~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 23, 2009

**H. 3530**

Introduced by Reps. Bannister, Brantley, Simrill, Anthony, Vick, H.B. Brown, Brady, Funderburk, Gambrell, Hardwick, Horne, Knight, Miller, E.H. Pitts, Viers, A.D. Young, Wylie, Branham, Gullick and J.M. Neal

S. Printed 4/23/09--H. [SEC 4/24/09 3:43 PM]

Read the first time February 12, 2009.

**THE COMMITTEE ON EDUCATION AND PUBLIC WORKS**

To whom was referred a Bill (H. 3530) to amend the Code of Laws of South Carolina, 1976, by adding Section 56‑15‑361 so as to provide that the Department of Motor Vehicles may impose and, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Section 56‑15‑350 of the 1976 Code is amended to read:

“Section 56‑15‑350. (A) Any license issued under this chapter may be denied, suspended, or revoked, if the applicant or licensee or an agency of the applicant or licensee acting for the applicant or licensee is determined by the Department of Motor Vehicles to have:

~~(a)~~(1) made a material misstatement in the application for the license;

~~(b)~~(2) violated any provision of ~~this chapter~~ Chapters 3, 15, or 19 of this Title;

~~(c)~~(3) been found by a court of competent jurisdiction to have committed any fraud connected with the sale or transfer of a motor vehicle;

~~(d)~~(4) employed fraudulent devices, methods, or practices in connection with meeting the requirements placed on dealers and wholesalers by the laws of this State;

~~(e)~~(5) been convicted of any violation of law involving the acquisition or transfer of a title to a motor vehicle or of any violation of law involving tampering with, altering, or removing motor vehicle identification numbers or markings;

~~(f)~~(6) been found by a court of competent jurisdiction to have violated any federal or state law regarding the disconnecting, resetting, altering, or other unlawful tampering with a motor vehicle odometer, including the provisions of 49 U.S.C. 32701‑32711 (Title 49, Subtitle VI, Part C, Chapter 327);

~~(g)~~(7) refused or failed to comply with the department’s reasonable requests to inspect or copy the records, books, and files of the dealer or wholesaler or failed to maintain records of each motor vehicle transaction as required by this chapter or by state and federal law pertaining to odometer records; or

~~(h)~~(8) Given, loaned, or sold a dealer license plate to any person or otherwise to have allowed the use of any dealer license plate in any way not authorized by Section 56‑3‑2320. Any dealer license plate issued to a dealer or wholesaler pursuant to Section 56‑3‑2320 which is determined by the department to be improperly displayed on any vehicle or in the possession of any unauthorized person is prima facie evidence of a violation of this section by the dealer or wholesaler to whom the license plate was originally issued.

(B) The department shall notify the licensee or applicant in writing at the mailing address provided in his application of its intention to deny, suspend, or revoke his license, or impose an administrative penalty contained in subsection (c) of this section, at least twenty days in advance and shall inform the licensee of his right to request a contested case hearing with the Office of Motor Vehicle Hearings in accordance with the rules of procedure for the Administrative Law Court and pursuant to the Administrative Procedures Act of this State. A licensee desiring a hearing shall file a request in writing with the Office of Motor Vehicle Hearings within ten days of receiving notice of the proposed denial, suspension, or revocation of his dealer’s or wholesaler’s license.

Upon a denial, suspension, or revocation of a license, the licensee shall immediately return to the department the license and all dealer license plates.

(C) Instead of any other fees, fines, or sanctions against a dealer license provided pursuant to subsection (A) of this section, the department may impose and collect an administrative penalty not to exceed one thousand dollars for each of the acts, omissions, or violations of the provisions set forth in subsection (A). The penalties collected pursuant to this subsection must be placed in a special restricted account by the Comptroller General to be used to defray the department’s expenses.

(D) Nothing in this section may be construed as precluding a prosecuting authority from prosecuting any acts, omissions, or violations that may constitute a violation of applicable criminal law.”

SECTION 2. Article 3, Chapter 15, Title 56 of the 1976 Code is amended by adding:

“Section 56‑15‑351. The department may impose and collect an administrative penalty of not more than nine thousand dollars against a person or business for each vehicle sold without a license required by this chapter. The person or business is entitled to a hearing pursuant to the Administrative Procedures Act if the person or business contests an imposed penalty.

