

## Session 112 - (1997-1998)

### **S 0539 General Bill, By Martin and Hayes**

A BILL TO AMEND CHAPTER 1, TITLE 56, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DRIVER'S LICENSES, BY ADDING ARTICLE 8 SO AS TO PROVIDE FOR THE GRADUATED LICENSING OF DRIVERS UNDER THE AGE OF EIGHTEEN; TO AMEND SECTION 56-1-50, AS AMENDED, RELATING TO DRIVER'S LICENSE REQUIREMENTS AND BEGINNER'S PERMITS, SO AS TO, AMONG OTHER THINGS, RAISE THE AGE FOR APPLYING FOR A BEGINNER'S PERMIT, RAISE THE MINIMUM AGE OF THE ACCOMPANYING DRIVER, INCREASE THE FEE FOR A BEGINNER'S OR RENEWAL PERMIT, AND DELETE CERTAIN LANGUAGE; TO AMEND SECTION 56-1-40, AS AMENDED, RELATING TO DRIVER'S LICENSES, PERSONS WHO MAY NOT BE LICENSED OR HAVE THEIR LICENSE RENEWED, AND BEGINNER'S OR INSTRUCTION PERMITS, SO AS TO DELETE THE PROVISION THAT PROHIBITS THE ISSUANCE OF A MOTOR VEHICLE DRIVER'S LICENSE TO, OR THE RENEWAL OF THE LICENSE OF, A PERSON WHO IS UNDER SIXTEEN YEARS OF AGE AND DELETE THE PROVISIONS AUTHORIZING THE ISSUANCE OF A BEGINNER'S OR INSTRUCTION PERMIT AS PROVIDED IN SECTIONS 56-1-50 AND 56-1-60 TO A PERSON AT LEAST FIFTEEN YEARS OF AGE AND AUTHORIZING THE ISSUANCE OF A SPECIAL RESTRICTED LICENSE TO A PERSON AT LEAST FIFTEEN AND LESS THAN SIXTEEN YEARS OLD AS PROVIDED IN SECTION 56-1-180; TO AMEND SECTION 56-1-80, AS AMENDED, RELATING TO APPLICATION FOR DRIVER'S LICENSE OR PERMIT, SO AS TO ADD PROVISIONS PROVIDING, AMONG OTHER THINGS, THAT EVERY PERSON UNDER THE AGE OF EIGHTEEN YEARS WHO MAKES AN APPLICATION FOR A DRIVER'S LICENSE SHALL, IN ADDITION TO COMPLYING WITH SECTION 56-1-80(A), FURNISH WRITTEN PROOF OF SUCCESSFUL COMPLETION OF A STATE-APPROVED DRIVER EDUCATION COURSE; TO AMEND SECTION 38-73-470, AS AMENDED, RELATING TO DISPOSITION OF THE UNINSURED MOTORIST PREMIUM, SO AS TO, AMONG OTHER THINGS, INCREASE THE PORTION OF THIS PREMIUM THAT MUST BE USED TO ADMINISTER CERTAIN PROVISIONS OF LAW AND PROVIDE FOR THE TRANSFERENCE OF THIS PORTION TO THE DEPARTMENT OF INSURANCE, RATHER THAN THE DEPARTMENT OF PUBLIC SAFETY; BY ADDING SECTION 38-73-738 SO AS TO PROVIDE THAT UPON REQUEST THE DEPARTMENT OF INSURANCE SHALL ISSUE TO EACH FIRST-TIME DRIVER'S LICENSE APPLICANT WHO IS AT LEAST SIXTEEN YEARS OF AGE BUT LESS THAN EIGHTEEN YEARS OF AGE A DRIVER TRAINING VOUCHER, PROVIDE FOR THE ESTABLISHMENT OF AN APPROVED DRIVER TRAINING COURSE, AND PROVIDE FOR RELATED MATTERS; TO AMEND SECTION 56-5-2940, AS AMENDED, RELATING TO THE PENALTIES FOR VIOLATING THE CODE SECTION WHICH MAKES IT UNLAWFUL FOR NARCOTIC USERS OR PERSONS UNDER THE INFLUENCE OF LIQUOR, DRUGS, OR LIKE SUBSTANCES TO DRIVE A MOTOR VEHICLE, SO AS TO INCREASE THE EXISTING PENALTIES AND PROVIDE ADDITIONAL PENALTIES; TO AMEND SECTION 56-5-2945, AS AMENDED, RELATING TO CAUSING "GREAT BODILY INJURY" OR DEATH BY