Session 117 - (2007-2008)

H*3496 (Rat #0234, Act #0201 of 2008) General Bill, By G.M. Smith, Harrison, Cotty, Shoopman, Duncan, Davenport, Leach, Haley, Huggins, McLeod, G.R. Smith, F.N. Smith, Allen, Bales, Ballentine, Barfield, Bingham, Bowen, Brady, Cato, Ceips, Chalk, Chellis, Clemmons, Cooper, Crawford, Edge, Frye, Funderburk, Gambrell, Govan, Gullick, Hagood, Hamilton, Hardwick, Harrell, Harvin, Haskins, Herbkersman, Hinson, Hiott, Jefferson, Kirsh, Knight, Littlejohn, Loftis, Lucas, Merrill, D.C. Moss, Neilson, Ott, Parks, Pinson, E.H. Pitts, M.A. Pitts, Rice, Sandifer, Scarborough, Scott, Simrill, Skelton, D.C. Smith, J.R. Smith, Spires, Stewart, Talley, Taylor, Toole, Umphlett, Vick, Viers, Walker, Weeks, Whipper, White, Whitmire, Witherspoon and Young

Similar (S 0485)

Summary: Department of Motor Vehicles

AN ACT TO AMEND SECTION 56-1-10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITION OF TERMS WITH REGARD TO THE DEPARTMENT OF MOTOR VEHICLES, SO AS TO REVISE THE DEFINITION OF THE TERMS "OPERATOR", "VEHICLE", AND "DRIVER"; TO AMEND SECTION 56-1-286, AS AMENDED, RELATING TO THE SUSPENSION OF A DRIVER'S LICENSE OR PERMIT, OR THE DENIAL OF THE ISSUANCE OF A LICENSE OR A PERMIT TO A PERSON UNDER THE AGE OF TWENTY-ONE WHO HAS OPERATED A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL, SO AS TO DELETE THE TERM "PROBABLE CAUSE TO BELIEVE" AND REPLACE IT WITH THE TERM "REASONABLE SUSPICION", TO DELETE THE TERM "STATE LAW ENFORCEMENT DIVISION" AND REPLACE IT WITH THE TERM "SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY", TO DELETE THE PROVISION THAT REQUIRES THE RECORDING OF THE PERIOD PRIOR TO THE ADMINISTRATION OF A BREATH TEST BY A PRIMARY INVESTIGATING OFFICER, TO PROVIDE THAT A PERSON MUST PAY FOR THE COST OF A BREATH TEST FOR A CONVICTION OF CERTAIN PROVISIONS OF LAW, TO PROVIDE FOR THE DISBURSEMENT OF THESE FUNDS, TO PROVIDE THAT A TEST TO DETERMINE WHETHER A PERSON IS UNDER THE INFLUENCE OF ALCOHOL OR ANOTHER ILLEGAL SUBSTANCE MAY NOT BE TAKEN UNLESS THE TESTING PROCEDURE IS VIDEO RECORDED AND THE PERSON HAS BEEN INFORMED IN A VERBAL AND WRITTEN FORM OF CERTAIN RIGHTS THAT HE POSSESSES, TO DELETE THE TERM "ALCOHOL RESTRICTED LICENSE" AND REPLACE IT WITH THE TERM "ALCOHOL LICENSE", TO MAKE A TECHNICAL CHANGE, TO DELETE THE PROVISION THAT REQUIRES THAT AN ADMINISTRATIVE HEARING MUST BE HELD WITHIN THIRTY DAYS AFTER A REQUEST FOR A HEARING IS RECEIVED BY THE DIVISION OF MOTOR VEHICLE HEARINGS, TO DELETE THE PROVISION THAT REQUIRES THE DIVISION OF MOTOR VEHICLE HEARINGS TO ISSUE AN ORDER THAT CONTAINS THE REASONS WHY AN ADMINISTRATIVE