

## Session 120 - (2013-2014)

### **S\*0137 (Rat #0166, Act #0158 of 2014) General Bill, By Lourie, L. Martin, Hayes, Fair, Davis, Ford, Cromer, Grooms and Alexander**

**Summary:** DUI and DUS for person under 21 years of age

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT "EMMA'S LAW"; TO AMEND SECTION 56-1-286, AS AMENDED, RELATING TO THE SUSPENSION OF A DRIVER'S LICENSE OF A PERSON UNDER THE AGE OF TWENTY-ONE FOR HAVING AN UNLAWFUL ALCOHOL CONCENTRATION, SO AS TO MAKE TECHNICAL CHANGES, TO REDUCE THE TIME PERIOD FROM FIVE TO THREE YEARS IN WHICH A PERSON WHO REFUSES TO TAKE A BREATH TEST MUST HAVE HIS DRIVING RECORD EVALUATED TO DETERMINE WHETHER HIS DRIVING PRIVILEGE IS SUSPENDED FOR ONE YEAR FOR PREVIOUSLY VIOLATING A PROVISION THAT MAKES IT UNLAWFUL TO OPERATE A VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL OR OTHER DRUGS, TO REDUCE THE TIME PERIOD FROM FIVE TO THREE YEARS IN WHICH A PERSON WHO HAS AN ALCOHOL CONCENTRATION OF TWO ONE-HUNDREDTHS OF ONE PERCENT OR MORE MUST HAVE HIS DRIVING RECORD EVALUATED TO DETERMINE WHETHER HIS DRIVING PRIVILEGE IS SUSPENDED FOR ONE YEAR FOR PREVIOUSLY VIOLATING A PROVISION THAT MAKES IT UNLAWFUL TO OPERATE A VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL OR OTHER DRUGS, TO DELETE REFERENCES TO SECTION 56-5-2950, TO DELETE THE TERM "ADMINISTRATIVE HEARING" AND REPLACE IT WITH THE TERM "CONTESTED CASE HEARING"; TO AMEND SECTION 56-1-400, AS AMENDED, RELATING TO THE SUSPENSION OF A DRIVER'S LICENSE, A DRIVER'S LICENSE RENEWAL OR ITS RETURN, AND THE ISSUANCE OF A DRIVER'S LICENSE THAT RESTRICTS THE DRIVER TO OPERATING ONLY A VEHICLE EQUIPPED WITH AN IGNITION INTERLOCK DEVICE, SO AS TO MAKE TECHNICAL CHANGES, TO PROVIDE FOR THE ISSUANCE OF AN IGNITION INTERLOCK RESTRICTED LICENSE FOR THE VIOLATION OF CERTAIN MOTOR VEHICLE OFFENSES, TO PROVIDE A FEE FOR THE LICENSE, AND TO PROVIDE FOR THE DISPOSITION OF FEES COLLECTED FROM THE ISSUANCE OF THE LICENSE, TO REVISE THE PERIOD OF TIME THAT A PERSON'S DRIVER'S LICENSE MUST BE SUSPENDED WHEN HE REFUSES TO HAVE AN IGNITION INTERLOCK DEVICE INSTALLED ON HIS VEHICLE WHEN REQUIRED BY LAW AND WHEN HE CONSENTS TO HAVE THE DEVICE INSTALLED ON HIS VEHICLE, TO REVISE THE PROCEDURE WHEREBY A PERSON WHO ONLY MAY OPERATE A VEHICLE DURING THE TIME FOR WHICH HE IS SUBJECT TO HAVING AN IGNITION INTERLOCK DEVICE INSTALLED ON A VEHICLE MAY OBTAIN PERMISSION FROM THE DEPARTMENT OF MOTOR VEHICLES TO DRIVE A VEHICLE THAT IS NOT EQUIPPED WITH THIS DEVICE; TO AMEND SECTION 56-1-460, AS AMENDED, RELATING TO DRIVING A MOTOR VEHICLE WITH A CANCELED, SUSPENDED, OR