OPERATING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF DRUGS OR ALCOHOL, SO AS TO INCREASE THE VARIOUS PENALTIES PROVIDED IN THIS SECTION; TO AMEND SECTION 56-5-2950, AS AMENDED, RELATING TO THE IMPLIED CONSENT TO CERTAIN CHEMICAL TESTS TO DETERMINE THE PRESENCE OF ALCOHOL OR DRUGS OF THE OPERATOR OF A MOTOR VEHICLE, SO AS TO, AMONG OTHER THINGS, MAKE THE IMPLIED CONSENT APPLICABLE IF THE PERSON IS "APPREHENDED", INCREASE THE PERIOD OF SUSPENSION OF A DRIVER'S LICENSE IN THE EVENT OF A REFUSAL TO SUBMIT TO THE VARIOUS TESTS, PROVIDE THAT IF THE PERSON HAS A PRIOR LICENSE SUSPENSION FOR REFUSING TO SUBMIT TO THE TESTS, HIS PRIVILEGE TO DRIVE MUST BE SUSPENDED OR DENIED FOR AN EVEN LONGER PERIOD, AND PROVIDE FOR CERTAIN "REBUTTABLE PRESUMPTIONS", RATHER THAN "INFERENCES", WITH RESPECT TO PERSONS UNDER TWENTY-ONE YEARS OF AGE AND PERSONS WHO ARE TWENTY-ONE AND OLDER; TO AMEND SECTION 56-5-2990, AS AMENDED, RELATING TO SUSPENSION OF THE DRIVER'S LICENSE OF A CONVICTED PERSON AND THE PERIOD OF SUSPENSION, SO AS TO, AMONG OTHER THINGS, DELETE CERTAIN LANGUAGE, INCREASE VARIOUS PERIODS OF SUSPENSION, PROVIDE FOR PERMANENT REVOCATION AT AN EARLIER TIME, AND PROVIDE THAT APPLICANTS WHO HAVE EITHER TWICE FAILED TO COMPLETE THE ALCOHOL AND DRUG SAFETY ACTION PROGRAM OR HAVE HAD THEIR LICENSE TO DRIVE PERMANENTLY REVOKED MAY NOT HAVE THEIR DRIVING PRIVILEGES RESTORED BY THE MEDICAL ADVISORY BOARD; TO AMEND SECTION 56-1-225, AS AMENDED, RELATING TO REEXAMINATION OF DRIVERS INVOLVED IN FOUR ACCIDENTS IN A TWENTY-FOUR MONTH PERIOD, SO AS TO CHANGE THE "FOUR ACCIDENTS" TO "TWO ACCIDENTS", REQUIRE THE DRIVER TO TAKE A PORTION OR ALL OF THE DRIVER'S LICENSE EXAMINATION RATHER THAN LEAVE IT TO STATE AGENCY DISCRETION AND PROVIDE THAT THE EXAMINATION SHALL INCLUDE A TEST OF DRIVING SKILLS; TO AMEND SECTION 56-1-280, AS AMENDED, RELATING TO MANDATORY SUSPENSION OR REVOCATION OF A DRIVER'S LICENSE, SO AS TO PROVIDE FOR REVOCATION OR SUSPENSION FOR NOT LESS THAN THIRTY DAYS OF THE LICENSE OF A PERSON UPON RECEIPT OF NOTICE

OF THE CONVICTION OR ADMISSION OF FAULT OF THE PERSON FOR THREE OR MORE VEHICLE ACCIDENTS IN A TWENTY-FOUR MONTH PERIOD AND REQUIRE THIS PERSON TO SUBMIT TO A NEW DRIVER'S LICENSE EXAMINATION INCLUDING A DRIVING TEST, WITHIN THIRTY DAYS AFTER HAVING BEEN NOTIFIED OF THE REVOCATION OR SUSPENSION; TO AMEND SECTION 56-1-270, AS AMENDED, RELATING TO THE SUSPENSION, REVOCATION, OR RESTRICTION OF A DRIVER'S LICENSE ON REEXAMINATION, SO AS TO PROVIDE FOR TAKING THE EXAMINATION REQUIRED IN SECTION 56-1-130; TO AMEND SECTION 56-5-2910, AS AMENDED, RELATING TO RECKLESS HOMICIDE, PENALTIES, AND REVOCATION OF A DRIVER'S LICENSE, SO AS TO INCREASE THE PENALTIES; TO AMEND SECTION 56-5-2920, RELATING TO RECKLESS DRIVING, PENALTIES, AND SUSPENSION OF A DRIVER'S