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AMENDED--NOT PRINTED IN THE HOUSE

Amt. No.1 (Doc. Path council\ms\7371ahb11)

Amt. No. 2 (Doc. Path council\swb\6173cm11)

May 5, 2011

**H. 3164**

Introduced by Reps. Young, G.R. Smith, Taylor, Forrester, Patrick, Bowers and Brannon

S. Printed 4/13/11--H.

Read the first time January 11, 2011.

**A** **BILL**

TO AMEND SECTION 56‑1‑176, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SCHOOL ATTENDANCE CONDITIONS ASSOCIATED WITH THE ISSUANCE OF CONDITIONAL AND SPECIAL RESTRICTED DRIVER’S LICENSES, SO AS TO PROVIDE THAT THESE AND ADDITIONAL CONDITIONS SHALL APPLY TO THE ISSUANCE OR REINSTATEMENT OF A BEGINNER’S PERMIT, CONDITIONAL DRIVER’S LICENSE, SPECIAL RESTRICTED DRIVER’S LICENSE, AND A REGULAR DRIVER’S LICENSE ISSUED TO A PERSON LESS THAN EIGHTEEN YEARS OF AGE; BY ADDING SECTION 56‑1‑177 SO AS TO PROVIDE THAT A MINOR’S PRIVILEGE TO DRIVE MUST BE SUSPENDED UNDER CERTAIN CIRCUMSTANCES; AND BY ADDING SECTION 56‑1‑46 SO AS TO PROVIDE A PENALTY FOR A PERSON WHO DRIVES A MOTOR VEHICLE WHEN HIS LICENSE TO DRIVE HAS BEEN SUSPENDED, CANCELLED, REVOKED, OR DENIED PURSUANT TO CERTAIN PROVISIONS.

Amend Title To Conform

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

SECTION 1. Section 56‑1‑176 of the 1976 Code is amended to read:

“Section 56‑1‑176. (A) School attendance is a condition for the issuance or reinstatement of a beginner’s permit, a conditional driver’s license, ~~and~~ a special restricted driver’s license, and a regular driver’s license for a person who is less than eighteen years of age. The Department of Motor Vehicles may not issue or reinstate a beginner’s permit, conditional driver’s license, ~~or~~ a special restricted driver’s license, or a regular driver’s license to a person less than eighteen years of age pursuant to Section 56‑1‑40, Section 56‑1‑50, Section 56‑1‑175, or Section 56‑1‑180 unless the person:

(1) has a high school diploma awarded by a public, private, or home school or a certificate of attendance issued by a public, private, or home school, or a ~~General Education Development Diploma~~ South Carolina High School Equivalency Diploma (GED); or

(2) is enrolled in a public or private school or is home schooled under the provisions contained in ~~Section~~ Sections 59‑65‑40, 59‑65‑45, or 59‑65‑47, or is enrolled in an adult education program and is making progress toward completion of a program leading to a South Carolina High School Equivalency Diploma (GED) or regular high school diploma and:

(a) the ~~person~~ student has conformed to the attendance laws, regulations, and policies of the ~~school, school district, and the State Board of Education,~~ student’s public school, private school, or home school as applicable; and

(b) the ~~person~~ student is not ~~suspended or~~ expelled from school.

(B) ~~Documentation~~ At the time of application for a license described in subsection (A), documentation of enrollment status must be presented to the Department of Motor Vehicles by the applicant on a form approved by the department. The documentation must indicate whether the student is in compliance with the requirements as provided in ~~item (2)~~ subsection (A). By applying for a license, the parent, or guardian, or both, consents to the release of attendance information to the department. The department shall include the consent language on its application form.

(C) Within twenty‑eight days of learning that an enrolled student who is at least fifteen but less than eighteen years of age has accumulated ten or more total unlawful absences, been expelled, or dropped out of school as provided for in Section 56‑1‑177, the board of trustees of the school district or its designee, the governing body of a private school, or an official of a home school association shall notify the Department of Motor Vehicles. This notification must be by an electronic method as determined by the Department of Motor Vehicles and the Department of Education. Nothing in this subsection should be construed to change the way or the frequency with which home school students or parents of home school students report a home school student’s attendance in an academic year.

