



SC Green Legislative Update May 21, 2021

The South Carolina House and Senate wrapped up the 2021 legislative session on Thursday, May 13. Notable legislation for the green industry that made it through both chambers includes:

COVID-19 Liability Protections

[S. 147](#), entitled the “SC COVID-19 Liability Immunity Act”, was signed by Governor Henry McMaster on April 28 and became effective at that time. The bill was a top priority of the state’s business community in 2021. [S. 147](#) establishes important legal protections for businesses and other entities that have done their best to follow public health guidance related to COVID-19.

Specifically, [S. 147](#) provides that “[a covered entity or covered individual that reasonably adheres to public health guidance applicable at the time the conduct giving rise to a coronavirus claim occurs shall be entitled to immunity from liability for any acts or omissions resulting in a coronavirus claim.](#)”

This immunity is applicable “[to all civil and administrative causes of action that arise between March 13, 2020, and June 30, 2021, or one hundred eighty days after the final state of emergency is lifted for COVID-19 in this State, whichever is later, and that are based upon facts that occurred during this time period.](#)”

Covered entities are defined elsewhere in [S. 147](#) as “[any for-profit or not-for-profit business entity,](#)” government agencies / political subdivisions, and health care facilities. A “covered individual” is defined as “[any director, officer, employee, agent, contractor, third-party worker, or other representative of a covered entity.](#)”

Another key definition in [S. 147](#) is “[public health guidance.](#)” This is defined as “[any applicable published guidance, directive, order, or rule provided by the South Carolina Occupational Safety and Health Administration, the South Carolina Department of Health and Environmental Control, or another state governmental entity, and federal guidance if referenced by state entities, that is applicable to the type of covered entity or covered individual at issue and to the coronavirus claim at issue.](#)”

Businesses should note that the immunity defense **does not apply** if the covered entity or covered individual caused an injury/infection by intentional or reckless acts that disregard public health guidance. Also, businesses should be aware that [S. 147](#) explicitly does “[not apply to and do not exclude or limit any actions or remedies available under Title 42, commonly known as the South Carolina Workers' Compensation Law.](#)”

Asian Longhorned Beetle Quarantine

A joint resolution ([H. 4098](#)) sought by the Clemson University-State Crop Pest Commission was signed by the Governor on May 17. This resolution boosts the efforts of regulators as they work to control this invasive pest via quarantine and removal of infected trees in the Hollywood area of Charleston County.

Fuel Supply

Like many other vital economic sectors, our industry relies on affordable and available fuels. The disruption of Colonial Pipeline's operations presented potential problems for SC Green members.

In response to the Colonial Pipeline situation, Governor McMaster issued [Executive Order 2021-24](#) to ease restrictions on "[commercial vehicles and operators of commercial vehicles transporting essential goods and products, such as essential fuels and petroleum products, to include gasoline, diesel fuel, jet fuel, and other refined petroleum products and related equipment or assets.](#)" This was intended to allow more fuel to be trucked into the state to address shortages resulting from the disruption.

Additionally, Attorney General Alan Wilson advised that their office would penalize "[individuals looking to unfairly take advantage of the situation through price gouging. According to state law, price gouging constitutes a criminal violation and an unfair trade practice.](#)" Wilson advised the public that "price gouging, or "excessive pricing," is a misdemeanor offense punishable by a \$1,000 fine and up to 30 days in jail."

If you or your company experienced price gouging during this situation please share this information with the Office of Attorney General at pricegouging@scag.gov or 803-737-3953.

Workforce / H-2B Visas

In April, the Wall Street Journal reported the "[Biden administration will make an additional 22,000 seasonal guest-worker visas available this year ahead of the busy summer season...The visas are in addition to the 66,000 H-2B visas the government makes available each year to seasonal employers, landscapers, fisheries, resorts and county fairs, which look to add staff for their busy seasons.](#)"

"[The Biden administration had come under pressure from businesses and lawmakers—both Republicans and Democrats—to make more visas available to stimulate the economy as the country recovers from a year of pandemic restrictions on work and travel.](#)"

For more information on the H-2B Visa program, please see the information posted by the US Citizenship and Immigration Services here: <https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-2b-temporary-non-agricultural-workers>

2021 is the first year of a two-year session, so bills that were not successfully passed will be viable when the General Assembly returns in January 2022. While the regular 2021 session is over, work is not done for lawmakers this year. "[Legislators will return next month for several short sessions limited to work on finalizing a state budget for the fiscal year that starts July 1 and approving any compromises worked out by joint House-Senate panels on bills that passed both chambers by May 13.](#)"