LICENSE, SO AS TO MAKE THE SECTION ALSO APPLICABLE TO A PERSON WHO DRIVES A VEHICLE TWENTY-FIVE MILES PER HOUR OR MORE ABOVE THE POSTED SPEED LIMIT AND INCREASE THE PENALTIES; TO AMEND SECTION 56-5-1520, AS AMENDED, RELATING TO MOTOR VEHICLES, RESTRICTIONS ON SPEED, AND GENERAL RULES AS TO MAXIMUM SPEED LIMITS, SO AS TO, AMONG OTHER THINGS, PROVIDE FOR THE ASSIGNMENT OF DRIVER'S LICENSE POINTS, CHANGE VARIOUS SPEED LIMITS FOR PURPOSES OF THIS SECTION AND CREATE TWO MISDEMEANOR OFFENSES; TO AMEND SECTION 56-1-460, AS AMENDED, RELATING TO PENALTIES FOR DRIVING WHILE A DRIVER'S LICENSE IS CANCELED, SUSPENDED, OR REVOKED, SO AS TO INCREASE CERTAIN PENALTIES; TO AMEND SECTION 56-10-220, AS AMENDED, RELATING TO THE REQUIREMENT THAT A MOTOR VEHICLE SOUGHT TO BE REGISTERED MUST BE INSURED AND PROOF OF INSURANCE, SO AS TO, AMONG OTHER THINGS, DELETE LANGUAGE APPERTAINING TO "CERTIFICATE" OF INSURANCE AND REPLACE IT WITH THE REQUIREMENT TO PROVIDE "RECEIPT OF PAYMENT" CONFIRMING THAT THE VEHICLE IS INSURED, OR "RECEIPT OF PROOF" OF INSURANCE; BY ADDING SECTION 56-10-225 SO AS TO PROVIDE FOR THE ISSUANCE OF WINDOW DECALS INDICATING THE DATE ON WHICH AN AUTOMOBILE INSURANCE POLICY FOR THAT VEHICLE HAS BEEN FULLY PAID AND PROVIDE FOR RELATED AND INCIDENTAL MATTERS; TO AMEND SECTION 56-10-260, RELATING TO FALSE CERTIFICATE OR FALSE EVIDENCE OF AUTOMOBILE INSURANCE AND PENALTIES, SO AS TO DELETE REFERENCE TO "MAKING A FALSE CERTIFICATE" OF INSURANCE OR PRESENTING FALSE EVIDENCE OF THE SAME AND REPLACING THAT WITH "FILING A FALSE RECEIPT OF PROOF OF INSURANCE" AND CHANGE CERTAIN PENALTIES; BY ADDING SECTION 56-10-275 SO AS TO PROVIDE A PROCEDURE FOR THE IMPOUNDMENT OF A MOTOR VEHICLE WHICH IS BELIEVED TO BE UNINSURED AND PROVIDE FOR RELATED MATTERS; BY ADDING SECTION 56-10-276 SO AS TO ESTABLISH A PROCEDURE FOR CONDUCTING A HEARING ON THE ISSUE OF IMPOUNDMENT OF MOTOR VEHICLES PURSUANT TO SECTION 56-10-275 AND PROVIDE FOR RELATED MATTERS; BY ADDING SECTION 38-77-116 SO AS TO REQUIRE THE AUTHORIZED AGENTS FOR EVERY AUTOMOBILE INSURER COVERED BY SECTION 38-77-110 TO CONDUCT A COMPLETE VISUAL INSPECTION OF THE ACTUAL VEHICLE TO BE INSURED BEFORE WRITING AN INSURANCE POLICY ON THAT VEHICLE AND PROVIDE THAT THE INSURER MAY ACCOUNT FOR A PREEXISTING PHYSICAL DAMAGE TO A VEHICLE WHEN SETTLING CLAIMS FOR THAT VEHICLE; TO AMEND SECTION 38-55-540, RELATING TO THE "OMNIBUS INSURANCE FRAUD AND REPORTING IMMUNITY ACT", CRIMINAL PENALTIES FOR MAKING FALSE STATEMENT OR MISREPRESENTATION, AND RESTITUTION TO VICTIMS, SO AS TO CHANGE ONE OF THE MISDEMEANOR OFFENSES TO A FELONY OFFENSE AND INCREASE PENALTIES; TO AMEND SECTION 38-55-550, RELATING TO THE "OMNIBUS INSURANCE FRAUD AND REPORTING IMMUNITY ACT" AND CIVIL PENALTIES, SO AS TO ADD PROVISIONS FOR RESTITUTION TO THE VICTIM OR