~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

May 6, 2010

**S. 288**

Introduced by Senator L. Martin

S. Printed 5/6/10--H.

Read the first time April 28, 2009.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 288) to amend Chapter 1, Title 56 of the 1976 Code, by adding Section 56‑1‑146 to provide that a person who is convicted of a violent crime must, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/SECTION 1. Article 1, Chapter 1, Title 56 of the 1976 Code is amended by adding:

“Section 56‑1‑146. When a person is convicted of or pleads guilty or nolo contendere to a crime of violence as defined in Section 16‑28‑10(3) on or after July 1, 2011, in this State, the clerk of court must notify by mail, electronic mail, or facsimile the Department of Motor Vehicles within thirty days of the conviction of guilt or nolo contendere plea. The Department of Motor Vehicles must then notify the person who was convicted of the crime of violence as defined in Section 16‑23‑10(3) that he must surrender his driver’s license or special identification card to the Department of Motor Vehicles by mail or in person, and the Department of Motor Vehicles shall issue to the person by mail or in person a driver’s license or special identification card with the identifying code as referenced in Section 56‑1‑148. If the person convicted of a crime of violence as defined in Section 16‑23‑10(3) fails to surrender his driver’s license or special identification card to the Department of Motor Vehicles, the driver’s license or special identification card is considered cancelled.”

SECTION 2. Article 1, Chapter 1, Title 56 of the 1976 Code is amended by adding:

“Section 56‑1‑148. (A) As used in this chapter ‘identifying code’ means a symbol, number, or letter of the alphabet developed by the department to identify a person convicted of or pleading guilty or nolo contendere to a crime of violence as defined in Section 16‑23‑10(3) on or after July 1, 2011. The symbol, number, or letter of the alphabet shall not be defined on the driver’s license or special identification card.

(B) In addition to the contents of a driver’s license provided for in Section 56‑1‑140 or a special identification card provided for in Section 56‑1‑3350, a person who has been convicted of or pled guilty or nolo contendere to a crime of violence as defined in Section 16‑23‑10(3) on or after July 1, 2011, must have an identifying code determined by the department affixed to the reverse side of his driver’s license or special identification card. The code must identify the person as having been convicted of a violent crime. The code must be developed by the department and made known to the appropriate law enforcement officers and judicial officials of this State.

(C) The presence of a special identifying code on a person’s driver’s license or special identification card may not be used as a grounds to extend the detention of the person by a law enforcement officer or grounds for a search of the person or his vehicle.

(D) The department shall charge a fee of fifty dollars for affixing the identifying code provided in subsection (B). This fee is in addition to the fee provided for in Section 56‑1‑140. This fee must be placed by the Comptroller General into a special restricted account to be used by the department to defray expenses associated with this section.

(E) A person whose driver’s license or special identification card has been cancelled pursuant to Section 56‑1‑146 may apply for a new license or special identification card in a manner prescribed by the department. The department must issue by mail or in person a new license or special identification card with the identifying code required by this section after payment of the fifty‑dollar fee provided in subsection (C). The department must not issue a new driver’s license to a person during any period of suspension or revocation for any reason other than Section 56‑1‑146 and a driver’s license may only be issued after the period of suspension or revocation has ended and the person is otherwise eligible to be issued a license.

(F) The intent of placing an identifying code on a driver’s license or special identification card that identifies a person who has been convicted of a crime of violence as defined in Section 16‑23‑10(3) is to promote the state’s fundamental right to provide for the public health, welfare, and safety of its citizens and law enforcement officers. Notwithstanding this legitimate stated purpose, this provision is not intended to violate the guaranteed constitutional rights of persons who have violated our state’s laws.

(G) If a person’s conviction or guilty plea for a crime of violence as defined in Section 16‑23‑10(3) is reversed on appeal, or if the person is subsequently pardoned, then the person may apply for a driver’s license or special identification card that does not have the identifying code affixed.

(H) A person who is not convicted of a subsequent crime of violence as defined in Section 16‑23‑10(3) for five years after he has completely satisfied the terms of his sentence or during the term of the person’s probation or parole, whichever the sentencing judge determines is appropriate, may file an application with the department to have the identifying code affixed to his driver’s license or special identification card removed.