HEARING WAS NOT HELD AND TO REINSTATE A PERSON'S PRIVILEGE TO OPERATE A VEHICLE UNDER CERTAIN CIRCUMSTANCES, TO REVISE THE SCOPE OF AN ADMINISTRATIVE HEARING, AND TO DELETE THE PROVISION THAT REQUIRES THE DIVISION OF MOTOR VEHICLE HEARINGS TO ISSUE ITS WRITTEN ORDERS WITHIN THIRTY DAYS AFTER THE CONCLUSION OF AN ADMINISTRATIVE HEARING; TO AMEND SECTION 56-1-748, RELATING TO PERSONS WHO ARE INELIGIBLE TO RECEIVE A SPECIAL RESTRICTED DRIVER'S LICENSE, SO AS TO PROVIDE THAT A PERSON WHO IS ISSUED A RESTRICTED LICENSE PURSUANT TO SECTION 56-5-2951 MAY NOT OBTAIN A SPECIAL RESTRICTED DRIVER'S LICENSE UNDER THIS PROVISION, AND TO DELETE THE TERM "SPECIAL RESTRICTED DRIVER'S LICENSE" AND TO REPLACE IT WITH THE TERM "RESTRICTED DRIVER'S LICENSE"; TO AMEND SECTION 56-5-2930, RELATING TO THE UNLAWFUL OPERATION OF A MOTOR VEHICLE BY A PERSON UNDER THE INFLUENCE OF ALCOHOL OR DRUGS, SO AS TO MAKE TECHNICAL CHANGES, TO PROVIDE THAT A PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION IS GUILTY OF THE OFFENSE OF DRIVING UNDER THE INFLUENCE AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THIS SECTION, TO PROVIDE FOR THE DISBURSEMENT OF FINES IMPOSED PURSUANT TO THIS SECTION, TO REQUIRE A PERSON WHO VIOLATES THIS SECTION TO ENROLL IN AND SUCCESSFULLY COMPLETE AN ALCOHOL AND DRUG SAFETY ACTION PROGRAM WHOSE COSTS MUST BE BORNE BY THE PERSON, TO PROVIDE THAT A PERSON WHO IS UNABLE TO PAY FOR THE ALCOHOL TREATMENT SERVICES SHALL COMPLETE A COMMUNITY SERVICE PROGRAM, TO PROVIDE THAT A PERSON MAY BE HELD IN CONTEMPT OF COURT FOR FAILURE TO ENROLL IN OR MAKE PROGRESS TOWARD COMPLETING THE PROGRAM, TO PROVIDE THAT A PERSON WHO HAS VIOLATED THIS SECTION ALSO MAY BE PROSECUTED UNDER SECTION 56-5-2933 UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE THAT A PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION IS ENTITLED TO A JURY TRIAL AND IS AFFORDED THE RIGHT TO CHALLENGE CERTAIN FACTORS AND INTRODUCE CERTAIN TYPES OF EVIDENCE, TO PROVIDE THAT CERTAIN OFFENSES CONTAINED IN THIS SECTION MAY BE TRIED IN MAGISTRATES COURT, TO PLACE CERTAIN RESPONSIBILITIES UPON THE FINDER OF FACT AND THE JUDGE IN CASES IN WHICH ENHANCED PENALTIES FOR HIGHER LEVELS OF ALCOHOL CONCENTRATION MAY BE APPLICABLE; TO AMEND SECTION 56-5-2933, RELATING

