**South Carolina General Assembly**

118th Session, 2009-2010

**S. 977**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Lourie and Rose

Document Path: l:\council\bills\swb\5978cm10.docx

Introduced in the Senate on January 12, 2010

Currently residing in the Senate Committee on **Transportation**

Summary: Accidents

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/9/2009 Senate Prefiled

12/9/2009 Senate Referred to Committee on **Transportation**

1/12/2010 Senate Introduced and read first time [SJ](file:///h:\SJ%20Archive\2010\01-12-10.docx)‑43

1/12/2010 Senate Referred to Committee on **Transportation** [SJ](file:///h:\SJ%20Archive\2010\01-12-10.docx)‑43

**VERSIONS OF THIS BILL**

[12/9/2009](file:///p:\pprever\2009-10\977_20091209.docx)

**A** **BILL**

TO AMEND SECTION 56‑1‑225, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REEXAMINATION OF A DRIVER INVOLVED IN FOUR ACCIDENTS WITHIN A TWENTY‑FOUR MONTH PERIOD, SO AS TO REQUIRE REEXAMINATION OF A DRIVER WHO HAS HAD AT LEAST THREE ACCIDENTS DURING A TWENTY‑FOUR MONTH PERIOD; TO AMEND SECTION 56‑3‑180, RELATING TO THE ISSUANCE OF SPECIAL PERMITS BY THE DEPARTMENT OF MOTOR VEHICLES TO MOVE VEHICLES DURING AN EMERGENCY, SO AS TO REVISE THE NUMBER OF PERMITS THAT MAY BE ISSUED TO A VEHICLE DURING A YEAR, AND THE INFORMATION CONTAINED ON A SPECIAL PERMIT; AND TO AMEND SECTION 56‑5‑2941, AS AMENDED, RELATING TO THE INSTALLATION OF AN IGNITION INTERLOCK DEVICE ON THE VEHICLE OF A PERSON WHO HAS VIOLATED A PROVISION THAT MAKES IT UNLAWFUL TO OPERATE A VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS, OR WITH AN UNLAWFUL ALCOHOL CONCENTRATION, SO AS TO REVISE THE PENALTY IMPOSED UPON A PERSON WHO IS ISSUED A DRIVER’S LICENSE WITH AN IGNITION INTERLOCK RESTRICTION AND DRIVES A MOTOR VEHICLE THAT IS NOT EQUIPPED WITH A PROPERLY OPERATING CERTIFIED IGNITION INTERLOCK DEVICE.

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

SECTION 1. Section 56‑1‑225 of the 1976 Code is amended to read:

“Section 56‑1‑225. ~~Any~~ A person licensed to drive a motor vehicle in this State who is ~~involved~~ found to have contributed as a driver in ~~four~~ at least three accidents in any twenty‑four month period, which are reported to the director, ~~may,~~ in the discretion of the Department of Motor Vehicles, ~~be required to~~ must take any portion of the driver’s license examination deemed appropriate by the department. ~~Any~~ A person who has had ~~four such~~ at least three accidents and fails to submit to ~~such~~ the test within thirty days after having been notified by the department shall have his driver’s license suspended until he takes and passes ~~such~~ the test.”

SECTION 2. Section 56‑3‑180 of the 1976 Code is amended to read:

“Section 56‑3‑180. The Department may issue in writing special permits to move vehicles otherwise required to be registered and licensed under this chapter from one place to another in case of emergency when such vehicles do not display the required current license plate or plates or registration cards. ~~No such vehicle shall be entitled to more than one such special permit during any one registration and license year. Every such special permit shall specify the date the vehicle is to be moved and the place from and to which movement is to be made.~~ Every ~~such~~ special permit issued pursuant to this section shall specify the date on which the permit expires, and must be carried on the vehicle so authorized to be ~~moved~~ operated.”

SECTION 3. Section 56‑5‑2941 of the 1976 Code, as last amended by Act 285 of 2008, is further amended to read:

“Section 56‑5‑2941. (A)(1) Except as otherwise provided in this section, in addition to the penalties required and authorized to be imposed against a person violating the provisions of Section 56‑5‑2930, 56‑5‑2933, or 56‑5‑2945, or violating the provisions of another law of any other state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs, the Department of Motor Vehicles must require the person, if he is a subsequent offender and a resident of this State, to have installed on any motor vehicle the person drives an ignition interlock device designed to prevent driving of the motor vehicle if the person has consumed alcoholic beverages. The Department of Motor Vehicles may waive the requirements of this section if it finds that the offender has a medical condition that makes him incapable of properly operating the installed device.

