~~Indicates Matter Stricken~~

Indicates New Matter

AMENDED

April 26, 2016

**H. 5089**

Introduced by Rep. Daning

S. Printed 4/26/16--H.

Read the first time March 10, 2016.

**A** **BILL**

TO AMEND SECTION 56‑19‑10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO TERMS AND THEIR DEFINITIONS REGARDING THE PROTECTION OF TITLES TO AND INTEREST IN MOTOR VEHICLES, SO AS TO ADD ADDITIONAL TERMS AND THEIR DEFINITIONS TO THIS SECTION; AND TO AMEND SECTION 56‑19‑265, AS AMENDED, RELATING TO LIENS RECORDED AGAINST MOTOR VEHICLES AND MOBILE HOMES, SO AS TO PROVIDE THAT A LIEN OR ENCUMBRANCE ON A MOTOR VEHICLE OR TITLED MOBILE HOME MUST BE NOTED ON THE PRINTED TITLE OR ELECTRONICALLY THROUGH THE DEPARTMENT OF MOTOR VEHICLES’ ELECTRONIC TITLE AND LIEN SYSTEM, TO PROVIDE THAT THE TRANSMITTAL MUST BE DONE ELECTRONICALLY FOR BUSINESS ENTITIES, TO MAKE TECHNICAL CHANGES, TO PROVIDE THAT BUSINESS ENTITIES ARE SUBJECT TO CERTAIN FEES, TO PROVIDE THAT THE TRANSMITTAL AND RETRIEVAL OF DATA FEES ARE “OFFICIAL FEES”, TO PROVIDE THAT CERTAIN BUSINESSES AND COMMERCIAL LIENHOLDERS MUST UTILIZE THE ELECTRONIC LIEN SYSTEM TO TRANSMIT AND RECEIVE ELECTRONIC LIEN INFORMATION, TO PROVIDE THE EFFECTIVE DATE AND LAPSE DATE FOR CERTAIN LIENS, TO PROVIDE THAT THE DEPARTMENT SHALL PUBLISH FORMS FOR THE PURPOSE OF FILING A LIEN CONTINUATION STATEMENT, AND TO PROVIDE THE PROCESS FOR FILING A LIEN CONTINUATION STATEMENT AND THE PERIOD FOR WHICH THE LIEN REMAINS IN EFFECT.

Amend Title To Conform

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

SECTION 1. Section 56‑19‑10 of the 1976 Code, as last amended by Act 317 of 2008, is further amended by adding the following appropriately numbered items:

“( ) ‘Commercial truck’ or ‘commercial motor vehicle (CMV)’ as defined by the Federal Motor Carrier Safety Administration (FMCSA) means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(a) has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater;

(b) has a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 pounds or more), whichever is greater;

(c) is designed to transport sixteen or more passengers, including the driver; or

(d) is of any size and is used in the transportation of hazardous materials as that term is defined in 49 C.F.R. Section 390.5.

( ) ‘Motor home’ means a vehicular unit designed to provide temporary living quarters built into an integral part of or permanently attached to a self‑propelled motor vehicle chassis or van which unit contains permanently installed independent life support systems other than low voltage meeting the American National Standards Institute (ANSI) A119.2 Standard for Recreational Vehicles and provides at least four of the following facilities: cooking with onboard power source; gas or electric refrigerator; toilet with exterior evacuation; heating or air conditioning with onboard power source separate from the vehicle engine; a potable water supply system including a faucet, sink, and water tank with an exterior service connection; or separate 110‑125 volt electric power supply. For purposes of this definition, a passenger‑carrying automobile, truck, or van without permanently installed independent life support systems, including at least four of the indicated facilities, does not constitute a motor home.

( ) ‘Permanently installed’ means built into or attached as an integral part of a chassis or van and designed not to be removed except for repair or replacement. A system which is readily removable or held in place by clamps or tie downs is not permanently installed.

( ) ‘Low voltage’ means twenty‑four volts or less.

( ) ‘Special mobile equipment’ means every vehicle, with or without motive power, not designed or used primarily for the transportation of persons or pay‑load property and incidentally operated or moved over the highways, including farm tractors, road construction and maintenance machinery, ditch-digging apparatus, well‑boring apparatus, truck cranes or mobile shovel cranes, and similar vehicles; this enumeration is deemed partial and does not operate to exclude other vehicles which are within the general terms of this definition.”