TO DRIVING WITH AN UNLAWFUL ALCOHOL CONCENTRATION, SO AS TO REVISE THE PENALTIES FOR A VIOLATION OF THIS SECTION, TO PROVIDE FOR THE DISBURSEMENT OF FINES IMPOSED PURSUANT TO THIS SECTION, TO PROVIDE THAT A PERSON WHO VIOLATES THIS SECTION MUST ENROLL IN AND SUCCESSFULLY COMPLETE AN ALCOHOL AND DRUG SAFETY ACTION PROGRAM, TO PROVIDE THAT A PERSON UNABLE TO PAY FOR THE COST OF THE PROGRAM SHALL PERFORM COMMUNITY SERVICE, TO PROVIDE THAT A PERSON MAY BE HELD IN CONTEMPT OF COURT FOR FAILURE TO ENROLL IN A TREATMENT PROGRAM OR MAKE PROGRESS TOWARD COMPLETING THE PROGRAM, TO REVISE THE CIRCUMSTANCES IN WHICH A PERSON WHO IS CHARGED FOR A VIOLATION OF SECTION 56-5-2930 MAY BE PROSECUTED PURSUANT TO THIS SECTION, TO DELETE THE PROVISION THAT PROVIDES THAT THIS SECTION DOES NOT APPLY TO CASES ARISING OUT OF A STOP AT A TRAFFIC ROADBLOCK OR DRIVER'S LICENSE CHECKPOINT, TO REVISE FACTORS THAT MAY BE CHALLENGED DURING A JURY TRIAL BY A PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION, TO MAKE TECHNICAL CHANGES, TO DELETE THE PROVISION THAT ENTITLES A PERSON CHARGED WITH A VIOLATION OF THIS SECTION CERTAIN JURY INSTRUCTIONS, TO REVISE THE TYPES OF EVIDENCE THAT MAY BE PRESENTED BY A PERSON WHO VIOLATES THIS SECTION, TO REVISE THE TIME PERIOD IN WHICH A PERSON CHARGED WITH A VIOLATION OF THIS SECTION MUST BE GIVEN NOTICE OF INTENT TO PROSECUTE, TO PROVIDE THAT CERTAIN OFFENSES IN THIS SECTION MAY BE TRIED IN MAGISTRATES COURT, AND TO PROVIDE INSTRUCTIONS FOR THE FINDER OF FACT AND JUDGE IN CASES IN WHICH ENHANCED PENALTIES FOR HIGHER LEVELS OF ALCOHOL CONCENTRATION MAY BE APPLICABLE; TO AMEND SECTION 56-5-2934, RELATING TO THE RIGHT TO COMPULSORY PROCESS, SO AS TO PROVIDE THAT SLED MUST PRODUCE ALL BREATH TESTING SOFTWARE, AND TO DELETE THE PROVISIONS THAT PROVIDE WHEN THE ATTENDANCE AT CERTAIN PROCEEDINGS OF PERSONS CHARGED WITH MAINTENANCE OF BREATH TESTING DEVICES MUST BEGIN, AND THE PROVISIONS THAT REQUIRE AN ARRESTING OFFICER TO INFORM A DEFENDANT OF HIS RIGHT TO ALL HEARINGS PROVIDED BY LAW FOR A VIOLATION OF CERTAIN PROVISIONS THAT MAKE IT ILLEGAL TO OPERATE A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL OR ANOTHER ILLEGAL SUBSTANCE; TO AMEND SECTION 56-5-2942, RELATING TO THE IMMOBILIZATION OF A MOTOR VEHICLE OWNED BY A PERSON WHO HAS BEEN CONVICTED OF DRIVING UNDER THE INFLUENCE OF ALCOHOL OR ANOTHER ILLEGAL SUBSTANCE, SO AS TO DELETE THE TERM "SENTENCING" AND REPLACE IT WITH THE TERM "RECEIPT OF A CONVICTION BY THE DEPARTMENT FROM THE COURT" AND THE TERM "COURT", AND REPLACE IT WITH THE TERM "DEPARTMENT", REVISE THE PROCEDURES IN WHICH VEHICLES THAT BELONG TO A PERSON WHO IS SUBJECT TO THIS PROVISION ARE IDENTIFIED, TO MAKE TECHNICAL CHANGES, TO DELETE THE PROVISION THAT RELATES TO FALSIFYING A REPORT CONCERNING VEHICLES OWNED OR REGISTERED TO A PERSON SUBJECT TO THIS SECTION, TO INCREASE THE FEE THAT MUST BE ASSESSED AGAINST A PERSON FOR EACH VEHICLE SUBJECT TO THIS SECTION, AND TO PROVIDE THAT