VICTIMS OF THE INSURANCE FRAUD; TO AMEND SECTION 38-55-570, AS AMENDED, RELATING TO THE "OMNIBUS INSURANCE FRAUD AND REPORTING IMMUNITY ACT" AND NOTIFICATION TO THE INSURANCE FRAUD DIVISION OF KNOWLEDGE OR BELIEF OF FALSE STATEMENTS OR MISREPRESENTATIONS, SO AS TO ADD PROVISIONS THAT A PERSON, INSURER, OR AUTHORIZED AGENCY THAT FAILS TO COMPLY WITH THE DIVISION'S REQUEST FOR INFORMATION RELATING TO A SUSPECTED FALSE STATEMENT OR MISREPRESENTATION AS SET FORTH IN SUBSECTION (B) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND SUBJECT TO CERTAIN SPECIFIED SANCTIONS; BY ADDING SECTION 38-77-370 SO AS TO PROVIDE FOR ANTIFRAUD INVESTIGATIVE UNITS OR DIVISIONS BY CERTAIN AUTOMOBILE INSURERS AND FOR ANTIFRAUD PLANS BY CERTAIN OTHER INSURERS AND PROVIDE FOR RELATED MATTERS; TO AMEND SECTION 38-77-30, AS AMENDED, RELATING TO DEFINITIONS UNDER THE AUTOMOBILE INSURANCE LAW, SO AS TO REDEFINE "DAMAGES" AND PROVIDE A DEFINITION FOR "PUNITIVE DAMAGES"; BY ADDING SECTION 38-77-325 SO AS TO PROVIDE THAT IN EVERY PREMIUM NOTICE OR BILL FOR PRIVATE PASSENGER AUTOMOBILE INSURANCE WHERE THE INSURER HAS OPTED AGAINST INSURING THE INSURED AGAINST PUNITIVE DAMAGES THE POLICY SHALL CONTAIN A NOTICE INFORMING THE INSURED THAT THE COVERAGE DOES NOT COVER ANY PUNITIVE DAMAGES ASSESSED AGAINST HIM AND PROVIDE FOR RELATED MATTERS; TO AMEND SECTION 38-77-110, AS AMENDED, RELATING TO THE "MANDATE TO WRITE" AND

AUTOMOBILE INSURANCE COVERAGE, THE REQUIREMENT UPON INSURERS TO INSURE, AND EXCEPTIONS, SO AS TO PROVIDE THAT NO INSURER IS REQUIRED TO INSURE AGAINST PUNITIVE DAMAGES ASSESSED AGAINST AN INSURED FOR THE INSURED'S GROSS NEGLIGENCE OR WANTON OR RECKLESS MISCONDUCT IN OPERATING A MOTOR VEHICLE; BY ADDING SECTION 38-77-327 SO AS TO PROVIDE THAT UNDER THE AUTOMOBILE INSURANCE LAW IN AN ACTION FOR MONETARY DAMAGES THE TOTAL AMOUNT AWARDED FOR PUNITIVE DAMAGES AGAINST ALL DEFENDANTS FOUND TO BE LIABLE MUST BE DETERMINED BY THE TRIER OF FACT, THAT PUNITIVE DAMAGES MAY BE AWARDED ONLY IF ACTUAL DAMAGES ARE AWARDED, AND THAT IF NO AWARD OF ACTUAL DAMAGES IS MADE, THE CLAIM FOR PUNITIVE DAMAGES MUST BE DISMISSED; TO AMEND SECTION 15-33-135, RELATING TO CIVIL REMEDIES, VERDICTS, PUNITIVE DAMAGES, AND BURDEN OF PROOF, SO AS TO SET FORTH WHAT THE PLAINTIFF MUST ACTUALLY SHOW ON THE PART OF THE DEFENDANT IN ORDER TO CARRY THE BURDEN OF PROOF SUCCESSFULLY AND DEFINE "CLEAR AND CONVINCING EVIDENCE"; BY ADDING SECTION 38-77-185 SO AS TO PROVIDE THAT THE PREVAILING PARTY IN A CIVIL ACTION RELATING TO THE REJECTION OF INSURANCE CLAIMS OR REASONABLE SETTLEMENT OFFERS BY AN AUTOMOBILE INSURER TO PAY FOR BODILY INJURY AND PROPERTY DAMAGE INCURRED BY AN INSURED PARTY AS THE RESULT OF AN AUTOMOBILE ACCIDENT IS ENTITLED TO ATTORNEYS' FEES WHICH MUST BE PAID BY THE NONPREVAILING PARTY AND