The penalties collected pursuant to this section must be placed in a special restricted account by the Comptroller General to be used to defray the expenses of the department.”

SECTION 3. This act takes effect upon approval by the governor. /

Renumber sections to conform.

Amend title to conform.

PHILLIP D. OWENS for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

See Below

**EXPLANATION OF IMPACT:**

This bill will have no impact on the General Fund of the State. The Department of Motor Vehicles DMV indicates the requirement contained in the bill would have little or no impact on the agency’s other funds expenditures. The net impact on DMV’s revenues and corresponding level of expenditures depends on actions the agency takes upon enactment since the bill is primarily permissive in nature with regard to the imposition of administrative fines.

**SPECIAL NOTES:**

The Board of Economic Advisors is the appropriate entity to address any revenue impact associated with this bill.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56‑15‑361 SO AS TO PROVIDE THAT THE DEPARTMENT OF MOTOR VEHICLES MAY IMPOSE AND COLLECT AN ADMINISTRATIVE FINE AGAINST LICENSED MOTOR VEHICLE DEALERS WHO VIOLATE CERTAIN PROVISIONS OF LAW, AND PROVIDE THAT THE DEPARTMENT SHALL EMPLOY THE STAFF NECESSARY TO ENFORCE THE PROVISIONS CONTAINED IN THIS SECTION.

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

SECTION 1. Article 3, Chapter 15, Title 56 of the 1976 Code is amended by adding:

“Section 56‑15‑361. (A) The department may impose and collect an administrative fine of not more than one thousand dollars for each violation against a licensed motor vehicle dealer if it finds that the motor vehicle dealer has violated a provision contain in Sections 16‑21‑20, 56‑3‑110, 56‑3‑210, 56‑3‑2320, 56‑15‑310, 56‑15‑320, 56‑15‑330, 56‑15‑340, 56‑15‑350, 56‑19‑240, 56‑19‑360, 56‑19‑370, or 56‑19‑490. Instead of the penalties provided for in Section 56‑15‑350, the department may impose and collect an administrative fine of not more than one thousand dollars for a violation of that provision. A licensee is entitled to a hearing pursuant to the Administrative Procedures Act if the licensee contests a fine, suspension, or revocation imposed upon him. The department shall notify the licensee in writing of the administrative fine and his entitlement to a hearing pursuant to the Administrative Procedures Act. The notice must be given by the department by depositing it in the United States mail with postage prepaid to the mailing address provided in his application. The giving of notice by mail is complete ten days after the deposit of the notice. A certificate by the director of the department, or his designee, that the notice has been sent, as required in this section, is presumptive proof that the requirements as to notice of the administrative fine have been met even if the notice has not been received by the addressee. It is a violation of this section if the administrative fine imposed pursuant to this section is not paid within forty‑five days of the department’s notice or final disposition of a hearing, whichever is later.

(B) The department may impose and collect an administrative fine of not more than nine thousand dollars against a person or business for each vehicle sold without a license required by this chapter. The person or business is entitled to a hearing pursuant to the Administrative Procedures Act if the person or business contests an imposed fine. The department shall notify the person or business in writing of the administrative fine and the entitlement to a hearing pursuant to the Administrative Procedures Act. The notice must be given by the department by depositing the notice in the United States mail with postage prepaid to the mailing address contained in the department’s records. The giving of notice by mail is complete ten days after the deposit of the notice. A certificate by the director of the department, or his designee, that the notice has been sent as required in this section is presumptive proof that the requirements as to notice of the administrative fine have been met even if the notice has not been received by the addressee. If the administrative fine imposed pursuant to this section is not paid or a hearing is not requested within forty‑five days of the department’s notice, the department may take action against the person or owners of the business pursuant to Section 56‑1‑285 or through other lawful means.

(C) The department shall employ investigators, officers, agents, and employees to enforce the provision contained in this chapter and other related laws. The department shall develop a schedule of penalties for first and subsequent violations contained in this section. The fines collected pursuant to this section must be placed in a special restricted account by the Comptroller General to be used to defray the investigative, enforcement, and regulatory expenses of its dealer licensing and audit unit.”

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

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