CERTAIN CONVICTIONS UNDER SECTION 56-5-2933 MUST BE CONSIDERED PRIOR OFFENSES UNDER SECTION 56-5-2930; TO AMEND SECTION 56-5-2945, RELATING TO THE OFFENSE OF CAUSING GREAT BODILY INJURY OR DEATH BY OPERATING A VEHICLE WHILE UNDER THE INFLUENCE OF DRUGS OR ALCOHOL, SO AS TO MAKE TECHNICAL CHANGES, TO DELETE THE TERM "FELONY" AND REPLACE IT WITH THE TERM "FELONY DRIVING UNDER THE INFLUENCE", AND TO REVISE THE PENALTY PROVISIONS; TO AMEND SECTION 56-5-2950, RELATING TO A DRIVER'S IMPLIED CONSENT TO TESTING FOR ALCOHOL OR DRUGS, SO AS TO MAKE TECHNICAL CHANGES, TO PROVIDE WHEN BREATH SAMPLES MUST BE COLLECTED UNDER THIS PROVISION, TO DELETE THE PROVISION THAT PROVIDES THAT AN OFFICER MAY NOT REQUIRE ADDITIONAL TESTS OF A PERSON UNDER CERTAIN CIRCUMSTANCES, TO DELETE THE TERM "DEPARTMENT OF PUBLIC SAFETY" AND REPLACE IT WITH THE TERM "SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY", TO REVISE THE PROVISIONS THAT PROVIDE THE PROCEDURES FOR ADMINISTERING BREATH TESTS OR OBTAINING SAMPLES, TO REVISE THE INFORMATION THAT A PERSON CHARGED WITH VIOLATING THIS PROVISION MUST BE GIVEN, TO PROVIDE THE CIRCUMSTANCES IN WHICH A PERSON MUST PAY FOR THE COST OF TESTS PERFORMED UNDER THIS SECTION AND PROVIDE FOR THE DISBURSEMENT OF THESE MONIES, TO DELETE THE PROVISION THAT PROVIDES THAT A CERTAIN LEVEL OF ALCOHOL CONCENTRATION IS A VIOLATION OF SECTION 56-5-2933, AND TO REVISE THE CIRCUMSTANCES IN WHICH CERTAIN EVIDENCE MAY BE EXCLUDED IN A PROCEEDING THAT OCCURS UNDER THIS SECTION; TO AMEND SECTION 56-5-2951, AS AMENDED, RELATING TO THE SUSPENSION OF A PERSON'S PRIVILEGE TO OPERATE A MOTOR VEHICLE, SO AS TO DELETE THE TERM "ALCOHOL RESTRICTED LICENSE" AND REPLACE IT WITH THE TERM "ALCOHOL LICENSE", TO DELETE THE TERM "SPECIAL RESTRICTED LICENSE" AND REPLACE IT WITH THE TERM "RESTRICTED LICENSE", TO REVISE THE PERIOD IN WHICH AN ADMINISTRATIVE HEARING MUST BE HELD, TO DELETE THE PROVISION THAT CONTAINS THE DUTIES OF THE DIVISION OF MOTOR

VEHICLE HEARINGS WHEN IT FAILS TO HOLD CERTAIN HEARINGS IN A TIMELY MANNER, TO REVISE THE SCOPE OF A HEARING HELD UNDER THIS SECTION, TO DELETE THE PROVISION THAT PROVIDES A DEADLINE FOR THE ISSUANCE OF AN ORDER BY THE DIVISION OF MOTOR VEHICLE HEARINGS, TO INCREASE THE PERIOD OF TIME A PERSON'S PRIVILEGE TO DRIVE MAY BE SUSPENDED UNDER THIS PROVISION, TO PROVIDE THAT AN INSURER MAY NOT CANCEL THE AUTOMOBILE INSURANCE OF A PERSON WHO IS CHARGED WITH CERTAIN OFFENSES UNDER THIS SECTION, AND TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 56-5-2953, RELATING TO THE VIDEOTAPING OF A PERSON CHARGED WITH DRIVING UNDER THE INFLUENCE OF ALCOHOL OR