

COMMON SENSE & PERSONAL LIBERTY

“Politics is the art of looking for trouble, finding it whether it exists or not, diagnosing it incorrectly, and applying the wrong remedy.”

— Sir Ernest Benn

Common sense is a subjective term for most people — except those who actually possess it. In the political realm, common sense legislation is usually aimed at redressing some problem caused by the government itself. Consider, for example, that current state law prohibits a sitter (unless otherwise related) from filing a missing person report. In turn, a common sense solution to this problem is H 3719, which permits anyone responsible for watching a person to file a missing person report. By contrast, legislation that defies common sense is often aimed at using the law to address a problem whose solution should properly be left to the private realm. Senate Bill 56, which would outlaw profanity, is a good example of such legislation. But even good ideas should not always be the product of legislative activity. Take, for instance, H 3566, which would prohibit credit card companies from charging late fees that exceed a customer’s total outstanding balance. At best, such a practice is annoying and at worst unethical — but that does not mean it should also be illegal. This is not to say the government has no proper role in upholding valid contracts or punishing wrongdoers, but that the exercise of public power must be accompanied by restraint and caution — that is, common sense.

BEST IDEAS OF 2009



More good bills that didn't pass:

S 40: Permits any individual, regardless of familial status, to be designated as an authorized hospital visitor.

S 319: Authorizes the governor to join an interstate compact to facilitate the school enrollment of children from military families (passed Senate; referred to Education & Public Works Committee in House).

S 353: Permits members of the U.S. Armed Forces to terminate or suspend a cell phone contract upon deployment or permanent transfer.

S 412: Requires a seller of a mobile home to disclose whether taxes are due on the home (passed Senate; referred to Ways & Means Committee in House).

H 3118: Guardian Ad Litem

Status: Ratified by General Assembly and signed by governor

Permits the S.C. Guardian *ad litem* Program to intercede to remove a volunteer guardian *ad litem* for misconduct and other reasons. Also see S 434

H 3719: Missing Person Report

Status: Passed House; referred to Judiciary Committee in Senate

Permits any person responsible for a person (e.g., a babysitter or home sitter) to file a missing person report. Also see S 174, H 3817

S 348: Minimum Penalty for Injuring a Child

Status: Reported out of Judiciary Committee with favorable majority report with amendment

Establishes a minimum (2 year) penalty for persons registered with the Department of Social Services who inflict great bodily injury upon a child; also requires 2 hours of annual training for operators of family childcare homes.

Other bills that passed:

S 155: Provides various protections for parents absent owing to military service (signed by governor).

S 420: Requires former ambulances no longer operating as such to remove emergency sirens and lights that distinguish the vehicle as an ambulance (signed by governor).

H 3131: Designates various state animals and makes it illegal to destroy a bird's nest without a permit (became law without governor's signature).

H 3463: Deletes requirement that electronic traffic tickets be printed in specific colors (signed by governor).

WORST IDEAS OF 2009

S 133: Free Tuition for State Employees

Status: Referred to Education Committee

Permits any state employee to attend classes for credit or noncredit at a public university or college.

► **Our take:** Why should state employees get free tuition when other taxpayers don't? If anyone should get free tuition it should be recently returned active military (S 49) — not state employees.

S 132: Unsolicited Checks

Status: Passed the Senate; referred to Labor, Commerce & Industry Committee in House

Designates as an unfair trade practice the delivery of unsolicited checks that if cashed obligate repayment, plus interest and fees.

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Legislation most likely to come up:

The interstate educational compact (S 319) has already passed in several states and is likely to pass here in South Carolina. In an election year, legislators will also want to claim they have passed legislation to protect children (H 3719 and perhaps S 348) and reduce crime (perhaps S 288).

✘ More bad bills that didn't pass:

S 288: Affixes a special code (with accompanying fee) to the license of a violent offender (passed Senate; referred to Judiciary Committee in House).

S 342: Requires all automobile insurance policies to include towing insurance.

H 3083: Prohibits use of a cell phone while driving, unless equipped with a hands-free device. Also see S 24

H 3174: Prohibits advertising rebated price as actual price of a product.

H 3230: Requires employers to crosscheck potential school district employees against the Central Registry of Child Abuse and Neglect. In itself, this is not a bad idea; however, any fees assessed for doing so should be paid by the school district, not potential employees.

H 3801: Requires a county-by-county study of homeless persons so as to determine the feasibility of creating state-funded tent shelters.

H 4091: Classifies assault and battery upon a homeless person as a hate crime.

► **Our take:** This bill is trying to address a legitimate concern — namely the practice of mailing unsolicited checks to credit card consumers and others. If the bill were limited to absolving recipients of unsolicited checks of responsibility for fraud (e.g., if the check is stolen from a mailbox) it would be a good idea; but making the practice illegal is excessive.

Just Plain Dumb

H 4149: Require Swimming Lessons

Status: Referred to Education & Public Works Committee

This bill would require schools to provide two years of (taxpayer funded) swimming lessons to high school students.

► **Our take:** This bill is a typical kneejerk reaction to a tragedy — namely several drowning deaths in the Lowcountry. Needless to say, taxpayers should not be held responsible for paying for swimming lessons for all children. This is the responsibility of parents — as is the supervision of young children who are swimming. Moreover, this bill would cause a logistical nightmare for many schools. On top of that, the legislation would not have prevented most of the recent drownings because the majority of victims were younger than age 7 and the vast majority of drowning victims nationwide are under 14.

S 56: Outlaw Cursing

Status: Referred to Judiciary Committee

This bill would outlaw the use of profanity in public.

► **Our take:** There is no doubt that it is rude to curse in public or in front of children. But a state law against cursing would likely not withstand judicial scrutiny (cf. *Cohen v. California* (1971)) and would be a wasteful use of law enforcement and judicial resources.