~~Indicates Matter Stricken~~

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COMMITTEE AMENDMENT ADOPTED

April 27, 2010

**S. 1171**

Introduced by Senator Hutto

S. Printed 4/27/10--S.

Read the first time February 11, 2010.

**A** **BILL**

TO AMEND SECTION 56-1-10 OF THE 1976 CODE, RELATING TO DRIVER’S LICENSES, TO MODIFY THE DEFINITION OF CERTAIN TERMS; TO AMEND SECTION 56-1-640, TO INCLUDE CANADA AND MEXICO AS PARTY JURISDICTIONS; TO AMEND SECTION 56-1-2030, TO MODIFY THE DEFINITION OF HAZARDOUS MATERIAL; TO AMEND SECTION 56-1-2100, TO MODIFY THE DESCRIPTION OF A CLASS C VEHICLE; AND TO AMEND SECTION 56-1-2070, TO PROVIDE GRADUATED FINES FOR VIOLATIONS OF OUT-OF-SERVICE ORDERS.

Amend Title To Conform

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

SECTION 1. Section 56‑1‑10 of the 1976 Code is amended to read:

“Section 56‑1‑10. For the purpose of this title, unless otherwise indicated, the following words, phrases, and terms are defined as follows:

(1) ‘Driver’ means every person who drives or is in actual physical control of a vehicle.

(2) ‘Operator’ means every person who drives or is in actual physical control of a motor vehicle or who is exercising control over or steering a vehicle being towed by a motor vehicle.

(3) ‘Owner’ means a person, other than a lienholder, having the property or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security.

(4) ‘Department’ means the Department of Motor Vehicles when the term refers to the duties, functions, and responsibilities of the former Motor Vehicle Division of the Department of Public Safety and means the Department of Public Safety otherwise and in Section 56‑3‑840.

(5) ‘State’ means a state, territory, or possession of the United States and the District of Columbia, or the Commonwealth of Puerto Rico.

(6) ‘Highway’ means the entire width between the boundary lines of every way publicly maintained when any part of it is open to the use of the public for purposes of vehicular travel.

(7) ‘Motor vehicle’ means every vehicle which is self‑propelled, and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails.

(8) ‘Motorcycle’ means every motor vehicle having no more than two permanent functional wheels in contact with the ground or trailer and having a saddle for the use of the rider, but excluding a tractor.

(9) ‘Nonresident’ means every person who is not a resident of this State.

(10) ‘Nonresident’s operating privilege’ means the privilege conferred upon a nonresident by the laws of this State pertaining to the operation by the person of a motor vehicle, or the use of a vehicle owned by the person, in this State.

(11) ‘Conviction’ ~~includes the entry of any plea of guilty, the entry of any plea of nolo contendere, and the forfeiture of any bail or collateral deposited to secure a defendant’s appearance in court~~ means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction, an unvacated forfeiture of bail or collateral deposited to secure the person’s appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

(12) ‘Cancellation of driver’s license’ means the annulment or termination by formal action of the Department of Motor Vehicles of a person’s driver’s license because of some error or defect in the license or because the licensee is no longer entitled to the license; the cancellation of a license is without prejudice, and application for a new license may be made at any time after the cancellation.

(13) ‘Revocation of driver’s license’ means the termination by formal action of the Department of Motor Vehicles of a person’s driver’s license or privilege to operate a motor vehicle on the public highways, which privilege to operate is not subject to renewal or restoration, except that an application for a new license may be presented and acted upon by the department.

(14) ‘Suspension of driver’s license’ means the temporary withdrawal by formal action of the Department of Motor Vehicles of a person’s driver’s license or privilege to operate a motor vehicle on the public highways, which temporary withdrawal shall be as specifically designated.

(15) ‘Automotive three‑wheel vehicle’ means every motor vehicle having no more than three permanent functional wheels in contact with the ground, having a bench seat for the use of the operator, and having an automotive type steering device, but excluding a tractor or motorcycle three‑wheel vehicle.

(16) ‘Alcohol’ means a substance containing any form of alcohol including, but not limited to, ethanol, methanol, propanol, and isopropanol.

(17) ‘Alcohol concentration’ means:

(a) the number of grams of alcohol for each one hundred milliliters of blood by weight; or

(b) as determined by the South Carolina Law Enforcement Division for other bodily fluids.

(18) ‘Motorcycle three‑wheel vehicle’ means every motor vehicle having no more than three permanent functional wheels in contact with the ground to include motorcycles with detachable side cars, having a saddle type seat for the operator, and having handlebars or a motorcycle type steering device but excluding a tractor or automotive three‑wheel vehicle.

(19) ‘Low speed vehicle’ or ‘LSV’ means a four‑wheeled motor vehicle, other than an all terrain vehicle, whose speed attainable in one mile is more than twenty miles an hour and not more than twenty‑five miles an hour on a paved level surface, and whose GVWR is less than three thousand pounds.