(I) A person must provide appropriate supporting documentation prescribed by the department to verify his eligibility to have the identifying code removed pursuant to subsections (F) or (G). Upon verification and payment of the fee provided in Section 56‑1‑140, the person must be issued a new driver’s license or special identification card.”

SECTION 3. Section 56‑1‑80 of the 1976 Code is amended to read:

“Section 56‑1‑80. (A) ~~Every~~ An application for a driver’s license or permit must:

(1) be made upon the form furnished by the department;

(2) be accompanied by the proper fee and acceptable proof of date and place of birth;

(3) contain the full name, date of birth, sex, race, and residence address of the applicant and briefly describe the applicant;

(4) state whether the applicant has been licensed as an operator or chauffeur and, if so, when and by what state or country;

(5) state whether a license or permit has been suspended or revoked or whether an application has been refused and, if so, the date of and reason for the suspension, revocation, or refusal;

(6) allow an applicant voluntarily to disclose a permanent medical condition, which must be indicated by a symbol designated by the department on the driver’s license and contained in the driver’s record; and

(7) allow an applicant voluntarily to disclose that he is an organ and tissue donor which must be indicated by a symbol designated by the department on the driver’s license and contained in the driver’s record.

(B) The information contained on a driver’s license and in the driver’s department records pertaining to a person’s permanent medical condition, as provided for in item (A)(6), must be made available, upon request, to law enforcement and emergency medical services and hospital personnel; and the information and records pertaining to a person’s organ and tissue donor status, as provided for in item (A)(7), must be made available, upon request, to law enforcement, emergency medical services and hospital personnel, and the South Carolina Donor Referral Network, as provided for in Section 44‑43‑910.

(C) Whenever an application is received from a person previously licensed or permitted in another state, the Department of Motor Vehicles may request a copy of the applicant’s record from the other state. When received, the record becomes a part of the driver’s record in this State with the same effect as though entered on the operator’s record in this State in the original instance. Every person who obtains a driver’s license or permit for the first time in South Carolina and every person who renews his driver’s license or permit in South Carolina must be furnished a written request form for completion and verification of liability insurance coverage.

The completed and verified form or an affidavit prepared by the department showing that neither he, nor a resident relative, owns a motor vehicle subject to the provisions of this chapter, must be ~~completed and~~ delivered to the department at the time the license or permit is issued or renewed.”

SECTION 4. The first paragraph of Section 56‑1‑3350 of the 1976 Code is amended to read:

“Section 56‑1‑3350. Upon application by ~~any~~ a person ten years of age or older who is a resident of South Carolina, the department shall issue a special identification card as long as:

(1) the application is made on a form approved and furnished by the department; and

(2) the applicant presents to the person issuing the identification card a birth certificate or other evidence acceptable to the department of his name and date of birth.”

SECTION 5. The requirements of Section 56‑1‑80 of the 1976 Code, as amended by Section 3 of this act, must be met upon the renewal of an existing driver’s license or special identification card of a person convicted of a crime of violence as defined in Section 16‑23‑10(3) in this State on or after July 1, 2011.

SECTION 6. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 7. This act takes effect July 1, 2011, and applies to all persons convicted of a crime of violence as defined in Section 16‑23‑10(3). /

Renumber sections to conform.

Amend title to conform.

JAMES H. HARRISON for Committee.