REVOKED DRIVER'S LICENSE, SO AS TO REVISE THE PENALTY FOR A THIRD OR SUBSEQUENT OFFENSE, MAKE TECHNICAL CHANGES, AND TO PROVIDE THAT THIS PROVISION APPLIES ALSO TO A DRIVER'S LICENSE THAT IS SUSPENDED OR REVOKED PURSUANT TO SECTION 56-5-2945; TO AMEND SECTION 56-1-748, AS AMENDED, RELATING TO THE ISSUANCE OF A RESTRICTED DRIVER'S LICENSE TO A PERSON WHO IS INELIGIBLE TO OBTAIN A SPECIAL RESTRICTED DRIVER'S LICENSE, SO AS TO MAKE TECHNICAL CHANGES, AND TO ALLOW A PERSON WHO POSSESSES A ROUTE-RESTRICTED DRIVER'S LICENSE TO USE THE DRIVER'S LICENSE TO ATTEND ALCOHOL AND DRUG SAFETY ACTION PROGRAM CLASSES OR A COURT-ORDERED DRUG PROGRAM IN ADDITION TO THE OTHER PERMITTED USES OF THE DRIVER'S LICENSE; TO REPEAL SECTION 56-1-1310 RELATING TO THE DEFINITION OF THE TERM "CONVICTED"; TO AMEND SECTION 56-1-1320, RELATING TO THE ISSUANCE OF A PROVISIONAL DRIVER'S LICENSE BY THE DEPARTMENT OF MOTOR VEHICLES, SO AS TO MAKE TECHNICAL CHANGES; TO REPEAL SECTION 56-1-1350 RELATING TO THE DEPARTMENT OF MOTOR VEHICLES REQUIREMENT THAT A PERSON MUST PROVIDE PROOF OF FINANCIAL RESPONSIBILITY AND ASSURANCE OF HIS ACCEPTANCE INTO AN ALCOHOL TRAFFIC SAFETY SCHOOL PRIOR TO BEING ISSUED A PROVISIONAL DRIVER'S LICENSE; TO AMEND SECTION 56-5-2941, AS AMENDED, RELATING TO THE REQUIREMENT THAT A PERSON WHO IS CONVICTED OF CERTAIN OFFENSES SHALL HAVE AN IGNITION INTERLOCK DEVICE INSTALLED ON ANY MOTOR VEHICLE HE DRIVES, SO AS TO MAKE TECHNICAL CHANGES, TO PROVIDE THAT THIS SECTION APPLIES TO AN OFFENSE CONTAINED IN SECTION 56-5-2947, TO PROVIDE THAT THIS SECTION DOES NOT APPLY TO CERTAIN PROVISIONS OF LAW, TO REVISE THE PROCEDURES THAT THE DEPARTMENT OF MOTOR VEHICLES SHALL FOLLOW WHEN IT WAIVES OR WITHDRAWS THE WAIVER OF THE REQUIREMENTS OF THIS SECTION, TO REVISE THE TIME THAT A DEVICE IS REQUIRED TO BE AFFIXED TO A MOTOR VEHICLE, TO REVISE THE LENGTH OF TIME A PERSON MUST HAVE A DEVICE INSTALLED ON A VEHICLE BASED UPON THE ACCUMULATION OF POINTS UNDER THE IGNITION INTERLOCK DEVICE POINT SYSTEM, TO PROVIDE FOR THE USE OF FUNDS CONTAINED IN THE IGNITION INTERLOCK DEVICE FUND, TO REVISE THE AMOUNT THIS IGNITION INTERLOCK SERVICE PROVIDER SHALL COLLECT AND REMIT TO THE IGNITION INTERLOCK DEVICE FUND, TO