ANOTHER ILLEGAL SUBSTANCE AT THE INCIDENT SITE AND THE BREATH TESTING SITE, SO AS TO MAKE THE TECHNICAL CHANGES, AND REVISE THE PROCEDURE THAT MUST BE FOLLOWED WHEN AN INCIDENT SITE AND BREATH TEST SITE ARE VIDEO RECORDED; TO AMEND SECTION 56-5-2954, RELATING TO BREATH TESTING SITES, SO AS TO PROVIDE THAT CERTAIN RECORDS CONCERNING OPERATIONS AT A BREATH TEST SITE MUST BE ELECTRONICALLY RECORDED AND MADE AVAILABLE TO SLED; TO AMEND SECTION 1-23-600, AS AMENDED, RELATING TO CERTAIN HEARINGS AND PROCEEDINGS BEFORE THE ADMINISTRATIVE LAW COURT, SO AS TO PROVIDE THAT THE STANDARD OF PROOF IN A CONTESTED CASE IS BY A PREPONDERANCE OF THE EVIDENCE, TO DELETE THE TERM "PETITION FOR JUDICIAL REVIEW" AND TO DELETE THE TERM "FILED" AND REPLACE IT WITH THE TERM "APPEALED"; TO AMEND SECTION 1-23-660, AS AMENDED, RELATING TO THE DIVISION OF MOTOR VEHICLE HEARINGS, SO AS TO DELETE THE PROVISION THAT PROVIDES FOR THE HIRING OF A LAW CLERK, THE PROVISION THAT RELATES TO THE STATE BUDGET AND CONTROL BOARD'S ROLE IN CREATING THE DIVISION OF MOTOR VEHICLE HEARINGS, THE PROVISION THAT REQUIRES THE DEPARTMENT OF MOTOR VEHICLES TO PROVIDE LOCATIONS FOR HEARINGS, AND THE PROVISION THAT MAKES THE CHIEF JUDGE RESPONSIBLE FOR ADJUDICATING CERTAIN CASES, TO PROVIDE THAT THE STATE ETHICS COMMISSION IS RESPONSIBLE FOR ENFORCEMENT AND ADMINISTRATION OF RULES AND ISSUANCE OF CERTAIN OPINIONS REGARDING ADMINISTRATIVE LAW JUDGES AND HEARING OFFICERS; TO AMEND SECTION 56-1-1090, AS AMENDED, RELATING TO THE ISSUANCE OF DRIVER'S LICENSES TO HABITUAL OFFENDERS, SO AS TO DELETE THE TERM "MAGISTRATE" AND REPLACE IT WITH THE TERM "OFFICER OF THE DIVISION OF MOTOR VEHICLE HEARINGS", TO MAKE A TECHNICAL CHANGE, AND TO PROVIDE THAT THE DEPARTMENT OF MOTOR VEHICLES MUST PROMULGATE CERTAIN REGULATIONS UNDER THIS SECTION; TO AMEND SECTION 56-5-2949, RELATING TO POLICIES, PROCEDURES, AND REGULATIONS ON THE SLED INTERNET WEB SITE CONCERNING BREATH ALCOHOL TESTING, BREATH SITE VIDEOTAPING, AND IGNITION INTERLOCK, SO AS TO DELETE THE TERMS "VIDEOTAPING" AND "IGNITION INTERLOCK", AND TO REPLACE THEM WITH THE TERM "VIDEO RECORDING"; TO AMEND SECTION 17-22-50, AS AMENDED, RELATING TO PERSONS WHO MUST NOT BE CONSIDERED FOR INTERVENTION, SO AS TO DELETE THE TERM "INTOXICATING LIQUOR OR DRUGS" AND TO INCLUDE THE TERM "DRIVING WITH AN UNLAWFUL ALCOHOL CONCENTRATION"; TO AMEND SECTION 56-1-365, RELATING TO THE SURRENDER OF A DRIVER'S LICENSE, SO AS TO INCREASE THE PERIOD OF TIME THAT A PERSON WHO HOLDS A CERTIFICATE MAY OPERATE A MOTOR VEHICLE; TO AMEND SECTION 56-1-430, RELATING TO THE APPEAL FROM A CONVICTION OF AN OFFENSE