**A** **BILL**

TO AMEND CHAPTER 1, TITLE 56 OF THE 1976 CODE, BY ADDING SECTION 56‑1‑146 TO PROVIDE THAT A PERSON WHO IS CONVICTED OF A VIOLENT CRIME MUST SURRENDER HIS DRIVER’S LICENSE OR SPECIAL IDENTIFICATION CARD TO THE COURT WHICH MUST TRANSMIT IT TO THE DEPARTMENT OF MOTOR VEHICLES TOGETHER WITH NOTICE OF THE CRIME AND TO PROVIDE THAT THE DRIVER’S LICENSE OR SPECIAL IDENTIFICATION CARD IS CONSIDERED REVOKED AND MUST NOT BE RETURNED TO THE PERSON UNDER CERTAIN CIRCUMSTANCES; BY ADDING 56‑1‑148 TO PROVIDE THAT A PERSON CONVICTED OF A VIOLENT CRIME MUST HAVE A SPECIAL CODE AFFIXED TO THE REVERSE SIDE OF HIS DRIVER’S LICENSE OR SPECIAL IDENTIFICATION CARD THAT IDENTIFIES THE PERSON AS HAVING BEEN CONVICTED OF A VIOLENT CRIME, TO PROVIDE A FEE TO BE CHARGED FOR AFFIXING THE CODE AND FOR ITS DISTRIBUTION, AND TO PROVIDE A PROCESS FOR REMOVING THE CODE; TO AMEND SECTION 56‑1‑80, RELATING TO THE CONTENTS OF A DRIVER’S LICENSE APPLICATION, TO PROVIDE THAT THE APPLICATION MUST CONTAIN A STATEMENT TO DETERMINE WHETHER THE APPLICANT HAS BEEN CONVICTED OF A VIOLENT CRIME; AND TO AMEND SECTION 56‑1‑3350, RELATING TO THE ISSUANCE OF A SPECIAL IDENTIFICATION CARD BY THE DEPARTMENT OF MOTOR VEHICLES, TO PROVIDE THAT THE APPLICATION FOR A SPECIAL IDENTIFICATION CARD MUST CONTAIN A STATEMENT TO DETERMINE WHETHER THE APPLICANT HAS BEEN CONVICTED OF A VIOLENT CRIME.

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

SECTION 1. Article 1, Chapter 1, Title 56 of the 1976 Code is amended by adding:

“Section 56‑1‑146. A person convicted of or pleading guilty or nolo contendere to a violent crime as defined in Section 16‑1‑60 on or after January 1, 2010, in this State must surrender his South Carolina driver’s license or special identification card to the court pursuant to Section 56‑1‑365. The clerk of court must transmit the driver’s license or special identification card, together with notice of the violent crime, to the Department of Motor Vehicles within ten days of the date of conviction. The driver’s license or special identification card is considered canceled and the department shall take appropriate action pursuant to Section 56‑1‑148.”

SECTION 2. Article 1, Chapter 1, Title 56 of the 1976 Code is amended by adding:

“Section 56‑1‑148. (A) As used in this chapter ‘identifying code’ means a symbol, number, or letter of the alphabet developed by the department to identify a person convicted of or pleading guilty or nolo contendere to a violent crime defined in Section 16‑1‑60 on or after January 1, 2010. The symbol, number, or letter of the alphabet shall not be defined on the driver’s license or special identification card.

(B) In addition to the contents of a driver’s license provided for in Section 56‑1‑140 or a special identification card provided for in Section 56‑1‑3350, a person who has been convicted of or pled guilty or nolo contendere to a violent crime as contained in Section 16‑1‑60 on or after January 1, 2010, must have an identifying code determined by the department affixed to the reverse side of his driver’s license or special identification card. The code must identify the person as having been convicted of a violent crime. The code must be developed by the department and made known to the appropriate law enforcement officers and judicial officials of this State.

(C) The department shall charge a fee of fifty dollars for affixing the identifying code provided in subsection (B). This fee is in addition to the fee provided for in Section 56‑1‑140. This fee must be placed by the Comptroller General into a special restricted account to be used by the department to defray expenses associated with this section.

(D) A person whose driver’s license or special identification card has been cancelled pursuant to Section 56‑1‑146 may apply for a new license or special identification card in a manner prescribed by the department. The department must issue a new license or special identification card with the identifying code required by this section after payment of the fifty‑dollar fee provided in subsection (C). The department must not issue a new driver’s license to a person during any period of suspension or revocation for any reason other than Section 56‑1‑146 and a driver’s license may only be issued after the period of suspension or revocation has ended and the person is otherwise eligible to be issued a license.

(E) The intent of placing an identifying code on a driver’s license or special identification card that identifies a person who has been convicted of a violent crime is to promote the state’s fundamental right to provide for the public health, welfare, and safety of its citizens and law enforcement officers. Notwithstanding this legitimate stated purpose, this provision is not intended to violate the guaranteed constitutional rights of persons who have violated our state’s laws.

