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Indicates New Matter

AS PASSED BY THE SENATE

June 6, 2012

**H. 4888**

Introduced by Reps. Thayer, Owens, Daning, Brannon, Erickson, Whitmire, Atwater, R.L. Brown, Gambrell, J.M. Neal, Putnam and Willis

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Read the first time April 3, 2012.

**A** **BILL**

TO AMEND SECTION 38‑73‑470, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DISPOSITION OF THE UNINSURED MOTORIST FUND, SO AS TO PROVIDE THAT THE PORTION THAT WAS FORMERLY PAID TO THE DEPARTMENT OF PUBLIC SAFETY MUST BE PAID TO THE DEPARTMENT OF MOTOR VEHICLES; TO AMEND SECTION 56‑1‑286, AS AMENDED, RELATING TO THE SUSPENSION OF A DRIVER’S LICENSE OR PERMIT TO CERTAIN PERSONS WHO DRIVE A MOTOR VEHICLE WITH AN UNLAWFUL ALCOHOL CONCENTRATION, SO AS TO MAKE TECHNICAL CHANGES, AND TO PROVIDE THAT THE PORTION OF THE FEE TO OBTAIN A TEMPORARY ALCOHOL LICENSE THAT WAS FORMERLY RETAINED BY THE DEPARTMENT OF PUBLIC SAFETY MUST BE DISTRIBUTED TO THE DEPARTMENT OF MOTOR VEHICLES; TO AMEND SECTION 56‑3‑3910, RELATING TO THE ISSUANCE OF “SHAG” SPECIAL LICENSE PLATES, SO AS TO REVISE THE BIENNIAL PERIOD IN WHICH THE LICENSE PLATE MUST BE ISSUED OR REVALIDATED; TO AMEND SECTION 56‑3‑5200, RELATING TO “SOUTH CAROLINA: FIRST IN GOLF” SPECIAL LICENSE PLATES, SO AS TO MAKE A TECHNICAL CHANGE; TO AMEND SECTION 56‑5‑2951, AS AMENDED, RELATING TO THE SUSPENSION OF A DRIVER’S LICENSE WHEN A DRIVER REFUSES TO SUBMIT TO TESTS TO DETERMINE HIS LEVEL OF ALCOHOL CONCENTRATION, SO AS TO MAKE A TECHNICAL CHANGE; TO AMEND SECTION 56‑10‑552, RELATING TO THE UNINSURED ENFORCEMENT FUND, SO AS TO PROVIDE THAT THIS FUND WHICH WAS FORMERLY DIRECTED TO THE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY MUST NOW BE DIRECTED TO THE DIRECTOR OF THE DEPARTMENT OF MOTOR VEHICLES AND USED BY THE DEPARTMENT OF MOTOR VEHICLES AND THE DEPARTMENT OF PUBLIC SAFETY; TO AMEND SECTION 56‑15‑420, RELATING TO THE PROMULGATION OF CERTAIN REGULATIONS BY THE DEPARTMENT OF PUBLIC SAFETY, SO AS TO PROVIDE THAT THESE REGULATIONS NOW WILL BE PROMULGATED BY THE DEPARTMENT OF MOTOR VEHICLES; TO AMEND SECTION 56‑19‑420, AS AMENDED, RELATING TO CERTAIN FEES FOR SERVICES OFFERED BY THE DEPARTMENT OF MOTOR VEHICLES, SO AS TO REVISE THE DISTRIBUTION OF THESE FEES; AND TO REPEAL ARTICLE 60, CHAPTER 3, TITLE 56 RELATING TO THE ISSUANCE OF “SHRINERS” SPECIAL LICENSE PLATES.

Amend Title To Conform

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

SECTION 1. Section 38‑73‑470 of the 1976 Code, as last amended by Act 324 of 2002, is further amended to read:

“Section 38‑73‑470. Two dollars of the yearly premium for uninsured motorist coverage is directed to be paid to the South Carolina Department of ~~Public Safety~~ Motor Vehicles to be placed on deposit with the State Treasurer in the ‘Uninsured Enforcement Fund’, payable on a quarterly basis, to provide for the costs of enforcing and administering the provisions of Article 3, Chapter 10, Title 56. Of the two dollars collected, eighty cents must be distributed to the South Carolina Highway Patrol and one dollar twenty cents must be ~~distributed to~~ retained by the Department of Motor Vehicles. Interest earned by the ‘Uninsured Fund’ must be retained by that fund. There is no requirement for an insurer or an agent to offer underinsured motorist coverage at limits less than the statutorily required bodily injury or property damage limits.”