THAT MAKES THE SUSPENSION OR REVOCATION OF A DRIVER'S LICENSE MANDATORY, SO AS TO PROVIDE THAT AN APPEAL TAKEN FROM THE CONVICTION ACTS AS A SUPERSEDEAS AND PRECLUDES FOR SIX MONTHS FROM THE DATE OF CONVICTION A SUSPENSION OR REVOCATION; TO AMEND SECTION 56-5-2947, RELATING TO THE OFFENSE OF CHILD ENDANGERMENT, SO AS TO PROVIDE THAT A PERSON WHO VIOLATES SECTION 56-5-2933 IS GUILTY OF CHILD ENDANGERMENT; AND TO REPEAL SECTIONS 56-5-2940 AND 56-5-3000 RELATING TO PENALTIES FOR OPERATING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS, AND THE PUBLICATION OF THE NAMES OF PERSONS WHOSE DRIVER'S LICENSES HAVE BEEN SUSPENDED. - ratified title

02/13/07	**House**	**Introduced and read first time HJ-6**
02/13/07	**House**	**Referred to Committee on Judiciary HJ-10**
05/15/07	**House**	**Committee report: Favorable with amendment Judiciary HJ-10**
05/16/07	**House**	**Amended HJ-90**
05/16/07	**House**	**Read second time HJ-141**
05/17/07	**House**	**Objection by Rep. Rutherford, Whipper, Brantley, G Brown, and Bales HJ-15**
05/17/07	**House**	**Read third time and sent to Senate HJ-52**
05/22/07	**Senate**	**Introduced and read first time SJ-11**
05/22/07	**Senate**	**Referred to Committee on Judiciary SJ-11**
05/25/07	**Senate**	**Referred to Subcommittee: Hutto (ch), Jackson, Knotts, Bryant SJ-24**

02/13/08	**Senate**	**Committee report: Favorable with amendment Judiciary SJ-24**
02/14/08	**Senate**	**Special order, set for February 14, 2008 SJ-37**
02/19/08	**Senate**	**Debate interrupted SJ-57**
02/20/08	**Senate**	**Committee Amendment Amended and Adopted SJ-16**
02/20/08	**Senate**	**Read second time SJ-16**
02/21/08		**Scrivener's error corrected**
02/21/08	**Senate**	**Read third time and returned to House with amendments SJ-69**
02/28/08	**House**	**Senate amendment amended HJ-34**
02/28/08	**House**	**Returned to Senate with amendments HJ-81**
03/05/08	**Senate**	**Non-concurrence in House amendment SJ-37**
03/06/08	**House**	**House insists upon amendment and conference committee appointed Reps. GM Smith, Talley, and Weeks HJ-2**
03/18/08	**Senate**	**Conference committee appointed Martin, Hutto and Knotts**
04/08/08	**House**	**Conference report received and adopted HJ-20**
04/08/08	**House**	**Roll call Yeas-109 Nays-5 HJ-71**
04/09/08	**Senate**	**Conference report adopted SJ-20**
04/09/08	**Senate**	**Ordered enrolled for ratification SJ-69**
04/10/08		**Ratified R 234**
04/15/08		**Signed By Governor**
04/21/08		**Copies available**
04/21/08		**Effective date See Act for Effective Date**
04/28/08		**Act No. 201**
04/29/08		**Scrivener's error corrected**