(F) If a person’s conviction or guilty plea for a violent crime is reversed on appeal, or if the person is subsequently pardoned, then the person may apply for a driver’s license or special identification card that does not have the identifying code affixed.

(G) A person who is not convicted of a subsequent violent crime for ten years after he has completely satisfied the terms of his sentence may file an application with the department to have the identifying code affixed to his driver’s license or special identification card removed.

(H) A person must provide appropriate supporting documentation prescribed by the department to verify his eligibility to have the identifying code removed pursuant to subsections (F) or (G). Upon verification and payment of the fee provided in Section 56‑1‑140, the person must be issued a new driver’s license or special identification card.”

SECTION 3. Section 56‑1‑80 of the 1976 Code is amended to read:

“Section 56‑1‑80. (A) ~~Every~~ An application for a driver’s license or permit must:

(1) be made upon the form furnished by the department;

(2) be accompanied by the proper fee and acceptable proof of date and place of birth;

(3) contain the full name, date of birth, sex, race, and residence address of the applicant and briefly describe the applicant;

(4) state whether the applicant has been licensed as an operator or chauffeur and, if so, when and by what state or country;

(5) state whether a license or permit has been suspended or revoked or whether an application has been refused and, if so, the date of and reason for the suspension, revocation, or refusal;

(6) allow an applicant voluntarily to disclose a permanent medical condition, which must be indicated by a symbol designated by the department on the driver’s license and contained in the driver’s record;

(7) allow an applicant voluntarily to disclose that he is an organ and tissue donor which must be indicated by a symbol designated by the department on the driver’s license and contained in the driver’s record; and

(8) state whether or not the applicant has ever been convicted of or pled guilty or nolo contendere to a violent crime contained in Section 16‑1‑60 on or after January 1, 2010. The department must make available to the applicant a list of those violent crimes contained in Section 16‑1‑60 on and after January 1, 2010.

(B) The information contained on a driver’s license and in the driver’s department records pertaining to a person’s permanent medical condition, as provided for in item (A)(6), must be made available, upon request, to law enforcement and emergency medical services and hospital personnel; and the information and records pertaining to a person’s organ and tissue donor status, as provided for in item (A)(7), must be made available, upon request, to law enforcement, emergency medical services and hospital personnel, and the South Carolina Donor Referral Network, as provided for in Section 44‑43‑910.

(C) Whenever an application is received from a person previously licensed or permitted in another state, the Department of Motor Vehicles may request a copy of the applicant’s record from the other state. When received, the record becomes a part of the driver’s record in this State with the same effect as though entered on the operator’s record in this State in the original instance. Every person who obtains a driver’s license or permit for the first time in South Carolina and every person who renews his driver’s license or permit in South Carolina must be furnished a written request form for completion and verification of liability insurance coverage.

The completed and verified form or an affidavit prepared by the department showing that neither he, nor a resident relative, owns a motor vehicle subject to the provisions of this chapter, must be ~~completed and~~ delivered to the department at the time the license or permit is issued or renewed.”

SECTION 4. The first paragraph of Section 56‑1‑3350 of the 1976 Code is amended to read:

“Section 56‑1‑3350. Upon application by ~~any~~ a person ten years of age or older who is a resident of South Carolina, the department shall issue a special identification card as long as:

(1) the application is made on a form approved and furnished by the department; ~~and~~

(2) the applicant presents to the person issuing the identification card a birth certificate or other evidence acceptable to the department of his name and date of birth; and

(3) the application states whether or not the applicant has ever been convicted of or pled guilty or nolo contendere to a violent crime contained in Section 16‑1‑60 on or after January 1, 2010. The department must make available to the applicant a list of those violent crimes contained in Section 16‑1‑60 on and after January 1, 2010.”

SECTION 5. The requirements of Section 56‑1‑80 of the 1976 Code, as amended by Section 3 of this act, must be met upon the renewal of an existing driver’s license or special identification card of a person convicted of a violent crime in this State on or after January 1, 2010.

SECTION 6. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 7. This act takes effect January 1, 2010, and applies to all persons convicted of violent crimes pursuant to Section 16‑1‑60 after January 1, 2010.

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