**A** **BILL**

TO AMEND SECTION 56‑1‑176, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SCHOOL ATTENDANCE CONDITIONS ASSOCIATED WITH THE ISSUANCE OF CONDITIONAL AND SPECIAL RESTRICTED DRIVER’S LICENSES, TO PROVIDE THAT THESE AND ADDITIONAL CONDITIONS SHALL APPLY TO THE ISSUANCE OR REINSTATEMENT OF A BEGINNER’S PERMIT, CONDITIONAL DRIVER’S LICENSE, SPECIAL RESTRICTED DRIVER’S LICENSE, AND A REGULAR DRIVER’S LICENSE ISSUED TO A PERSON LESS THAN SEVENTEEN YEARS OF AGE, TO PROVIDE FOR THE SUSPENSION OF A PERSON’S PERMIT OR LICENSE IF HE FAILS TO COMPLY WITH THESE CONDITIONS, AND TO REQUIRE THAT THE SUSPENSION REMAIN IN EFFECT UNTIL THE PERSON HAS DEMONSTRATED COMPLIANCE WITH THESE CONDITIONS FOR ONE FULL SEMESTER SUBSEQUENT TO THE SEMESTER DURING WHICH HIS PERMIT OR LICENSE WAS SUSPENDED.

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

SECTION 1. Section 56‑1‑176 of the 1976 Code is amended to read:

“Section 56‑1‑176. (A) School attendance is a condition for the issuance or reinstatement of a beginner’s permit, a conditional driver’s license, ~~and~~ a special restricted driver’s license, and a regular driver’s license for a person who is less than seventeen years of age. By applying for a beginner’s permit, a conditional driver’s license, a special restricted driver’s license, or a regular driver’s license, a person less than seventeen years of age consents to the release of his high school attendance records by the school district to the Department of Motor Vehicles for purposes of this section. The Department of Motor Vehicles may not issue or reinstate a beginner’s permit, conditional driver’s license, ~~or~~ a special restricted driver’s license, or a regular driver’s license to a person less than seventeen years of age pursuant to Section 56‑1‑40, Section 56‑1‑50, Section 56‑1‑175, or Section 56‑1‑180 unless the person:

(1) has a high school diploma or a certificate of attendance, or a General ~~Education~~ Educational Development Diploma; or

(2) is enrolled in a public or private school or is home schooled under the provisions contained in Section 59‑65‑40, 59‑65‑45, or 59‑65‑47, or is enrolled in and is making progress toward completion of a program leading to a General Educational Development Diploma; and:

(a) the ~~person~~ student has conformed to the attendance laws, regulations, and policies of the school, school district, and the State Board of Education, as applicable; and

(b) the ~~person~~ student is not suspended or expelled from school.

(B) Documentation of enrollment status must be presented to the Department of Motor Vehicles by the applicant on a form developed in consultation with the State Department of Education, the Department of Motor Vehicles, and individuals to represent the private and home school entities and approved by the ~~department~~ Department of Motor Vehicles. The documentation must indicate whether the student is in compliance with the requirements as provided in ~~item (2)~~ subsection (A). The appropriate public or private school official or home school association shall provide the form to the applicant upon request.

(C) The board of trustees of the school district or its designee, the governing body of a private school, and an official of a home school association shall notify a student and the parent or guardian of the student who is at least fifteen but less than seventeen years of age when the student has accumulated three consecutive unlawful absences or five total unlawful absences. This notification must include information regarding the requirements of this section.

(D) When a student who is at least fifteen but less than seventeen years of age is habitually truant from school, the appropriate school official shall notify the student’s parent or guardian not later than five school days from the date in which the person is considered truant. For the purposes of this section, ‘habitually truant’ means having more than three days’ consecutive unlawful absences or five days’ unlawful absences during one semester or more than ten total days’ unlawful absences during a school year. The parent or guardian shall have ten days from the date the notice was sent to petition the appropriate school official for a waiver pursuant to subsection (E). For a student not granted a waiver pursuant to subsection (E), the appropriate school official shall notify the Department of Motor Vehicles of the truancy in a manner agreed to by the Department of Motor Vehicles and the Department of Education. Within five days of receipt of the notice, the Department of Motor Vehicles shall send notice to the licensee’s parent or guardian that the beginner’s permit, a conditional driver’s license, a special restricted driver’s license, or a regular driver’s license will be suspended pursuant to this section on the twentieth day following the date the notice was sent.

(E) A student’s parent or guardian may petition for a waiver of the requirements of this section if the student has a personal or family hardship that requires that the student have a driver’s license. For purposes of this section, a personal or family hardship means a medical condition of the student or a member of his immediate family that requires that he maintain a driver’s license to receive or transport an immediate family member for treatments, or employment requiring the student to maintain a driver’s license to support himself or his immediate family. The student’s parent or guardian has the burden of demonstrating the need for a waiver. In considering a petition for a waiver, the board or governing body or association or their designees shall consider the recommendations of physicians, teachers, other school officials, guidance counselors, or academic advisors before granting a waiver to the requirements of this section. A person denied a waiver may appeal the decision of the public school principal, the designee of the governing body of a private school, or the designee of a home school association to the board of trustees of the public school district, the governing body of a private school, or the home school association.

(F) A student whose permit or license has been suspended pursuant to this section may not have his permit or license reinstated until that student successfully has complied with the requirements of subsection (A)(2) of this section for a full school semester subsequent to the semester during which the student’s permit or license was suspended. If a student has complied with the requirements of subsection (A)(2) for a full semester, he may petition, in writing, for reinstatement of his permit or license to the board of trustees of the school district or its designee, the governing body of the private school, or the home school association. Upon determining that the student is in compliance with this subsection, the board or governing body or association shall notify the Department of Motor Vehicles, in the manner agreed to by the Department of Motor Vehicles and the Department of Education, and the Department of Motor Vehicles shall reinstate the student’s permit or license. The student is exempt from paying the department’s standard reinstatement fee.

(G) If a student between the ages of sixteen and seventeen years, who has been through the school intervention process, has been referred to family court, and has been placed on an order to attend school, continues to accumulate unlawful absences, a family court judge having jurisdiction over the case may issue a court order suspending the student’s license in accordance with this section.

(H) At the beginning of each school year, the board of trustees of the school district or its designee, the governing body of a private school, and an official of a home school association shall notify students and parents or guardians of the requirements of this section.”

SECTION 2. If any section, subsection, paragraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 3. This act takes effect August 1, 2009.

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