SECTION 2. Section 56‑19‑265 of the 1976 Code, as last amended by Act 201 of 2014, is further amended to read:

“Section 56‑19‑265. (A) ~~Notwithstanding a requirement in this chapter that a lien on a motor vehicle or mobile home must be noted on the face of the certificate of title, if there are one or more liens or encumbrances on the motor vehicle or mobile home, the Department of Motor Vehicles~~ Any liens or encumbrances on a motor vehicle or titled mobile home must be noted on the printed title or electronically through the Department of Motor Vehicles’ Electronic Title and Lien System. The department shall transmit~~, electronically or by paper certificate,~~ the lien to the first lienholder and notify the first lienholder of additional liens. This transmittal must be done electronically for business entities or by paper certificate for nonbusiness entities (persons purchasing vehicles for personal use from persons selling vehicles they have used primarily for personal use). Lien recordings and subsequent lien satisfactions may be electronically transmitted to the department and shall include the name and address of the person satisfying the lien. Electronic transmission of liens and lien satisfaction does not require a certificate of title until the last lien is satisfied and a clear certificate of title is issued to the owner of the motor vehicle or mobile home. The owner has the option to retain the electronic copy of the title with the department once all liens are satisfied. When a motor vehicle or mobile home is subject to an electronic lien, the certificate of title for the motor vehicle or mobile home is considered to be physically held by the lienholder for purposes of compliance with state or federal odometer disclosure requirements, and a duly certified copy of the department’s electronic record of the lien is admissible in any civil, criminal, or administrative proceeding in this State as evidence of the existence of the lien. The lienholder shall have the option to receive a paper certificate of title and to receive notices of subsequent liens and satisfaction of liens by way of the United States Postal Service. Business entities are subject to fees contained in subsection (D).

(B) The department is authorized to convene a working group chaired by the director of the department or his designee for the purpose of assisting in the development of program specifications governing the transmission of electronic lien information between lienholders and the department, and maximize the use of the program by various lien stakeholders. The working group will be composed of members of the lienholder community, representing applicable industries. The director is authorized to appoint members of the working group to ensure that all stakeholders are represented. The working group will be a standing group convened on a regular basis until all specifications have been developed. The department also is charged with promulgating regulations pursuant to the specifications and standards for lien recording and releasing developed by the working group.

(C) All entities submitting lien information electronically under this program are required to comply with all regulations.

(D) The department is authorized to collect a transaction fee from commercial entities who either transmit or retrieve data from the department pursuant to this section. The fee must not exceed five dollars for each transaction and must be agreed to as part of the program specifications developed by the working group. These fees must be placed by the State Treasurer into a special restricted account to be used by the department to defray the expenses of this program.

(E) Commercial entities and lenders who either transmit or retrieve data from the department pursuant to this section, notwithstanding Sections 37‑2‑202 and 37‑3‑202, may collect transaction fees from owners of the vehicles or mobile homes not to exceed a fee of five dollars for each transaction which must be agreed to as part of the program specifications developed by the working group. All fees charged by the department to any party as to a titled motor vehicle, motor home, or mobile home for purposes of transmittal or retrieval of this data is an ‘official fee’ as referenced in Sections 37‑2‑202 and 37‑3‑202.

(F) All businesses and commercial lienholders who are regularly engaged in the business or practice of selling motor vehicles as dealers licensed under Chapter 15 of this title or in the business or practice of financing motor vehicles shall utilize the electronic lien system to transmit and receive electronic lien information as described by subsection (A). The department shall maintain contact information on its website for service providers providing an electronic interface between the department, lienholders and sellers of motor vehicles. The department may establish procedures to ensure businesses comply with use of the electronic lien system and to deal with valid exceptions as determined by the department.

(G) Any lien upon a vehicle titled by the State, except upon vehicles defined as motor homes, mobile homes, special mobile equipment, or commercial trucks, shall be deemed effective for a period of twelve years from the date the lien was perfected. The effectiveness of the lien lapses at the end of this twelve-year period unless a continuation statement is filed pursuant to this subsection by the entity existing on the current title as lienholder using the application process acceptable by the Department of Motor Vehicles. The department shall publish forms for the purpose of filing a continuation statement. The lienholder shall not make application for lien continuation until no more than six months prior to lien expiration. Upon a timely filing of a continuation statement in accordance with this subsection, the lien will be effective for a period of two additional years from the date of the filing of the continuation statement. The responsibility of lien continuation lies with the lender. The twelve-year effective lien period refers to the age of the lien, not the age of the vehicle.”

SECTION 3. This act takes effect on February 1, 2017. However, this act’s implementation shall be one hundred eighty days after its effective date.

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