**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 38 TO CHAPTER 5, TITLE 56 SO AS TO PROVIDE THAT THE DEPARTMENT OF MOTOR VEHICLES SHALL REQUIRE THAT CERTAIN VEHICLES MUST UNDERGO AN ANNUAL INSPECTION, TO PROVIDE A FEE FOR THE INSPECTION, AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THIS ARTICLE.

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

SECTION 1. Chapter 5, Title 56 of the 1976 Code is amended by adding:

“Article 38

Inspection of Vehicles

Section 56‑5‑5410. (A) Effective on and after January 1, 2010, the Department of Motor Vehicles shall require that every vehicle registered in this State, except house trailers, must be inspected at least once a year and have displayed at all times a South Carolina Department of Motor Vehicles approved certificate of inspection and approval in a practical location specified by the department. A person shall not drive or move on any highway a vehicle, except house trailers, unless there is in effect and properly displayed on it a current certificate if inspection.

(B) The inspection must be made of every vehicle and certificates obtained with respect to the mechanism, lights, tires, brakes, and equipment of the vehicle as designated by the Department of Motor Vehicles.

(C) The Department of Motor Vehicles may accept a certificate of inspection and approval issued by a qualified agency or department of another state and shall exempt from the provisions of this article all vehicles subject to the United States Department of Transportation federal motor carrier safety regulations.

(D) The Department of Motor Vehicles shall suspend the registration of a vehicle which it determines is in an unsafe condition that constitutes a menace to safety and which after notice and demand is not equipped, as required in this article, and for which a required certificate has not been obtained.

(E) The Department of Motor Vehicle before registering and titling a vehicle, shall require that the application for it is accompanied by an official certificate of inspection and approval issued for the vehicle by an inspection station licensed to inspect vehicles in this State.

(F) A motor vehicle shall not be sold in South Carolina without having a valid South Carolina inspection stamp affixed before delivery to the buyer.

Section 56‑5‑5420. A truck with more than four wheels or a tractor‑trailer does not have to be jacked up or otherwise elevated in order to receive the inspection required by the provisions of this article. Any component of the inspection which can be accomplished only by the jacking up or elevation of a truck with more than four wheels or a tractor‑trailer is waived.

Section 56‑5‑5430. (A) The Department of Motor Vehicles shall designate and approve official inspection stations and is authorized to issue annual permits upon application and payment of the required fee. Motor fleet inspection stations, licensed under this article, are not required to inspect vehicles for the general public. The Department of Motor Vehicles shall furnish instructions and all necessary forms to official inspection stations for the inspection of vehicles required in this article in the issuance of official certificates of inspection and approval.

(B) Application for a license as an official inspection station must be made on an official form and must be granted only when the department is satisfied that the station is properly equipped and has competent personnel to make the inspections and will be conducted properly. A fee of ten dollars must be charged for every official inspection station permit issued, or a renewal. However, a fee may not be charged to official inspection stations of the State, county, or other political subdivisions for garages maintained for the upkeep and maintenance of public‑owned vehicles. A garage or station being refused the right to issue certificates of inspection upon request must be granted a hearing by the department.

(C) The official inspection stations shall issue a certificate of inspection and approval upon an official form to the owner of a vehicle upon inspecting the vehicle and determining that its equipment required under the provisions of this article is in good condition and proper adjustment. Otherwise, a certificate must not be issued. When required by the Department of Motor Vehicles, records and reports must be made of every inspection and every certificate issued.

(D) Official inspection stations may charge a fee of not more than ten dollars for each inspection and the issuance of inspection certificates. However, if a vehicle does not pass inspection at a station and is taken to another place to have the defect corrected, the fee may not be charged again if the motor vehicle is taken to the station which originally made the inspection. Inspection forms must be prepared by the Department of Motor Vehicles and furnished to inspection stations at a cost of fifty cents each.

(E) The Department of Motor Vehicles shall supervise and cause inspections to be made of the stations and vehicle inspectors performance and, after reasonable notice, may suspend or revoke and require the surrender of the license issued to a station and the permit issued to a vehicle inspector which it finds is not properly equipped or conducted. The department shall maintain, and post at its office, lists of all stations issued licenses, vehicle inspectors issued permits, and licenses and permits that have been suspended or revoked.

Monetary penalties which may be imposed separately upon a vehicle inspection station or a vehicle inspector in lieu of suspension or revocation are as follows:

For a first offense Not less than twenty‑five dollars nor more than one hundred dollars

For a second offense Not less than fifty dollars nor more than one hundred dollars

For a third offense Not less than one hundred dollars nor more than two hundred dollars

For a fourth and each Not less than five hundred dollars subsequent offense nor more than two thousand

dollars.