PROVIDE A PENALTY FOR A PERSON'S FAILURE TO HAVE THE IGNITION INTERLOCK DEVICE INSPECTED EVERY SIXTY DAYS OR FAILS TO COMPLETE A RUNNING RETEST OF THE DEVICE, TO REVISE THE INFORMATION THAT MUST BE CONTAINED IN AN INSPECTION REPORT OF A DEVICE AND PENALTIES ASSOCIATED WITH VIOLATIONS CONTAINED IN THE REPORT, TO DECREASE THE NUMBER OF IGNITION INTERLOCK DEVICE POINTS THAT MAY BE APPEALED, TO PROVIDE THAT THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES MUST PROVIDE A NOTICE OF ASSESSMENT OF IGNITION INTERLOCK DEVICE POINTS THAT MUST ADVISE A PERSON OF HIS RIGHT TO REQUEST A CONTESTED CASE HEARING BEFORE THE OFFICE OF MOTOR VEHICLE HEARINGS AND THAT UNDER CERTAIN CIRCUMSTANCE HIS RIGHT TO A HEARING IS WAIVED, TO PROVIDE THE PROCEDURE TO OBTAIN A HEARING, THE POTENTIAL OUTCOMES THAT MAY RESULT FROM A HEARING, AND THE PROCEDURES TO BE FOLLOWED DURING THE HEARING, TO REVISE THE TIME PERIOD IN WHICH A PERSON MAY APPLY FOR THE REMOVAL OF AN IGNITION INTERLOCK DEVICE FROM A MOTOR VEHICLE AND THE REMOVAL OF THE RESTRICTION FROM THE PERSON'S DRIVER'S LICENSE, TO REVISE THE PENALTIES APPLICABLE TO A PERSON WHO IS SUBJECT TO THE PROVISIONS OF THIS SECTION AND IS FOUND GUILTY OF VIOLATING THEM, TO REQUIRE A PERSON WHO OPERATES AN EMPLOYER'S VEHICLE PURSUANT TO THIS SECTION TO HAVE A COPY OF THE DEPARTMENT OF MOTOR VEHICLE'S FORM, CONTAINED IN SECTION 56-1-400, TO PROVIDE THAT OBSTRUCTING OR OBSCURING THE CAMERA LENS OF AN IGNITION INTERLOCK DEVICE CONSTITUTES TAMPERING, TO PROVIDE THAT THIS PROVISION DOES NOT APPLY TO CERTAIN LEASED VEHICLES, TO PROVIDE THAT A DEVICE MUST CAPTURE A PHOTOGRAPHIC IMAGE OF THE DRIVER AS HE OPERATES THE IGNITION INTERLOCK DEVICE, TO PROVIDE THAT THESE IMAGES MAY BE USED BY THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES TO AID ITS MANAGEMENT OF THE IGNITION INTERLOCK DEVICE PROGRAM, TO PROVIDE THAT NO POLITICAL SUBDIVISION OF THE STATE MAY BE HELD LIABLE FOR ANY INJURY CAUSED BY A PERSON WHO OPERATES A MOTOR VEHICLE AFTER THE USE OR ATTEMPTED USE OF AN IGNITION INTERLOCK DEVICE, AND TO PROVIDE RESTRICTIONS ON THE USE AND RELEASE OF INFORMATION OBTAINED REGARDING A PERSON'S PARTICIPATION IN THE IGNITION INTERLOCK DEVICE PROGRAM; TO AMEND SECTION 56-5-2942, AS AMENDED, RELATING TO THE IMMOBILIZATION OF A PERSON'S VEHICLE UPON HIS CONVICTION OF AN ALCOHOL-RELATED DRIVING OFFENSE, SO AS TO PROVIDE THAT THIS PROVISION DOES NOT APPLY TO VEHICLES OWNED OR REGISTERED TO A PERSON WHO HOLDS A VALID IGNITION INTERLOCK RESTRICTED LICENSE, AND TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 56-5-2945, AS AMENDED, RELATING TO THE OPERATION OF A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF DRUGS OR ALCOHOL AND GREAT BODILY INJURY OR DEATH OCCURS, SO AS TO MAKE TECHNICAL CHANGES, TO DELETE THE PROVISION RELATING TO THE PERIOD OF INCARCERATION THAT MUST BE IMPOSED UPON A PERSON FOR A CONVICTION OF A CRIME CONTAINED IN THIS SECTION WHEN GREAT BODILY INJURY