PROVIDE FOR RELATED MATTERS; TO AMEND CHAPTER 77, TITLE 38, RELATING TO AUTOMOBILE INSURANCE, BY ADDING ARTICLE 4 SO AS TO ENACT THE "CONTINGENCY FEE FAIRNESS AND DISCLOSURE ACT" AND PROVIDE FOR THE REGULATION OF ATTORNEY'S FEES IN AUTOMOBILE ACCIDENT CASES AND PROVIDE FOR RELATED AND OTHER MATTERS; TO CHANGE THE TITLE OF ARTICLE 7 OF CHAPTER 77 OF TITLE 38 FROM "ARBITRATION OF PROPERTY DAMAGE LIABILITY CLAIMS" TO "ALTERNATIVE DISPUTE RESOLUTION OF PROPERTY DAMAGE AND BODILY INJURY LIABILITY CLAIMS" FOR PURPOSES OF THE AUTOMOBILE INSURANCE LAW; TO AMEND SECTION 38-77-710, RELATING TO APPOINTMENT OF ATTORNEYS AS ARBITRATORS TO HEAR AND DETERMINE PROPERTY DAMAGE LIABILITY CLAIMS IN MOTOR VEHICLE ACCIDENT CASES, SO AS TO DELETE CERTAIN OBSOLETE LANGUAGE AND PROVISIONS, REFERENCE THE SOUTH CAROLINA RULES OF CIVIL PROCEDURE AND THE SOUTH CAROLINA RULES OF EVIDENCE, PROVIDE FOR THE ARBITRATION OF BODILY INJURY LIABILITY CLAIMS, AND PROVIDE THAT ARBITRATION PROCEEDINGS MUST BE ADMINISTERED PURSUANT TO AND ARE SUBJECT TO PROCEDURES ESTABLISHED BY THE AMERICAN ARBITRATION ASSOCIATION; TO AMEND SECTION 38-77-720, RELATING TO THE NUMBER, QUALIFICATIONS, AND COMPENSATION OF ARBITRATORS OF MOTOR VEHICLE ACCIDENT CLAIMS, SO AS TO INCREASE THE MAXIMUM COMPENSATION OF EACH ARBITRATOR, CHANGE THE MEANS AND MANNER OF PAYING THIS COMPENSATION, AND CHANGE THE PROVISIONS REGARDING PAYMENT OF THE REQUIRED FEE TO THE CLERK OF COURT; TO AMEND SECTION 38-77-730, RELATING TO REQUESTS FOR ARBITRATION OF MOTOR VEHICLE ACCIDENT CLAIMS AND THE ARBITRATION DOCKET, SO AS TO, AMONG OTHER THINGS, INCLUDE COVERAGE OF BODILY INJURY LIABILITY CLAIMS, PROVIDE FOR THE AMOUNT IN ARBITRATION, AND CHANGE THE FEE FOR SERVICE OF THE CLAIM; TO AMEND SECTION 38-77-740, RELATING TO ARBITRATION OF CLAIMS ARISING FROM MOTOR VEHICLE ACCIDENTS, HEARING, NOTICE TO PARTIES, DAMAGES TO BE AWARDED, AND SECURING ATTENDANCE OF WITNESSES, SO AS TO APPLY THE SECTION TO BODILY INJURY CLAIMS, REQUIRE THAT AN ESTIMATE OF THE EXTENT OF BODILY INJURY SIGNED BY THE TREATING PHYSICIAN BE BROUGHT TO THE ARBITRATION HEARING, IF APPLICABLE, AS WELL AS BILLS FOR MEDICAL EXPENSES INCURRED OR EXPECTED TO BE INCURRED, ALSO IF APPLICABLE, AND PROVIDE FOR THE METHOD, MANNER, AND EXTENT OF AWARDED DAMAGES FOR BODILY INJURY; AND TO AMEND SECTION 38-77-770, RELATING TO THE RIGHT TO APPEAL DECISIONS IN ARBITRATION HEARINGS OF CLAIMS ARISING FROM MOTOR VEHICLE ACCIDENTS, SO AS TO PROVIDE THAT THE TRIAL ON APPEAL MUST BE A TRIAL "ON THE RECORD" RATHER THAN A TRIAL "DE NOVO", CHANGE THE PERIOD OF TIME FOR SERVING THE NOTICE OF APPEAL, AND PROVIDE FOR THE PAYMENT OF THE COSTS OF THE ARBITRATION PROCEEDING.

**03/13/97 Senate Introduced and read first time SJ-4**

**03/13/97 Senate Referred to Committee on Transportation SJ-4**