



HENRY DARGAN McMASTER
GOVERNOR

May 22, 2025

The Honorable Thomas C. Alexander
President of the South Carolina Senate
State House, Second Floor
Columbia, South Carolina 29201

Dear Mr. President and Members of the Senate:

I am hereby vetoing and returning without my approval R-86, S. 136, which seeks to require prosecutors in South Carolina to dismiss pending charges for unlawful possession of a handgun pursuant to section 16-23-20 of the South Carolina Code of Laws, as amended by the S.C. Constitutional Carry/Second Amendment Preservation Act of 2024, "if the charges occurred prior to the enactment of" that Act. As the General Assembly may recall, I vetoed nearly identical legislation last year. *See* S. 1166 (R-200), 125th Gen. Assemb., 2d Reg. Sess. (May 21, 2024). While the Senate voted to override my objections to that bill, the House of Representatives declined to do so.

Although I appreciate that the General Assembly included language in this year's legislation to address law enforcement's concerns that the blanket dismissal of these charges could theoretically serve as the basis for wrongful arrest lawsuits, given that that the operative language in S. 136 is nearly identical to last year's bill, my fundamental objections to the legislation remain unchanged. As a former United States Attorney and South Carolina Attorney General, I have great respect and admiration for prosecutors and recognize the important role that prosecutorial discretion plays in our criminal justice system. I am therefore wary of any attempt to limit that authority and discretion. Every case is unique, and the prosecutors in our State should be permitted to evaluate each case based on the law and the facts and then proceed as they deem appropriate. Some charges might warrant dismissal; other charges may warrant continued prosecution. Unfortunately, S. 136 would universally strip prosecutors of the ability to make such individualized determinations.

I similarly remain skeptical of, and opposed to, S. 136's mandatory, blanket dismissals of pending criminal charges for another reason: When the defendants who would benefit from these dismissals committed their alleged crimes, their alleged actions were, in fact, unlawful. To be

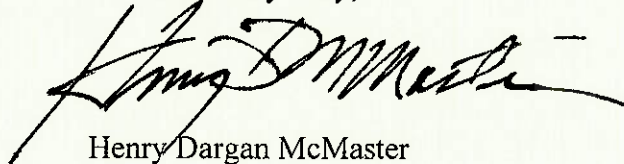
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sure, those actions might not be illegal today, but that distinction misses the critical point that such actions were illegal at the time they were committed. I have repeatedly noted by belief in the importance of upholding and adhering to the Rule of Law, which requires not only that everyone follow the law as written but also that the law apply equally to every person. If a person disobeys the law, consequences—including potential criminal prosecution—may follow, even if a person believes a law should be changed. Just as all speeding tickets would not automatically disappear if a speed limit is subsequently increased, universal dismissals are rarely the answer for previous violations of a later-amended law. Likewise, I remain convinced that blanket dismissals are unnecessary in this context.

As a practical matter, continuing to pursue criminal charges despite an intervening change in law may make for a difficult prosecution, but if a prosecutor determines that the facts warrant prosecution, I do not believe that it is appropriate for the General Assembly to obviate that discretionary authority, in all cases, in the abstract. While I am advised that the universe of pending charges for unlawful possession of a handgun, without companion offenses, is particularly limited, to the extent that this bill's proponents have generally claimed that these remaining charges are the product of procedural stagnation rather than prosecutorial discretion, I am confident that our State's Circuit Solicitors will expeditiously review these pending charges and determine whether to proceed based on the facts and the law. To the extent further analysis or assistance may be required, by copy of this letter, I am simultaneously advising the Attorney General of this matter in view of his role as "the chief prosecuting officer of the State with authority to supervise the prosecution of all criminal cases in courts of record." S.C. Const. art. V, § 24.

For the foregoing reasons, I am respectfully vetoing R-86, S. 136 and returning the same without my signature.

Yours very truly,

A handwritten signature in black ink, appearing to read "Henry Dargan McMaster", with a long horizontal line extending from the end of the signature.

Henry Dargan McMaster

HDM/tal

cc: The Honorable Alan Wilson
Attorney General of South Carolina