~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

January 25, 2012

**H. 4571**

Introduced by Rep. Rutherford

S. Printed 1/25/12--H. [SEC 1/26/12 3:48 PM]

Read the first time January 11, 2012.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 4571) to amend Act 13 of 2011, relating to the repeal of Section 56‑1‑745 which relates to the suspension of a driver’s license of a person convicted of a controlled substance, 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 inserting after the Title and before the enacting words:

/Whereas, Section 1 of Act 13 of 2011, repealed Section 56-1-745 of the 1976 Code, which suspended the driver’s license of a person convicted of a controlled substance violation; and

Whereas, Section 2 of Act 13 of 2011, stated that the repeal of this statute (Section 56-1-745) ‘does not affect pending actions . . . or liabilities’ or does not ‘alter, discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the repealed . . . law’; and

Whereas, Section 2 of Act 13 of 2011, further states that ‘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 the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action,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of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws; and

Whereas, the South Carolina Department of Motor Vehicles (DMV) interpreted Section 2 of Act 13 of 2011, to mean that the charge of a person whose controlled substance violation and criminal charge occurred before April 12, 2011, was a pending charge and accordingly applied Section 56-1-748 and suspended that person’s driver’s license; and

Whereas, members of the General Assembly have stated that the provisions of Section 2 of Act 13 of 2011, do not accurately reflect the intentions of the General Assembly in enacting Act 13 of 2011; and

Whereas, members of the General Assembly have stated that the intention of the General Assembly was to discontinue the suspension of the driver’s license of a person who was charged with a controlled substance violation before April 12, 2011, but whose conviction occurred on or after April 12, 2011; and

Whereas, in order to carry out the intentions of the General Assembly, it is necessary to enact the following language. Now, therefore, /

Amend the bill, further, by deleting Section 1 of the bill and inserting:

/SECTION 1. (A) Notwithstanding the provisions of Act 13 of 2011, the suspension by the Department of Motor Vehicles of the driver’s license of a person convicted of a controlled substance violation, pursuant to former Section 56-1-745 of the 1976 Code, for which the person was charged before April 12, 2011, and whose conviction or guilty plea or nolo contendere was entered on or after April 12, 2011, is reversed and the person’s driving privilege must be reinstated on this act’s effective date.

(B) The department must not pay or reimburse a person for a reinstatement fee or other costs or fees incurred by the person as a result of the suspension of the person’s driver’s license if the person’s driver’s license suspension was due to being charged with a controlled substance violation before April 12, 2011, and convicted on or after April 12, 2011, and the suspension ended and the person paid the reinstatement fee or incurred other costs or fees before this act’s effective date. /

Renumber sections to conform.

Amend title to conform.

JAMES H. HARRISON for Committee.

**A** **BILL**

TO AMEND ACT 13 OF 2011, RELATING TO THE REPEAL OF SECTION 56‑1‑745 WHICH RELATES TO THE SUSPENSION OF A DRIVER’S LICENSE OF A PERSON CONVICTED OF A CONTROLLED SUBSTANCE VIOLATION, SO AS TO PROVIDE THAT THE REPEAL OF THIS PROVISION APPLIES TO ALL ACTIONS, RIGHTS, DUTIES, OR LIABILITIES FOUNDED ON IT PENDING ON AND BEFORE APRIL 12, 2011, AND ALTERS, DISCHARGES, RELEASES AND EXTINGUISHES ANY PENALTY, FORFEITURE, OR LIABILITY INCURRED UNDER THE REPEALED SECTION.

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

SECTION 1. Section 2 of Act 13 of 2011 is amended to read:

“SECTION 2. The repeal or amendment by this act of any law~~;~~, whether temporary or permanent or civil or criminal, ~~does not affect~~ applies to all pending actions, rights, duties, or liabilities founded thereon, ~~or alter, discharge, release or extinguish~~ and alters, discharges, releases and extinguishes 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 not 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 2. This act takes effect upon approval by the Governor and applies to all civil and criminal actions pending on and before April 12, 2011.

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