accept, catalogue, file and collect statistics and make such information available for federal, state and local law enforcement purposes.

(4) Have the authority to execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses.

(b) The Department of Health and Environmental Control shall be primarily responsible for making accountability audits of the supply and inventory of controlled substances in the possession of pharmacists, doctors, hospitals, health care facilities and other practitioners as well as in the possession of any individuals or institutions authorized to have possession of such substances and shall also be primarily responsible for such other duties in respect to controlled substances as shall be specifically delegated to the Department of Health and Environmental Control by the General Assembly. Drug inspectors and special agents of the Department of Health and Environmental Control as provided for in Section 44-53-490, while in the performance of their duties as prescribed herein, shall have:

(1) statewide police powers;

(2) authority to carry firearms;

(3) authority to execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses;

(4) authority to make investigations to determine whether there has been unlawful dispensing of controlled substances or the removal of such substances from regulated establishments or practitioners into illicit traffic;

(5) authority to seize property; and

(6) authority to make arrests without warrants for offenses committed in their presence.”

Repeal, transfer of agents from DHEC to SLED

SECTION 5. Section 44-53-560 of the 1976 Code is repealed.

Time effective

SECTION 6. This act takes effect upon approval by the Governor.

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.