(20) ‘All terrain vehicle’ or ‘ATV’ means a motor vehicle measuring fifty inches or less in width, designed to travel on three or more wheels and designed primarily for off‑road recreational use, but not including farm tractors or equipment, construction equipment, forestry vehicles, or lawn and grounds maintenance vehicles.

(21) ‘Operator’ or ‘driver’ means a person who is in actual physical control of a motor vehicle.

(22) ‘Person’ means every natural person, firm, partnership, trust, company, firm, association, or corporation. Where the term ‘person’ is used in connection with the registration of a motor vehicle, it includes any corporation, association, partnership, trust, company, firm, or other aggregation of individuals which owns or controls the motor vehicle as actual owner, or for the purpose of sale or for renting, as agent, salesperson, or otherwise.

(23) ‘Office of Motor Vehicle Hearings’ means the Office of Motor Vehicle Hearings created by Section 1‑23‑660. The Office of Motor Vehicle Hearings has exclusive jurisdiction to conduct all contested case hearings or administrative hearings arising from department actions.

(24) ‘Administrative hearing’ means a ‘contested case hearing’ as defined in Section 1‑23‑310. It is a hearing conducted pursuant to the South Carolina Administrative Procedures Act.

(25) ‘Home jurisdiction’ means the jurisdiction which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle.”

SECTION 2. Section 56‑1‑640 of the 1976 Code is amended to read:

“Section 56‑1‑640. The Department of Motor Vehicles shall report each conviction of a person from another party ~~state~~ jurisdiction, Canada, or Mexico occurring within South Carolina to the licensing authority of the home ~~state~~ jurisdiction of the licensee. The report shall clearly identify the person convicted, describe the violation specifying the section of the statute or ordinance violated, identify the court in which action was taken, indicate whether a plea of guilty or not guilty was entered or the conviction was a result of the forfeiture of bail, bond, or other security, and include any special findings.”

SECTION 3. Section 56‑1‑2030(17) of the 1976 Code is amended to read:

“(17) ‘Hazardous materials’ ~~has the meaning as that found in Section 103 of the Hazardous Materials Transportation Act (49 U.S.C. 1801, et seq.)~~ means any material that has been designated as hazardous under 49 CFR 383.5 and 49 USC 5103 and is required to be placarded under subpart F of 49 CFR Part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR Part 73.”

SECTION 4. Section 56‑1‑2100(B)(1)(c) of the 1976 Code is amended to read:

“(c) Class C: A single vehicle, or combination of vehicles, that are not Class A or B vehicles but either designed to transport ~~16~~ sixteen or more passengers including the driver, or are required to be placarded for hazardous materials under 49 CFR, Part 172, subpart F.”

SECTION 5. Section 56‑1‑2070(E) of the 1976 Code is amended to read:

“(E) A person violating the requirements of subsection (D)(3) must be punished as follows, while all other violations of this section must be punished as though convicted of a violation of Section 56‑1‑460. A person is disqualified for not less than:

(1) ninety days nor more than one year if the person is convicted of a first violation of an out‑of‑service order. Additionally, a person who is convicted of ~~violating~~ a first violation of an out‑of‑service order is subject to a civil penalty of not less than ~~one thousand~~ two thousand five hundred dollars ~~nor more than two thousand five hundred dollars~~;

(2) one year nor more than five years if during a ten‑year period the person is convicted of two violations of out‑of‑service orders in separate incidents. Additionally, a person who, within a ten‑year period, is convicted of ~~violating an~~ two violations of out‑of‑service ~~order~~ orders in separate incidents is subject to a civil penalty of ~~not less than one~~ five thousand dollars ~~nor more than two thousand five hundred dollars~~;

(3) three years nor more than five years if during a ten‑year period the person is convicted of three or more violations of out‑of‑state service orders in separate incidents. Additionally, a person who, within a ten‑year period, is convicted of ~~violating an~~ three or more violations of out‑of‑service ~~order~~ orders in separate incidents is subject to a civil penalty of ~~not less than one~~ five thousand dollars ~~nor more than two thousand five hundred dollars~~;

(4) one hundred eighty days nor more than two years if the driver is convicted of a first violation of an out‑of‑service order while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act (49 U.S.C. 5101‑5127), or while operating motor vehicles designed to transport more than fifteen passengers, including the driver. A driver is disqualified for a period of not less than three years nor more than five years if during a ten‑year period the person is convicted of any subsequent violations of out‑of‑service orders, in separate incidents, while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act, or while operating motor vehicles designed to transport more than fifteen passengers, including the driver. Additionally, a driver who is convicted of violating an out‑of‑service order while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act (49 U.S.C. 5101‑5127), or while operating motor vehicles designed to transport more than fifteen passengers, including the driver, is subject to a civil penalty of ~~not less than one~~ two thousand five hundred dollars ~~nor more than two~~ for a first violation and five thousand ~~five hundred~~ dollars for a second or subsequent violation.”

SECTION 6. This act takes effect upon approval by the Governor.

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