AMENDED

March 21, 2012

**H. 3130**

Introduced by Reps. Brady, Stringer, Long, Butler Garrick and Erickson

S. Printed 3/21/12--H.

Read the first time January 11, 2011.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 63‑19‑2470 SO AS TO CREATE THE OFFENSE OF SEXTING, TO PROVIDE FOR A CIVIL FINE AND THE CREATION OF AN EDUCATIONAL PROGRAM FOR A PERSON WHO COMMITS THE OFFENSE, TO PROVIDE FOR THE RESTRICTION OF A MINOR’S DRIVING PRIVILEGES UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE CERTAIN SAFEGUARDS FOR MINORS WHO COMMIT THE OFFENSE, AND TO PROVIDE FOR THE USE OF THE UNIFORM TRAFFIC TICKET FOR THE OFFENSE AND FOR JURISDICTION OVER THE OFFENSE IN THE MUNICIPAL OR MAGISTRATES COURT.

Amend Title To Conform

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

SECTION 1. Article 23, Chapter 19, Title 63 of the 1976 Code is amended by adding:

“Section 63‑19‑2470. (A) It is unlawful for a child who is less than seventeen years of age to use a telecommunications device to knowingly transmit or distribute to another person a photograph or text message with a photograph attachment depicting a person who is less than eighteen years of age in a state of sexual activity or a state of sexually explicit nudity as defined by Section 16‑15‑375(5) or (6).

(B) A child less than seventeen years of age does not knowingly transmit or distribute the material by reporting the matter to a law enforcement agency, teacher, principal, or parent or by affording a law enforcement agency, teacher, principal, or parent access to the image.

(C) A child adjudicated delinquent for this offense may only be sentenced to a fine and this fine may not exceed one hundred dollars. The fine is subject to applicable court costs.

(D) A child who violates the provisions of this statute shall not be taken into custody, arrested, placed in jail or in any other secure facility, committed to the custody of the Department of Juvenile Justice, or found to be in contempt of court for a violation of this section or for failure to pay a fine.

(E) A child less than seventeen years of age who violates the provisions of this statute shall not be prosecuted under Sections 16‑15‑305, 16‑15‑325, 16‑15‑345, 16‑15‑405, or 16‑15‑410 unless, upon motion by the solicitor, the family court determines in its discretion to be in the interest of justice for the child to be prosecuted under Sections 16‑15‑305, 16‑15‑325, 16‑15‑345, 16‑15‑405, or 16‑15‑410.

(F) A child less than seventeen years of age who receives or possesses a photograph transmitted by a telecommunications device or text message with a photograph attachment depicting a person who is less than eighteen years of age in a state of sexual activity or a state of sexually explicit nudity as defined by Section 16‑15‑375(5) or (6) shall not be prosecuted under Sections 16‑15‑305, 16‑15‑325, 16‑15‑345, 16‑15‑405, or 16‑15‑410 unless, upon motion by the solicitor, the family court determines in its discretion to be in the interest of justice for the child to be prosecuted under Sections 16‑15‑305, 16‑15‑325, 16‑15‑345, 16‑15‑405, or 16‑15‑410.”

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

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