SECTION 2. Section 56‑1‑286(K)(1) of the 1976 Code, as last amended by Act 201 of 2008, is further amended to read:

“(1) obtain a temporary alcohol license by filing with the ~~department~~ Department of Motor Vehicles a form for this purpose. A ~~one‑hundred‑dollar~~ one hundred dollar fee must be assessed for obtaining a temporary alcohol license. Twenty‑five dollars of the fee collected by the Department of Motor Vehicles must be ~~retained by~~ distributed to the Department of Public Safety for supplying and maintaining all necessary vehicle videotaping equipment. The remaining seventy‑five dollars must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray its expenses. The temporary alcohol license allows the person to drive a motor vehicle without any restrictive conditions pending the outcome of the administrative hearing provided for in this section or the final decision or disposition of the matter.”

SECTION 3. Section 56‑3‑3910 of the 1976 Code is amended to read:

“Section 56‑3‑3910. The Department of Motor Vehicles may issue a special commemorative motor vehicle license plate commemorating the fiftieth anniversary of the introduction of the State Dance, the Shag, in 1988 for use by owners on their private passenger motor vehicles. The biennial fee for the commemorative license plate is fifty dollars in addition to the regular motor vehicle registration fee prescribed by Article 5 of this chapter. This license plate must be of the same size and general design of regular motor vehicle license plates. The plate must be issued or revalidated ~~biennially for two years beginning December first and ending November thirtieth twenty‑four months later~~ for a biennial period which expires twenty‑four months from the month it was issued. License number ‘one’ for the Shag license plate is reserved for the president of the Columbia Shag Club in Richland County.”

SECTION 4. Section 56‑3‑5200(B) of the 1976 Code is amended to read:

“(B) The fees collected pursuant to this section must be distributed to a special ‘South Carolina: First In Golf’ fund established within and administered by the Department of Parks, Recreation and Tourism to promote the South Carolina Junior Golf Association. The distribution is thirty dollars to the ~~department~~ Department of Motor Vehicles and forty dollars to the fund.”

SECTION 5. Section 56‑5‑2951(B)(1) of the 1976 Code, as last amended by Act 201 of 2008, is further amended to read:

“(1) obtain a temporary alcohol license by filing with the Department of Motor Vehicles a form for this purpose. A one hundred dollar fee must be assessed for obtaining a temporary alcohol license. Twenty‑five dollars of the fee must be ~~retained by~~ distributed by the Department of Motor Vehicles to the Department of Public Safety for supplying and maintaining all necessary vehicle videotaping equipment. The remaining seventy‑five dollars must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray its expenses. The temporary alcohol license allows the person to drive without any restrictive conditions pending the outcome of the administrative hearing provided for in subsection (F) or the final decision or disposition of the matter. If the suspension is upheld at the administrative hearing, the temporary alcohol license remains in effect until the Department of Motor Vehicles issues the hearing officer’s decision and sends notice to the person that he is eligible to receive a restricted license pursuant to subsection (H).”

SECTION 6. Section 56‑10‑552(A) of the 1976 Code is amended to read:

“(A) All funds collected as provided in Section 38‑73‑470 must be directed to the director of the Department of ~~Public Safety~~ Motor Vehicles for the establishment and maintenance of a special fund, to be known as the ‘Uninsured Enforcement Fund’, to be used by the Department of Motor Vehicles and the Department of Public Safety for the purpose of enforcement and administration of Article 3, Chapter 10, Title 56.”

SECTION 7. Section 56‑15‑420 of the 1976 Code, as added by Act 9 of 2005, is amended to read:

“Section 56‑15‑420. The Department of ~~Public Safety~~ Motor Vehicles shall promulgate regulations to implement the provisions contained in this article.”

SECTION 8. Section 56‑19‑240 of the 1976 Code, last amended by Act 14 of 2011, is amended to read:

“Section 56‑19‑240. (A) An application for a certificate of title for a vehicle in this State must be made by the owner to the Department of Motor Vehicles on the form it prescribes and must contain or be accompanied by:

(1) if the owner is an individual:

(a) the South Carolina residence address of the owner and mailing address, if different from residence address;

(b) the full legal name as it appears on the identification provided in item (d);

(c) the issuing state and number of the identification provided in item (d);

(d) in order to fulfill the requirements in items (a) through (c), the owner must provide one of the following:

(i) the owner’s South Carolina driver’s license or South Carolina identification card;

(ii) the owner’s home state driver’s license or home state special identification card and valid active duty military identification card if the owner is a person on active military duty and is stationed in this State;

(iii) the owner’s home state driver’s license or home state special identification card and proof of enrollment in a school in this State if the owner is a permanent resident of another state but is currently enrolled in a school in this State; or

(iv) the owner’s home state driver’s license or home state special identification card if the owner or co‑owner intends to principally garage the vehicle in this State. ‘Principally garage’ means the vehicle is garaged for six or more months of the year on property in this State which is owned, leased, or otherwise lawfully occupied by the owner of the vehicle. The application for a certificate of title must include the South Carolina residence address of the property where the vehicle is housed;