(F) Official inspection stations and vehicle inspectors whose licenses or permits are suspended or revoked under the provisions of this section may request in writing a hearing and upon receipt of the request the department shall schedule a hearing pursuant to the Administrative Procedures Act. The hearing must be in the county where the permittee resides, unless the department and the licensee or permittee agree that the hearing may be held in another county. The review may be held by a duly authorized agent of the department. Upon the hearing, the department shall either rescind its order of suspension or revocation or, good cause appearing, may continue, modify, or extend the suspension or revocation order of the licensee or permittee. The department may impose a monetary penalty against the inspection station and the vehicle inspector in lieu of suspension or revocation. Failure to pay the monetary penalty shall result in suspension or revocation of the license of the inspection station or permit of the vehicle inspector.

An inspection station whose agents and employees falsely or fraudulently specify work to be done or parts to be installed, in addition to suspension or revocation of its license, must be fined the sum of one hundred dollars and the cost of any labor or parts unnecessarily done or installed must be refunded to the vehicle owner.

(G) All fees collected by the Department of Motor Vehicles must be credited to the department and used for the administration of this article, and for other purposes of the department.

Section 56‑5‑5440. A person shall not represent a place as an official inspection station or issue a certificate of inspection unless it is licensed and operating under a valid permit as provided for in this article.

Section 56‑5‑5450. The inspection of a vehicle under the provisions of this article and issuance of an official certificate of the inspection must not be construed in a court as a warranty of the mechanical condition of the vehicle inspected, and no certificate may be offered as evidence for an exhibit in the trial of a civil case. The failure to discover a defect in a vehicle in the course of an inspection under the provisions of this article must not be made the basis of an action for damages in a court.

Section 56‑5‑5460. (A) A person shall not make, or knowingly use or knowingly give or sell to another person, an imitation or counterfeit of an official certificate of inspection.

(B) A person shall not display or cause or permit to be displayed upon a vehicle, or give or sell to another person, a certificate of inspection knowing it to be fictitious or issued for another vehicle, or issued without a complete inspection complying with the regulations established by the department having been made.

(C) A person shall not knowingly possess an imitation or counterfeit of an official certificate of inspection nor shall a person knowingly possess an official certificate of inspection which was not properly issued by the department to a person or an official vehicle inspection station by which the person is employed, or which was not properly issued to the person by an official vehicle inspection station.

(D) A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be punished as follows: (1) by a fine of not less than fifty dollars nor more than one hundred dollars, or imprisonment for not more than thirty days, for the first offense;

(2) by a fine of not less than one hundred dollars nor more than two hundred dollars, or imprisonment for not less than ten days nor more than thirty days, for the second offense;

(3) by a fine of not less than five hundred dollars nor more than two thousand dollars, or imprisonment for not less than thirty days nor more than six months, or both, for the third offense; or

(4) by a fine of not less than two thousand dollars nor more than ten thousand dollars, or imprisonment for not less than ninety days nor more than two years, or both, for the fourth and any subsequent offenses.

For the purposes of this section, the mishandling of each certificate of inspection constitutes a separate offense. The penalties are in addition to the administrative penalties which may otherwise be imposed by the department.

Section 56‑5‑5470. The Department of Motor Vehicles is authorized to promulgate regulations for the administration and enforcement of this article. However, the regulations may not designate a specific brand or type of equipment as inspection equipment, and only standards of performance may be set. The regulations must not provide a monopoly of one make of equipment.

Section 56‑5‑5480. For the purpose of administering and enforcing the provisions of this article, the Department of Motor Vehicles may hire necessary and qualified personnel and purchase the necessary equipment and vehicles.

Section 56‑5‑5490. On the recommendation of the county legislative delegation, the Department of Motor Vehicles shall maintain at the county highway maintenance shop in each county an inspection station and shall inspect and issue certificates at the shop at the same cost to the motor vehicle owner as is charged by private garages. If it is not feasible to use the maintenance shop, then another suitable facility in the county may be used. However, this provision applies only when there are less than five licensed inspection stations in a county.

An owner of a motor vehicle may file a complaint, after his vehicle has been inspected by an official inspection station, either before or after repairs have been made as required by the inspection, with the department and the department shall investigate the complaint and may revoke or suspend the license of an official inspection station found to have improperly conducted an inspection, and may require the refund to the owner of the inspection fee, if it is determined that the complaint was justified.

Section 56‑5‑5500. A person whose registration has been suspended or an official inspection station or mechanic whose license has been suspended or revoked within ten days after notice of suspension or review, if such review is requested and held, may apply to the circuit court of the circuit in which the person or station is located, or any other court of competent jurisdiction in which the person or station is located, for a review upon the record, certified to by the Department of Motor Vehicles, to determine if the action taken by the department is lawful.

Section 56‑5‑5510. A person violating the provisions of this article must be punished in the same manner as provided for in Section 56‑5‑6190, unless otherwise provided.”

SECTION 2. This act takes effect upon approval by the Governor.

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