(2) The length of time that an interlock device is required to be affixed to a motor vehicle following the completion of a period of license suspension imposed on the offender is two years for a second offense, three years for a third offense, and the remainder of the offender’s life for a fourth or subsequent offense. Notwithstanding the pleadings, for purposes of a second or a subsequent offense, the specified length of time that an interlock device is required to be affixed to a motor vehicle is based on the Department of Motor Vehicle’s records for offenses pursuant to Section 56‑5‑2930, 56‑5‑2933, or 56‑5‑2945.

(B) If a person who is a subsequent offender and a resident of this State is convicted of violating the provisions of a law of any other state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs, and, as a result of the conviction, the person is subject to an ignition interlock device requirement in the other state, the person is subject to the requirements of this section for the length of time that would have been required for an offense committed in South Carolina, or for the length of time that is required by the other state, whichever is longer.

(C) If a person from another state becomes a resident of South Carolina while subject to an ignition interlock device requirement in another state, the person may only obtain a South Carolina driver’s license if the person enrolls in the South Carolina ignition interlock device program pursuant to this section. The person is subject to the requirements of this section for the length of time that would have been required for an offense committed in South Carolina, or for the length of time that is required by the other state, whichever is longer.

(D) The offender shall be subject to an Interlock Device Point System managed by the Department of Probation, Parole and Pardon Services. An offender receiving a total of two points will have their length of time that the interlock device is required extended by two months. An offender receiving a total of three points will have their length of time that the interlock device is required extended by four months and must submit to a substance abuse assessment pursuant to Section 56‑5‑2990 and successfully complete the plan of education and treatment, or both, as recommended by the certified substance abuse program. Should the individual not complete the recommended plan, or not make progress toward completing the plan, the Department of Motor Vehicles must suspend the individual’s driver’s license until the plan is completed or progress is being made toward completing the plan. An offender receiving a total of four points shall have their license suspended for a period of one year and submit to a substance abuse assessment pursuant to Section 56‑5‑2990 and successfully complete the plan of education and treatment, or both, as recommended by the certified substance abuse program. Completion of the plan is mandatory as a condition of reinstatement of the person’s driving privileges. The Department of Alcohol and Other Drug Abuse Services is responsible for notifying the Department of Motor Vehicles of an individual’s completion and compliance with education and treatment programs.

(E) The cost of the interlock device must be borne by the offender. However, if the offender believes he is indigent and cannot afford the cost of the ignition interlock device, the offender may submit an affidavit of indigency to the Department of Probation, Parole and Pardon Services for a determination of indigency as it pertains to the cost of the ignition interlock device. The affidavit of indigency form must be made publicly accessible on the Department of Probation, Parole and Pardon Services’ Internet web site. If the Department of Probation, Parole and Pardon Services determines that the offender is indigent as it pertains to the ignition interlock device, it may authorize an interlock device to be affixed to the motor vehicle and the cost of the installation and use of the ignition interlock device to be paid for by the Interlock Device Fund managed by the Department of Probation, Parole and Pardon Services. For purposes of this section, a person is indigent if the person is financially unable to afford the cost of the ignition interlock device. In making a determination whether a person is indigent, all factors concerning the person’s financial conditions should be considered including, but not limited to, income, debts, assets, number of dependants claimed for tax purposes, living expenses, and family situation. A presumption that the person is indigent is created if the person’s net family income is less than or equal to the poverty guidelines established and revised annually by the United States Department of Health and Human Services published in the Federal Register. ‘Net income’ means gross income minus deductions required by law. The determination of indigency is subject to periodic review at the discretion of the Department of Probation, Parole and Pardon Services.

(F) The ignition interlock service provider must collect and remit monthly to the Interlock Device Fund a fee as determined by the Department of Probation, Parole and Pardon Services not to exceed three hundred sixty dollars per year for each year the person is required to drive a vehicle with an ignition interlock device. Any ignition service provider failing to properly remit funds to the Interlock Device Fund may be decertified as an ignition interlock service provider by the Department of Probation, Parole and Pardon Services. If a service provider is decertified for failing to remit funds to the Interlock Device Fund, the cost for removal and replacement of an ignition interlock device must be borne by the service provider.

