**South Carolina General Assembly**

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**S. 192**

**STATUS INFORMATION**

General Bill

Sponsors: Senator McConnell

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Companion/Similar bill(s): 3461

Introduced in the Senate on January 13, 2009

Currently residing in the Senate Committee on **Judiciary**

Summary: Driving without a license

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/17/2008 Senate Prefiled

12/17/2008 Senate Referred to Committee on **Judiciary**

1/13/2009 Senate Introduced and read first time [SJ](file:///h:\SJ%20Archive\2009\01-13-09.docx)‑160

1/13/2009 Senate Referred to Committee on **Judiciary** [SJ](file:///h:\SJ%20Archive\2009\01-13-09.docx)‑160

**VERSIONS OF THIS BILL**

[12/17/2008](file:///p:\pprever\2009-10\192_20081217.docx)

**A** **BILL**

TO AMEND SECTION 56‑1‑440, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATED TO PENALTIES FOR DRIVING WITHOUT A LICENSE, SO AS TO PROVIDE THAT A PERSON WHO DRIVES A MOTOR VEHICLE WITHOUT A LICENSE, AND WHEN DRIVING CAUSES GREAT BODILY INJURY OR DEATH TO ANOTHER PERSON IS GUILTY OF A FELONY AND TO PROVIDE PENALTIES; AND TO AMEND SECTION 56‑1‑460, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATED TO PENALTIES FOR DRIVING WHILE A LICENSE IS CANCELLED, SUSPENDED OR REVOKED, SO AS TO PROVIDE THAT A PERSON WHO DRIVES A MOTOR VEHICLE WHEN HIS LICENSE IS CANCELED, SUSPENDED, OR REVOKED , AND WHEN DRIVING CAUSES GREAT BODILY INJURY OR DEATH TO ANOTHER PERSON IS GUILTY OF A FELONY AND TO PROVIDE PENALTIES.

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

SECTION 1. Section 56‑1‑440 of the 1976 Code is amended to read:

“Section 56‑1‑440. (A) A person who drives a motor vehicle on a public highway of this State without a driver’s license in violation of Section 56‑1‑20 is guilty of a misdemeanor and, upon conviction of a first offense, must be fined not less than fifty dollars nor more than one hundred dollars or imprisoned for thirty days and, upon conviction of a second offense, be fined five hundred dollars or imprisoned for forty‑five days, or both, and for a third and subsequent offense must be imprisoned for not less than forty‑five days nor more than six months.

(B)(1) A person who drives a motor vehicle on a public highway of this State without a driver’s license in violation of Section 56‑1‑20, and when driving does any act forbidden by law or neglects any duty imposed by law in the driving of the vehicle, which act or neglect proximately causes great bodily injury or death to a person other than himself, is guilty of a felony and upon conviction must be punished:

(a) by a mandatory fine of not less than five thousand one hundred dollars nor more than ten thousand one hundred dollars and mandatory imprisonment for not less than thirty days nor more than fifteen years when great bodily injury results;

(b) by a mandatory fine of not less than ten thousand one hundred dollars nor more than twenty‑five thousand one hundred dollars and mandatory imprisonment for not less than one year nor more than twenty‑five years when death results.

A part of the mandatory sentences required to be imposed by this subitem must not be suspended, and probation must not be granted for any portion.

(2) As used in this subitem, ‘great bodily injury’ means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(C) ~~However, a~~A charge of driving a motor vehicle without a driver’s license must be dismissed if the person provides proof of being a licensed driver at the time of the violation to the court on or before the date this matter is set to be disposed of by the court.”

SECTION 2. Section 56‑1‑460 of the 1976 Code is amended to read:

**“**Section 56‑1‑460. (A)(1) Except as provided in subitems (2) and (3), a person who drives a motor vehicle on any public highway of this State when his license to drive is canceled, suspended, or revoked must, upon conviction, be punished as follows:

(a) for a first offense, fined three hundred dollars or imprisoned for thirty days, or both;

(b) for a second offense, fined six hundred dollars or imprisoned for sixty consecutive days, or both; and

(c) for a third and subsequent offense, fined one thousand dollars and imprisoned for not less than ninety days nor more than six months, no portion of which may be suspended by the trial judge.

Notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, and 22‑3‑550, an offense punishable under this subitem may be tried in magistrate’s court.

(2) A person who drives a motor vehicle on any public highway of this State when his license has been suspended or revoked pursuant to the provisions of Section 56‑5‑2990 must, upon conviction, be punished as follows:

(a) for a first offense, fined three hundred dollars or imprisoned for not less than ten nor more than thirty days;

(b) for a second offense, fined six hundred dollars or imprisoned for not less than sixty days nor more than six months;

(c) for a third and subsequent offense, fined one thousand dollars and imprisoned for not less than six months nor more than three years.

No portion of the minimum sentence imposed under this subitem may be suspended.

(3)(a) A person who drives a motor vehicle on any public highway of this State when he has actual knowledge that his license to drive is canceled, suspended, or revoked, or when his license to drive has been canceled, suspended, or revoked for at least thirty days, and when driving does any act forbidden by law or neglects any duty imposed by law in the driving of the vehicle, which act or neglect proximately causes great bodily injury or death to a person other than himself, is guilty of a felony and upon conviction must be punished:

(1) by a mandatory fine of not less than five thousand one hundred dollars nor more than ten thousand one hundred dollars and mandatory imprisonment for not less than thirty days nor more than fifteen years when great bodily injury results;

(2) by a mandatory fine of not less than ten thousand one hundred dollars nor more than twenty‑five thousand one hundred dollars and mandatory imprisonment for not less than one year nor more than twenty‑five years when death results.

A part of the mandatory sentences required to be imposed by this subitem must not be suspended, and probation must not be granted for any portion.

(b) As used in this subitem, ‘great bodily injury’ means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(c) The Department of Motor Vehicles must suspend the driver’s license of a person who is convicted or who receives sentence upon plea of guilty or nolo contendere pursuant to this subitem for a period to include a term of imprisonment plus three years.

(B) Except as provided in subitem (A)(3)(c), ~~The~~the Department of Motor Vehicles upon receiving a record of the conviction of any person under this section upon a charge of driving a vehicle while his license was suspended for a definite period of time shall extend the period of the suspension for an additional like period. If the original period of suspension has expired or terminated before trial and conviction, the department shall again suspend the license of the person for an additional like period of time. If the suspension is not for a definite period of time, the suspension must be for an additional three months. If the license of a person cited for a violation of this section is suspended solely pursuant to the provisions of Section 56‑25‑20, the additional period of suspension pursuant to this section is thirty days and the person does not have to offer proof of financial responsibility as required under Section 56‑9‑500 prior to his license being reinstated. If the conviction was for a charge of driving while a license was revoked, the department shall not issue a new license for an additional period of one year from the date the person could otherwise have applied for a new license. Only those violations which occurred within a period of five years including and immediately preceding the date of the last violation constitute prior violations within the meaning of this section.

(C) One hundred dollars of each fine imposed pursuant to this section must be placed by the Comptroller General into a special restricted account to be used by the Department of Public Safety for the Highway Patrol.”

SECTION 3. This act takes effect upon approval by the Governor.

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