OR DEATH OCCURS, AND TO PROVIDE THAT AFTER A PERSON IS RELEASED FROM PRISON AFTER A CONVICTION FOR AN OFFENSE CONTAINED IN THIS SECTION, HE IS REQUIRED TO ENROLL IN THE IGNITION INTERLOCK DEVICE PROGRAM, HAVE THE SUSPENSION OF HIS DRIVER'S LICENSE ENDED, AND OBTAIN AN IGNITION INTERLOCK RESTRICTED LICENSE, AND TO SPECIFY THE PERIOD OF TIME IN WHICH AN IGNITION INTERLOCK DEVICE MUST BE AFFIXED TO A MOTOR VEHICLE FOR CERTAIN CONVICTIONS; TO AMEND SECTION 56-5-2947, AS AMENDED, RELATING TO THE OFFENSE OF CHILD ENDANGERMENT, SO AS TO MAKE TECHNICAL CHANGES, TO REVISE THE PERIOD OF A DRIVER'S LICENSE SUSPENSION FOR A CONVICTION FOR THE VARIOUS INFRACTIONS CONTAINED IN THIS SECTION, TO PROVIDE THAT A PERSON CONVICTED OF CHILD ENDANGERMENT FOR CERTAIN INFRACTIONS CONTAINED IN THIS SECTION SHALL ENROLL IN THE IGNITION INTERLOCK DEVICE PROGRAM, HAVE HIS PERIOD OF DRIVER'S LICENSE SUSPENDED, AND OBTAIN AN IGNITION INTERLOCK RESTRICTED DRIVER'S LICENSE, TO PROVIDE THE PERIOD OF TIME AN IGNITION INTERLOCK DEVICE MUST BE AFFIXED TO A MOTOR VEHICLE, TO REVISE THIS EFFECTIVE DATE OF ENROLLMENT IN AN ALCOHOL AND DRUG SAFETY ACTION PROGRAM AND THE ISSUANCE OF A PROVISIONAL DRIVER'S LICENSE, AND TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 56-5-2950, AS AMENDED, RELATING TO A PERSON WHO OPERATES A MOTOR VEHICLE GIVING IMPLIED CONSENT TO SUBMIT TO CHEMICAL TESTS TO DETERMINE THE PRESENCE OF ALCOHOL OR DRUGS IN HIS BODY, SO AS TO MAKE TECHNICAL CHANGES, TO PROVIDE THAT CERTAIN PERIODS OF DRIVER'S LICENSE SUSPENSION CONTAINED IN THIS SECTION MAY BE ENDED IF A PERSON ENROLLS IN THE IGNITION INTERLOCK DEVICE PROGRAM, AND TO DELETE THE TERM "ADMINISTRATIVE HEARING" AND REPLACE IT WITH THE TERM "CONTESTED CASE HEARING"; TO AMEND SECTION 56-5-2951, AS AMENDED, RELATING TO THE SUSPENSION OF A DRIVER'S LICENSE OF A PERSON WHO REFUSES TO BE TESTED TO DETERMINE HIS ALCOHOL CONCENTRATION, SO AS TO MAKE TECHNICAL CHANGES, TO DELETE THE TERM "ADMINISTRATIVE HEARING" AND REPLACE IT WITH THE TERM

"CONTESTED CASE HEARING", TO REQUIRE THAT A PERSON WHO DOES NOT REQUEST A CONTESTED CASE HEARING ENROLL IN AN ALCOHOL AND DRUG SAFETY ACTION PROGRAM, TO PROVIDE AN EXCEPTION TO CERTAIN PERIODS OF DRIVER'S LICENSE SUSPENSION OR ISSUANCE OF A LICENSE OR PERMIT CONTAINED IN THIS SECTION IF A PERSON ENROLLS IN THE IGNITION INTERLOCK DEVICE PROGRAM, OBTAINS AN IGNITION INTERLOCK RESTRICTED LICENSE, AND HAS AN IGNITION INTERLOCK DEVICE AFFIXED TO CERTAIN MOTOR VEHICLES FOR A CERTAIN PERIOD OF TIME, TO REVISE THE LIST OF OFFENSES THAT ARE APPLICABLE TO THIS PROVISION, TO REVISE