(G) The offender must have the interlock device inspected every sixty days to verify that the device is affixed to the motor vehicle and properly operating, and to allow for the preparation of an interlock device inspection report by the service provider indicating the offender’s alcohol content at each attempt to start and running ~~re‑test~~ retest during each sixty‑day period. Only a service provider authorized by the Department of Probation, Parole and Pardon Services to perform inspections on interlock devices may conduct inspections. The service provider immediately must report any devices that fail inspection to the Department of Probation, Parole and Pardon Services. The report must contain the name of the offender, identify the vehicle upon which the failed device is installed and the reason for the failed inspection, and indicate the offender’s alcohol content at each attempt to start and running ~~re‑test~~ retest during each sixty‑day period. Failure of the offender to have the interlock device inspected every sixty days will result in one interlock device point. Upon review of the interlock device inspection report, if the report reflects that the offender attempted to start the motor vehicle with an alcohol concentration of two one‑hundredths of one percent or more, the offender is assessed one‑half interlock device point. Upon review of the interlock device inspection report, if the report reflects that the offender violated a running re‑test by having an alcohol concentration between two one‑hundredths of one percent and less than four one‑hundredths of one percent, the offender is assessed one‑half interlock device point. Upon review of the interlock device inspection report, if the report reflects that the offender violated a running ~~re‑test~~ retest by having an alcohol concentration between four one‑hundredths of one percent and less than fifteen one‑hundredths of one percent, the offender is assessed one interlock device point. Upon review of the interlock device inspection report, if the report reflects that the offender violated a running re‑test by having an alcohol concentration above fifteen one‑hundredths of one percent, the offender is assessed two interlock device points. An individual may appeal any interlock device points received to an administrative hearing officer with the Department of Probation, Parole and Pardon Services through a process established by the Department of Probation, Parole and Pardon Services. The administrative hearing officer’s decision on appeal shall be final and no appeal from such decision shall be allowed.

(H) Ten years from the date of the person’s last conviction and every five years thereafter a fourth or subsequent offender whose license has been reinstated pursuant to Section 56‑1‑385 may apply to the Department of Probation, Parole and Pardon Services for removal of the ignition interlock device and the removal of the restriction from his driver’s license. The Department of Probation, Parole and Pardon Services may, for good cause shown, remove the device and remove the restriction from the offender’s license.

(I) Except as otherwise provided in this section, it is unlawful for a person issued a driver’s license with an ignition interlock restriction to drive a motor vehicle that is not equipped with a properly operating, certified ignition interlock device. A person who violates this section ~~must be punished in the manner provided in Section 56‑5‑2940~~ is guilty of violating Section 56‑1‑460(2).

(J) An offender that is required in the course and scope of his employment to drive a motor vehicle owned by the offender’s employer may drive his employer’s motor vehicle without installation of an ignition interlock device, provided that the offender’s use of the employer’s motor vehicle is solely for the employer’s business purposes. This subsection does not apply to an offender who is self‑employed or to an offender who is employed by a business owned in whole or in part by the offender or a member of the offender’s household or immediate family unless during the defense of a criminal charge, the court finds that the vehicle’s ownership by the business serves a legitimate business purpose and that titling and registration of the vehicle by the business was not done to circumvent the intent of this section.

(K) It is unlawful for a person to tamper with or disable, or attempt to tamper with or disable, an ignition interlock device installed on a motor vehicle pursuant to this section. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(L) It is unlawful for a person to knowingly rent, lease, or otherwise provide an offender with a motor vehicle without a properly operating, certified ignition interlock device. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(M) It is unlawful for an offender to solicit or request another person, or for a person to solicit or request another person on behalf of an offender, to engage an ignition interlock device to start a motor vehicle with a device installed pursuant to this section. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(N) It is unlawful for another person to engage an ignition interlock device to start a motor vehicle with a device installed pursuant to this section. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(O) Only ignition interlock devices certified by the Department of Probation, Parole and Pardon Services may be used to fulfill the requirements of this section.

(1) The Department of Probation, Parole and Pardon Services must certify whether a device meets the accuracy requirements and specifications provided in guidelines or regulations adopted by the National Highway Traffic Safety Administration, as amended from time to time. All devices certified to be used in South Carolina must be set to prohibit the starting of a motor vehicle when an alcohol concentration of two one‑hundredths of one percent or more is measured and all running re‑tests must record violations of an alcohol concentration of two one‑hundredths of one percent or more.

(2) The Department of Probation, Parole and Pardon Services shall maintain a current list of certified devices and their manufacturers. The list must be updated at least quarterly. If a particular certified device fails to continue to meet federal requirements, the device must be decertified, may not be used until it is compliant with federal requirements, and must be replaced with a device that meets federal requirements. The cost for removal and replacement must be borne by the manufacturer of the noncertified device.

(3) Only ignition interlock installers certified by the Department of Probation, Parole and Pardon Services may install and service ignition interlock devices required pursuant to this section. The Department of Probation, Parole and Pardon Services shall maintain a current list of vendors that are certified to install the devices.

(P) In addition to availability under the Freedom of Information Act, any Department of Probation, Parole and Pardon Services policy concerning ignition interlock devices must be made publicly accessible on the Department of Probation, Parole and Pardon Service’s Internet web site.

(Q) The Department of Probation, Parole and Pardon Services shall develop policies including, but not limited to, the certification, use, maintenance, and operation of ignition interlock devices and the Interlock Device Fund.”

SECTION 4. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