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## DUI bill like a hangover to legislators

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Stop me if you've heard this one: Passing a stronger DUI law will be one of the state Legislature's top priorities this year.

It was a top priority a year ago, when more than 80 lawmakers signed on to a bill increasing penalties for repeat offenders. It's been a top priority for Gov. Mark Sanford since he took office in 2003.

Yet, with a new session opening at noon Tuesday, it's still on the to-do list.

"I'm reminded of two years ago, when I said if it doesn't get done this session, the people who die will be on (lawmakers') conscience," 7th Circuit Solicitor Trey Gowdy said. "I can only assume that there are a lot of people in the General Assembly who don't have a conscience."

Gowdy gives credit to the House, which last year approved a bill that provides graduated penalties based on the level of intoxication. It's essentially the same plan that House Speaker Pro Tem Doug Smith, R-Spartanburg, introduced when DUI legislation was a top priority in 2004.

The bill now resides in the Senate Judiciary Committee.

In addition to graduated penalties, the bill simplifies the process for law enforcement officers to arrest suspected drunk drivers. It drops the requirement that law enforcement officers must advise suspected drunken drivers of their Miranda rights more than once and changes the time when video recording is required to begin.

The more severe penalties established in the bill are tied to the level of intoxication. The three levels of blood-alcohol content in the bill are .08 to .1, .1 to .16, and .16 and above.

Each level carries a fine and jail time - but in each case, community service can be ordered in place of a jail sentence on first or second offense.

Sanford spokesman Joel Sawyer called the bill a "step in the right direction." He's hopeful that the Senate will take it up quickly and stay true to the House version.

"Is the bill perfect? No," Sawyer said. "We'd like to see an even stronger law. But this would be a big improvement over what we have."

Also still hanging out there is a fix for two controversial provisions of Jessica's Law. The law was designed to protect people from sexual predators - but it contains a "Romeo clause" that makes it legal for people age 18 and younger to have sex with children as young as 14, and it creates a "mistake-of-age" defense that could allow adult offenders to have sex with pre-teen girls and escape punishment if they convince a jury they believed the child was older.

The law went into effect July 1, 2006, and lawmakers were aghast when they learned those provisions had been inserted at the last minute. State Attorney General Henry McMaster issued an opinion calling the provisions unconstitutional, and lawmakers promised swift action to correct the law.

Eighteen months later, the Romeo clause and mistake-of-age are still the law of the land. Rep. Murrell Smith, R-Sumter, and Doug Smith attempted to change that late last year by attaching adjusting amendments to a related bill. But Rep. Todd Rutherford, D-Columbia, who tucked the mistake-of-age defense into the law two years ago, killed the measures with a procedural move.

Lawmakers will face more pressure to change the law this session, in the form of a campaign launched by the Palmetto Family Council.

"The ultimate outrage happened in the S.C. Senate earlier this year, when a legislator-preacher told his colleagues to vote against fixing the

law because 'you can't regulate morality,' " Palmetto Family Council Executive Director Oran P. Smith wrote on the organization's Web site. "The bottom line is this: Do we want sexual predators to enjoy legal loopholes that give them a free pass for exploiting vulnerable little children, or do we want them punished to the fullest extent of the law?"

This session will be a bittersweet one for Doug Smith and Sen. John Hawkins, R-Spartanburg. Smith is stepping down after eight terms in the House, while Hawkins is retiring after four years in the House and eight in the Senate.

Smith said facing his last session is similar to shopping the day before Christmas.

"You know what you've got to do, and you've got to get it done," he said. "There's a lot to do in a short period of time. That's something I've never faced before, and it's made me a little more focused."

Hawkins said he is looking forward to his final go-round.

"I'm excited about getting back down there and continuing to make change," Hawkins said. "I'm on a path to end my service in the Legislature in a way that I'm proud of and in a way that will reflect my 12 years of hard work. I haven't always done what everyone wanted, but I did the best I could, and I don't make any apologies for it."

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