(D) Upon receipt of notice of a student whose attendance to school falls in either subsection (1) or subsection (2) of Section 56‑1‑177, the Department of Motor Vehicles must within ten days notify the minor of the suspension of the minor’s license and driving privileges. The notice must be in the manner used by the department for similar driving suspensions.

(E) Upon receipt of notice of suspension of the minor’s license and driving privileges, the minor student’s parent or guardian or in a case where the parent or guardian is unavailable an advocate for the student may appeal the decision. The notice must provide that a person aggrieved by the department’s determination may file a request for a contested case hearing with the Office of Motor Vehicle Hearings in accordance with its rules of procedure. The Office of Motor Vehicle Hearings has exclusive jurisdiction to conduct these hearings. In such appeal, the student’s parent or guardian has the burden of demonstrating with clear and convincing evidence the need for a waiver as provided in this section. A waiver of the requirements of this section may be granted by the Office of Motor Vehicle Hearings if the student has a personal or family hardship that requires that the student have a driver’s license. For purposes of this section, a personal or family hardship means:

(1) a medical condition of the student or a member of his immediate family that requires that he maintain a driver’s license to receive or transport an immediate family member or the student for treatment; or

(2) employment requiring the student to maintain a driver’s license to support himself or his immediate family. Additionally, a waiver must be granted if the student is seventeen years old, and it can be shown by clear and convincing evidence that the student has joined a branch of the United States Armed Forces, active or reserve.

The filing of an appeal stays the suspension until a final decision is issued on appeal. The Office of Motor Vehicle Hearings shall notify the appropriate school district, governing body of a private school, or official of a home school association when an appeal decision results in the granting of a waiver of the provisions of Section 56‑1‑177. An appeal from the determination of the Office of Motor Vehicle Hearings must be to the Administrative Law Court.

(F) A person who has appealed a suspension of his privilege to operate a motor vehicle under this section may obtain a special route‑restricted driver’s license that is valid until the final disposition of his appeal. The special route‑restricted driver’s license allows the person to only operate a motor vehicle as transportation between his home and work, or as a part of his work duties, or relating to a medical emergency.

If the Department of Motor Vehicles issues a special route‑restricted driver’s license, it shall designate reasonable restrictions on the times during which and routes on which the person may operate a motor vehicle. A change in the employment hours, place of employment, status as a student, or residence must be reported immediately to the Department of Motor Vehicles by the person.

The fee for a special route‑restricted driver’s license is one hundred dollars. No additional fee is due because of changes in the place and hours of employment or residence. Twenty dollars of this fee must be deposited in the state general fund and eighty dollars must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of the Department of Motor Vehicles.

The operation of a motor vehicle outside the time limits and route imposed by a special route‑restricted driver’s license by the person issued that license is a violation of Section 56‑1‑460.

(G) The suspension of driving privileges as provided in this section shall end upon the date of such minor’s eighteenth birthday unless such minor can show that the minor complies with the requirements of subitems (A)(1) and (A)(2) of this section.”

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

“Section 56‑1‑177. A person’s, who is less than eighteen years of age, privilege to operate a motor vehicle must be suspended if the person has:

(1) been expelled from or dropped out of school for seven consecutive school days; or

(2) accumulated ten or more unlawful absences in the current academic year or ten or more unlawful absences in the previous academic semester.”

SECTION 3. Article 1, Chapter 1, Title 56 of the 1976 Code is amended by adding:

“Section 56‑1‑46. A person who drives a motor vehicle on a public highway of this State when his license to drive has been suspended, cancelled, revoked, or denied pursuant to Section 56‑1‑176 or 56‑1‑177 may be penalized pursuant to the provisions contained in Section 56‑1‑440, but may not be penalized pursuant to the provisions contained in Section 56‑1‑460.”

SECTION 4. 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 5. The Department of Education and the Department of Motor Vehicles may promulgate regulations to implement the provisions of this act.

SECTION 6. Section 59‑1‑396 of the 1976 Code, as added by Act 273 of 2010, is amended by adding a subsection at the end to read:

“(E) The provisions of this section do not apply to a person whose license is suspended pursuant to Section 56‑1‑176.”

SECTION 7. This act takes effect on August 1, 2013.

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