~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 21, 2018

**S. 773**

Introduced by Senator Rice

S. Printed 3/21/18--S. [SEC 3/23/18 9:30 AM]

Read the first time January 9, 2018.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 773) to amend Section 56‑5‑750, Code of Laws of South Carolina, 1976, relating to the offense of failure to stop a motor vehicle when signaled by a, 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 striking beginning on page 1, line 35 and ending on page 2, line 21 and inserting:

/ (B) A person who violates the provisions of subsection (A):

(1) for a first offense where no great bodily injury or death resulted from the violation, is guilty of a ~~misdemeanor~~ felony and, upon conviction, must be fined not less than five hundred dollars or imprisoned for not ~~less than ninety days nor~~ more than ~~three years~~ five years. The Department of Motor Vehicles must suspend the person’s driver’s license for at least thirty days; or

(2) for a second or subsequent offense where no great bodily injury or death resulted from the violation, is guilty of a felony and, upon conviction, must be imprisoned for not more than ~~five~~ ten years and fined not less than two thousand five hundred dollars. The person’s driver’s license must be suspended by the department for a period of one year from the date of the conviction.

(C) A person who violates the provisions of subsection (A) and when driving performs an act forbidden by law or neglects a duty imposed by law in the driving of the vehicle:

(1) where great bodily injury resulted, is guilty of a felony and, upon conviction, must be imprisoned for not more than ~~ten years~~ twenty years and fined not less than five thousand dollars; or

(2) where death resulted, is guilty of a felony and, upon conviction, must be imprisoned for not more than ~~twenty‑five~~ thirty years./

Renumber sections to conform.

Amend title to conform.

LUKE A. RANKIN for Committee.

**A** **BILL**

TO AMEND SECTION 56‑5‑750, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE OFFENSE OF FAILURE TO STOP A MOTOR VEHICLE WHEN SIGNALED BY A LAW ENFORCEMENT VEHICLE, SO AS TO INCREASE THE PENALTIES FOR VIOLATIONS OF THIS PROVISION.

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

SECTION 1. Section 56‑5‑750 of the 1976 Code is amended to read:

“Section 56‑5‑750. (A) In the absence of mitigating circumstances, it is unlawful for a motor vehicle driver, while driving on a road, street, or highway of the State, to fail to stop when signaled by a law enforcement vehicle by means of a siren or flashing light. An attempt to increase the speed of a vehicle or in other manner avoid the pursuing law enforcement vehicle when signaled by a siren or flashing light is prima facie evidence of a violation of this section. Failure to see the flashing light or hear the siren does not excuse a failure to stop when the distance between the vehicles and other road conditions are such that it would be reasonable for a driver to hear or see the signals from the law enforcement vehicle.

(B) A person who violates the provisions of subsection (A):

(1) for a first offense where no great bodily injury or death resulted from the violation, is guilty of a ~~misdemeanor~~ felony and, upon conviction, must be ~~fined not less than five hundred dollars or~~ imprisoned for a mandatory minimum period of not less than ~~ninety days nor more than~~ three years, and not more than five years, no part of which may be suspended or probation granted. The Department of Motor Vehicles must suspend the person’s driver’s license for at least thirty days; or

(2) for a second or subsequent offense where no great bodily injury or death resulted from the violation, is guilty of a felony and, upon conviction, must be imprisoned for a mandatory minimum period of ~~not more than five~~ not less than ten years and not more than fifteen years, no part of which may be suspended nor probation granted. The person’s driver’s license must be suspended by the department for a period of one year from the date of the conviction.

(C) A person who violates the provisions of subsection (A) and when driving performs an act forbidden by law or neglects a duty imposed by law in the driving of the vehicle:

(1) where great bodily injury resulted, is guilty of a felony and, upon conviction, must be imprisoned for a mandatory period of ~~not more than ten years~~ not less than fifteen years and not more than twenty years, no part of which may be suspended nor probation granted; or

(2) where death resulted, is guilty of a felony and, upon conviction, must be imprisoned for ~~not more~~ a mandatory period of not less than twenty‑five years and not more than thirty years, no part of which may be suspended nor probation granted.

(D) The department must revoke the driver’s license of any person who is convicted pursuant to subsection (C)(1) or (C)(2) for a period to include any term of imprisonment, suspended sentence, parole, or probation, plus three years.

(E) ‘Great bodily injury’ means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss of or impairment of the function of a bodily member or organ.

(F) After a conviction pursuant to subsection (B)(1) for a first offense, the person may, after three years from the date of completion of all terms and conditions of his sentence for the first offense, apply, or cause someone acting on his behalf to apply, to the court for an order expunging the records of the arrest and conviction. This provision does not apply to any crime classified as a felony. If the person has had no other conviction during the three‑year period following the completion of the terms and conditions of the sentence, the court shall issue an order expunging the records. No person has any rights under this section more than one time. After the expungement, the South Carolina Law Enforcement Division and the Department of Motor Vehicles are required to keep a nonpublic record of the offense and the date of its expungement to ensure that no person takes advantage of the rights permitted by this subsection more than once. This nonpublic record is not subject to release under the Freedom of Information Act or any other provision of law except to those authorized law or court officials who need to know this information in order to prevent the rights afforded by this subsection from being taken advantage of more than once.

(G)(1) If a person is employed or enrolled in a college or university at any time while his driver’s license is suspended pursuant to subsection (B) of this section, he may apply for a special restricted driver’s license permitting him to drive only to and from work or his place of education and in the course of his employment or education during the period of suspension. The department may issue the special restricted driver’s license only upon a showing by the person that he is employed or enrolled in a college or university, and that he lives further than one mile from his place of employment or place of education.

(2) If the department issues a special 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 by the licensee.

(3) The fee for each special restricted driver’s license is one hundred dollars, but no additional fee is due because of changes in the place and hours of employment, education, or residence. Of this fee twenty dollars must be distributed to the general fund and eighty dollars must be placed by the Comptroller General into the State Highway Fund as established by Section 57‑11‑20, to be distributed as provided in Section 11‑43‑167.

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

SECTION 2. This act takes effect upon approval by the Governor.

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