~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 19, 2014

**S. 560**

Introduced by Senator L. Martin

S. Printed 2/19/14--S.

Read the first time March 21, 2013.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 560) to amend Section 58‑15‑870, Code of Laws of South Carolina, 1976, relating to the wilfull and malicious injury to a railroad or electric railway, so as to provide, 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, page 2, by striking lines 6-8, and inserting:

/ (B) A person who violates this section is guilty of a misdemeanor, and, upon conviction, must be fined not less than one thousand dollars, or imprisoned not more than five years, or both. /

Amend the bill further, as and if amended, page 2, by striking lines 24-25, and inserting:

/ “Section 58‑15‑875. (A) It is unlawful to purchase, sell, or transport railroad track materials for the purpose of recycling. /

Renumber sections to conform.

Amend title to conform.

C. BRADLEY HUTTO for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

Minimal (Some additional costs expected but can be absorbed)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The Judicial Department and the Department of Corrections indicate that this bill will have a minimal impact on the General Fund of the State, which the both agencies can absorb at their current level of funding.

Department of Commerce (SC Railways Commission)

The department indicates that this bill will have no impact on the General Fund of the State or on federal and/or other funds.

**SPECIAL NOTES:**

The Board of Economic Advisors is the appropriate entity to address any revenue impact associated with this or any other bill.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

TO AMEND SECTION 58‑15‑870, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE WILFULL AND MALICIOUS INJURY TO A RAILROAD OR ELECTRIC RAILWAY, SO AS TO PROVIDE A TIER OF PENALTIES FOR VIOLATIONS; AND TO AMEND ARTICLE 9, CHAPTER 15, TITLE 58, RELATING TO RAILROADS, ELECTRIC RAILROADS, AND THE LIKE, SO AS TO PROVIDE THAT IT IS UNLAWFUL TO PURCHASE, SELL, OR TRANSPORT RAILROAD TRACK MATERIALS, TO PROVIDE EXCEPTIONS, AND TO PROVIDE A TIER OF PENALTIES FOR VIOLATIONS.

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

SECTION 1. Section 58‑15‑870 of the 1976 Code is amended to read:

“Section 58‑15‑870. ~~Whoever wilfully and maliciously injures in any way any railroad or electric railway or anything appertaining thereto or any material or instrument for the construction or use thereof, or aids or abets in such trespass, shall be punished by a fine not exceeding one thousand dollars or imprisonment not exceeding one year and, except in the case of an electric railway, shall forfeit to the use of the corporation for each offense treble the amount of damages proved to have been sustained thereby to be recovered in an action of tort in the name of the corporation. Whoever commits any of the acts mentioned in this section in such manner as thereby to endanger life shall be punished as herein provided or by imprisonment in the Penitentiary not exceeding twenty years.~~

(A) It is unlawful for a person to wilfully and maliciously cut, mutilate, deface, or otherwise injure a railroad or electric railway, including anything appertaining to the railroad or electric railway or any material or instrument for the construction of the railroad or electric railway.

(B) A person who violates this section is guilty of a felony, and, upon conviction, must be fined not less than one thousand dollars, or imprisoned not more than five years, or both.

(C) A person who violates this section resulting in the endangerment of another person’s life is guilty of a felony, and, upon conviction, must be imprisoned not more than twenty years.

(D) A person who violates this section resulting in the death of another person is guilty of a felony, and, upon conviction, must be imprisoned not more than thirty years.

(E) In addition to the penalties provided by subsections (B), (C), and (D), except in the case of an electric railway, the person shall forfeit to the railroad company for each offense treble the damages proved to have been sustained to be recovered in a tort action in the railroad company’s name.”

SECTION 2. Article 9, Chapter 15, Title 58 of the 1976 Code is amended by adding:

“Section 58‑15‑875. (A) It is unlawful to purchase, sell, or transport railroad track materials.

(B) This section does not apply to:

(1) a railroad company or a railroad company’s authorized agent;

(2) an independent railroad contractor; or

(3) a person or business with a letter of authorization from a special agent of a railroad company class 1 or shortline. An entity removing or authorizing the removal of railroad track materials from private property must obtain a letter of authorization from the railroad company servicing the property.

(C) Payment for railroad track materials must only be made to the railroad company or the company’s principles, the independent railroad contractor or the contractor’s principles, or the person or business authorized by the railroad company or the businesses’ principles.

(D) A person who violates this section:

(1) for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than two hundred and fifty dollars, or imprisoned not more than one year, or both;

(2) for a second offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than five hundred dollars, or imprisoned not more than three years, or both; and

(3) for a third or subsequent offense, is guilty of a felony, and, upon conviction, must be fined not less than one thousand dollars, or imprisoned not more than five years, or both.”

SECTION 3. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