THE CONDITIONS THAT MUST BE MET BEFORE A PERSON'S PRIVILEGE TO OPERATE A VEHICLE MUST BE RESTORED, AND TO DELETE THE DEPARTMENT OF MOTOR VEHICLES' AUTHORITY TO PROMULGATE REGULATIONS UNDER THIS SECTION; AND TO AMEND SECTION 56-5-2990, RELATING TO THE SUSPENSION OF A PERSON'S DRIVER'S LICENSE FOR A VIOLATION OF CERTAIN ALCOHOL AND DRUG-RELATED DRIVING OFFENSES, SO AS TO MAKE TECHNICAL CHANGES, TO REVISE THE PENALTIES CONTAINED IN THIS PROVISION, TO SPECIFY THE OFFENSES THAT ARE CONSIDERED PRIOR OFFENSES, TO REVISE THE LIST OF OFFENSES THAT ARE COVERED BY THIS PROVISION, AND TO PROVIDE THE CIRCUMSTANCES UPON WHICH THE DEPARTMENT OF MOTOR VEHICLES MAY WAIVE THE SUCCESSFUL COMPLETION OF THE ALCOHOL AND DRUG SAFETY PROGRAM AS A MANDATORY REQUIREMENT OF THE ISSUANCE OF AN IGNITION INTERLOCK RESTRICTED LICENSE. - ratified title

12/18/12	Senate	Prefiled
12/18/12	Senate	Referred to Committee on Judiciary
01/08/13	Senate	Introduced and read first time (Senate Journal-page 90)
01/08/13	Senate	Referred to Committee on Judiciary (Senate Journal-page 90)
01/15/13	Senate	Referred to Subcommittee: Hutto (ch), Bennett, Thurmond
02/13/13	Senate	Committee report: Favorable with amendment Judiciary (Senate Journal-page 7)
02/14/13	Senate	Special order, set for February 14, 2013 (Senate Journal-page 38)
02/21/13	Senate	Debate interrupted (Senate Journal-page 20)
02/27/13	Senate	Committee Amendment Adopted (Senate Journal-page 31)
02/27/13	Senate	Amended (Senate Journal-page 31)
02/27/13	Senate	Read second time (Senate Journal-page 31)
02/27/13	Senate	Roll call Ayes-41 Nays-0 (Senate Journal-page 31)
02/28/13	Senate	Read third time and sent to House (Senate Journal-page 28)
03/05/13	House	Introduced and read first time (House Journal-page 12)
03/05/13	House	Referred to Committee on Judiciary (House Journal-page 12)
03/13/13		Scrivener's error corrected
03/27/14	House	Committee report: Favorable with amendment Judiciary (House Journal-page 26)
03/28/14		Scrivener's error corrected
04/02/14	House	Amended (House Journal-page 117)
04/02/14	House	Read second time (House Journal-page 117)
04/02/14	House	Roll call Yeas-112 Nays-0 (House Journal-page 163)
04/03/14	House	Read third time and returned to Senate with amendments (House Journal-page 18)
04/03/14	House	Roll call Yeas-104 Nays-0 (House Journal-page 20)
04/09/14	Senate	Concurred in House amendment and enrolled (Senate Journal-page 48)
04/09/14	Senate	Roll call Ayes-41 Nays-0 (Senate Journal-page 48)
04/10/14		Ratified R 166
04/14/14		Signed By Governor
04/16/14		Effective date 10/01/14
04/23/14		Act No. 158