(2) if the owner is a business:

(a) a social security number, if the business is a sole proprietorship with no employees or a Federal Employer Identification Number (FEIN), if the business has employees; and

(b) a South Carolina physical address of the bona fide place of business operations for the business unless the owner is a bona fide leasing company;

(3) for vehicles that have more than one owner, only one co‑owner must provide the information required pursuant to items (1) or (2) of this subsection;

(4) an owner who would otherwise be capable of attaining a driver’s license or special identification card from this State, except for a medical or physical condition that can be documented and verified by the department, shall be issued a title and registration if the owner provides a signed affidavit certifying that the owner intends to principally garage the vehicle in this State, that the vehicle will be driven by a driver who is not the owner, and if the owner provides the South Carolina address where the vehicle will be principally garaged;

(5) a description of the vehicle, including, so far as the following data exists, its make, model, year, vehicle identification number, type of body, odometer reading at the time of application, and whether new or used;

(6) the date of acquisition by applicant, the name and address of the person from whom the vehicle was acquired, and the names and addresses of any lienholders in the order of their priority and the dates of their security agreements;

(7) an odometer disclosure statement made by the transferor of the vehicle and acknowledged by the transferee. The statement must be in compliance with federal guidelines and as prescribed by the department. Where more than one transfer has intervened between the previous certificate of title and the application for a new certificate of title, it must be shown that the certificate of title has been signed by the owner or by the owner’s attorney in fact, and there must be for each intervening transfer thereafter a bill of sale in a form approved by the department, including a completed odometer disclosure statement. Additionally, the odometer disclosure statement on the application form must be completed by the applicant;

(8) any further information or documentation the department reasonably requires to enable it to determine: the identity of the vehicle, whether the owner is entitled to a certificate of title, the existence or nonexistence of security interests in the vehicle, and the accuracy of the odometer disclosure statement.

(B) If the application is not for the first certificate of title, it shall be accompanied by the last certificate of title previously issued for the vehicle, whether issued by this State or another state or country.

(C) If the application refers to a vehicle purchased from a dealer, it shall contain the name and address of any lienholder holding a security interest created or reserved at the time of the sale and the date of his security agreement and be signed by the dealer as well as the owner, and the dealer promptly shall mail or deliver the application to the department. If the application refers to a new vehicle purchased from a dealer, the application also shall be accompanied by the manufacturer’s certificate of origin.

(D) The department will issue a title and registration only for vehicles that are physically located and primarily operated in this State. Vehicles that are purchased for primary operation in another state or a foreign jurisdiction cannot be titled and registered in South Carolina.

(E) A person who knowingly gives a false statement on the application or knowingly gives a false statement concerning the odometer reading on an odometer disclosure statement is guilty of a misdemeanor and, upon conviction, is subject to a fine of up to one thousand dollars or imprisonment of up to one year, or both. These penalties are in addition to the penalties provided by the federal odometer law 49 U.S.C. 32701‑32711 (Title 49, Subtitle VI, Part C, Chapter 327).

(F) In addition to the other information required in an application, the application for title for a mobile or manufactured home must include the address of the site on which the home is to be placed if different from the owner’s address.”

SECTION 9. (A) Notwithstanding the provisions of Act 13 of 2011, the suspension by the Department of Motor Vehicles of a person’s driver’s license who is convicted of a controlled substance violation, pursuant to former Section 56‑1‑745, for which the person was charged before April 12, 2011, and whose conviction or guilty plea or nolo contendere plea 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 shall not pay or reimburse a person for a reinstatement fee or other costs or fees incurred by the person as a result of the person’s driver’s license suspension if the suspension was due to being charged with a controlled substance violation before April 12, 2011, the person was convicted on or after April 12, 2011, the suspension ended, and the person paid the reinstatement fee or incurred other costs or fees before this act’s effective date.

SECTION 10. Section 56‑2‑100(A) of the 1976 Code is amended to read:

“(A) A low speed vehicle may be operated only on a ~~secondary~~ highway for which the posted speed limit is thirty‑five miles an hour or less.”

SECTION 11. Article 60, Chapter 3, Title 56 is repealed.

SECTION 12. Article 3, Chapter 19, Title 56 of the 1976 Code is amended by adding:

“Section 56‑19‑495. The Department of Motor Vehicles shall convene a working group chaired by the Director of the Department of Motor Vehicles, or the director’s designee, for the purpose of assisting in the development of a process to be used for the titling of vehicles in this State for which no title can be provided, and assisting in the development of forms and regulations pursuant to this section. The working group must consist, at a minimum, of representative stakeholders from the classic car, dealer, insurance and lienholder industries, as well as from law enforcement agencies.”

SECTION 13. 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 14. This act takes effect upon approval by the Governor.

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