**South Carolina General Assembly**

119th Session, 2011-2012

**H. 3202**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Brady, Spires, Butler Garrick and Erickson

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Companion/Similar bill(s): 215, 292

Introduced in the House on January 11, 2011

Currently residing in the House Committee on **Education and Public Works**

Summary: Smoking

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/14/2010 House Prefiled

12/14/2010 House Referred to Committee on **Education and Public Works**

1/11/2011 House Introduced and read first time ([House Journal‑page 81](file:///h:\hj%20archive\2011\01-11-11.docx))

1/11/2011 House Referred to Committee on **Education and Public Works** ([House Journal‑page 81](file:///h:\hj%20archive\2011\01-11-11.docx))

2/1/2011 House Member(s) request name added as sponsor: Butler Garrick

3/2/2011 House Member(s) request name added as sponsor: Erickson

**VERSIONS OF THIS BILL**

[12/14/2010](file:///p:\pprever\2011-12\3202_20101214.docx)

**A** **BILL**

TO AMEND ARTICLE 47, CHAPTER 5, TITLE 56, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CHILD PASSENGER RESTRAINT SYSTEMS, SO AS TO DELETE THE TERM “THIS ARTICLE” AND REPLACE IT WITH “SECTION 56‑5‑6410” THROUGHOUT THE ARTICLE, AND TO PROVIDE THAT IT IS UNLAWFUL FOR A DRIVER OR OCCUPANT OF A MOTOR VEHICLE TO SMOKE A TOBACCO PRODUCT WHILE CERTAIN CHILDREN ARE ALSO IN THE MOTOR VEHICLE, AND TO PROVIDE A PENALTY FOR VIOLATION OF UNLAWFULLY SMOKING IN A MOTOR VEHICLE.

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

SECTION 1. Article 47, Chapter 5, Title 56 of the 1976 Code is amended to read:

“Article 47

Child Passenger Restraint System

Section 56‑5‑6410. (A) ~~Every~~ A driver of a motor vehicle (passenger car, pickup truck, van, or recreational vehicle) operated on the highways and streets of this State when transporting a child five years of age or younger upon the public streets and highways of the State ~~must~~ shall provide an appropriate child passenger restraint system and ~~must~~ shall secure the child as follows:

(1) A child from birth up to one year of age or who weighs less than twenty pounds must be properly secured in a rear‑facing child safety seat which meets the standards prescribed by the National Highway Traffic Safety Administration.

(2) A child who is at least one year of age but less than six years of age and who weighs at least twenty pounds but less than forty pounds must be secured in a forward‑facing child safety seat provided in the motor vehicle which meets the standards prescribed by the National Highway Traffic Safety Administration.

(3) A child who is at least one year of age but less than six years of age and who weighs at least forty pounds but not more than eighty pounds must be secured by a belt‑positioning booster seat. The belt‑positioning booster seat must be used with both lap and shoulder belts. A booster seat must not be used with a lap belt alone.

(4) If a child is at least one year of age but less than six years of age and weighs more than eighty pounds, the child may be restrained in an adult safety belt. If a child less than six years of age can sit with his back straight against the vehicle seat back cushion, with his knees bent over the vehicle’s seat edge without slouching, the child may be seated in the regular back seat and secured by an adult safety belt.

(5) A child who is less than six years of age must not occupy a front passenger seat of a motor vehicle. This restriction does not apply if the motor vehicle does not have rear passenger seats or if all rear passenger seats are occupied by other children less than six years of age.

(B) ~~Any~~ A child restraint system of a type sufficient to meet the physical standards prescribed by the National Highway Traffic Safety Administration at the time of its manufacture is sufficient to meet the requirements of this article.

Section 56‑5‑6420. If all the seating positions with restraint devices are occupied by children under the age of six years, a child may be transported and the driver of the motor vehicle is not in violation of the provisions of ~~this article~~ Section 56‑5‑6410, but priority must be given to children under the age of six years, according to their ages.

Section 56‑5‑6440. The provisions of ~~this article~~ Section 56‑5‑6410 do not apply to:

(1) taxi drivers~~.~~;

(2) drivers of emergency vehicles when operating in an emergency situation~~.~~;

(3) church, day care, and school bus drivers~~.~~;

(4) public transportation operators~~.~~; and

(5) commercial vehicles.

Section 56‑5‑6445. The provisions of ~~this article~~ Section 56‑5‑6410 apply to all motor vehicles equipped with safety belts.

Section 56‑5‑6450. A person who violates the provisions of ~~this article~~ Section 56‑5‑6410, upon conviction, must be fined not more than one hundred fifty dollars. The court shall waive the fine against a person who, before, or upon the appearance date on the summons, supplies the court with evidence of acquisition, purchase, or rental of a child restraint system meeting the requirements of ~~this article~~ Section 56‑5‑6410.

Section 56‑5‑6460. A violation of ~~this article~~ Section 56‑5‑6410 ~~shall~~ does not constitute negligence, per se, contributory negligence nor be admissible as evidence in ~~any trial of any~~ a civil action or trial.

Section 56‑5‑6470. After June 30, 1984, ~~any~~ a person violating the provisions of Article 47, ~~of~~ Chapter 5, ~~of~~ Title 56 may be, when apprehended, issued a summons, to appear in court for the violation, but ~~no~~ a person shall not at any time, be placed under arrest or taken into custody for such a violation, other than upon a warrant issued for failure to appear in court in accordance with the summons or upon failure to pay a fine duly imposed by a court upon conviction.

Section 56‑5‑6480. (A) It is unlawful for a driver or occupant of a fully enclosed private or public passenger motor vehicle to smoke a tobacco product while a child in a rear‑facing safety seat, forward facing safety seat, or belt‑positioning booster seat is in the motor vehicle.

(B) A person who violates this section must be fined in accordance with Section 56‑5‑6540.”

SECTION 2. This act takes effect upon approval by the Governor.

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