**South Carolina General Assembly**

119th Session, 2011-2012

**A226, R263, S263**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Knotts and Ford

Document Path: l:\s-jud\bills\knotts\jud0052.jjg.docx

Introduced in the Senate on January 11, 2011

Introduced in the House on March 29, 2012

Last Amended on June 5, 2012

Passed by the General Assembly on June 7, 2012

Governor's Action: June 18, 2012, Signed

Summary: Accident causing death

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 12/15/2010 Senate Prefiled

 12/15/2010 Senate Referred to Committee on **Judiciary**

 1/11/2011 Senate Introduced and read first time ([Senate Journal‑page 120](file:///h%3A%5Csj%20archive%5C2011%5C01-11-11.docx))

 1/11/2011 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 120](file:///h%3A%5Csj%20archive%5C2011%5C01-11-11.docx))

 1/28/2011 Senate Referred to Subcommittee: Knotts (ch), Massey, Coleman

 6/1/2011 Senate Committee report: Favorable with amendment **Judiciary** ([Senate Journal‑page 10](file:///h%3A%5Csj%20archive%5C2011%5C06-01-11.docx))

 1/25/2012 Senate Committee Amendment Amended ([Senate Journal‑page 8](file:///h%3A%5Csj%20archive%5C2012%5C01-25-12.docx))

 3/28/2012 Senate Committee Amendment Amended and Adopted

 3/28/2012 Senate Read second time ([Senate Journal‑page 22](file:///h%3A%5Csj%20archive%5C2012%5C03-28-12.docx))

 3/28/2012 Senate Roll call Ayes‑39 Nays‑3 ([Senate Journal‑page 22](file:///h%3A%5Csj%20archive%5C2012%5C03-28-12.docx))

 3/29/2012 Senate Read third time and sent to House ([Senate Journal‑page 15](file:///h%3A%5Csj%20archive%5C2012%5C03-29-12.docx))

 3/29/2012 House Referred to Committee on **Judiciary** ([House Journal‑page 89](file:///h%3A%5Chj%20archive%5C2012%5C03-29-12.docx))

 5/30/2012 House Committee report: Favorable with amendment **Judiciary** ([House Journal‑page 33](file:///h%3A%5Chj%20archive%5C2012%5C05-30-12.docx))

 6/5/2012 House Requests for debate‑Rep(s). Crawford, Sellers, Ott, McEachern, Tallon, Brannon, RL Brown, Jefferson, Hosey, Agnew ([House Journal‑page 77](file:///h%3A%5Chj%20archive%5C2012%5C06-05-12.docx))

 6/5/2012 House Amended ([House Journal‑page 113](file:///h%3A%5Chj%20archive%5C2012%5C06-05-12.docx))

 6/5/2012 House Read second time ([House Journal‑page 113](file:///h%3A%5Chj%20archive%5C2012%5C06-05-12.docx))

 6/5/2012 House Roll call Yeas‑70 Nays‑41 ([House Journal‑page 116](file:///h%3A%5Chj%20archive%5C2012%5C06-05-12.docx))

 6/6/2012 House Read third time and returned to Senate with amendments ([House Journal‑page 60](file:///h%3A%5Chj%20archive%5C2012%5C06-06-12.docx))

 6/6/2012 Scrivener's error corrected

 6/7/2012 Senate Concurred in House amendment and enrolled ([Senate Journal‑page 70](file:///h%3A%5Csj%20archive%5C2012%5C06-07-12.docx))

 6/7/2012 Senate Roll call Ayes‑38 Nays‑1 ([Senate Journal‑page 70](file:///h%3A%5Csj%20archive%5C2012%5C06-07-12.docx))

 6/12/2012 Ratified R 263

 6/18/2012 Signed By Governor

 6/20/2012 Effective date 12/18/12

 6/26/2012 Act No. 226

**VERSIONS OF THIS BILL**

[12/15/2010](file:///p%3A%5Cpprever%5C2011-12%5C263_20101215.docx)

[6/1/2011](file:///p%3A%5Cpprever%5C2011-12%5C263_20110601.docx)

[3/28/2012](file:///p%3A%5Cpprever%5C2011-12%5C263_20120328.docx)

[5/30/2012](file:///p%3A%5Cpprever%5C2011-12%5C263_20120530.docx)

[6/5/2012](file:///p%3A%5Cpprever%5C2011-12%5C263_20120605.docx)

[6/6/2012](file:///p%3A%5Cpprever%5C2011-12%5C263_20120606.docx)

(A226, R263, S263)

**AN ACT TO AMEND SECTION 56‑5‑2910, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO RECKLESS HOMICIDE, SO AS TO PROVIDE THAT THE OFFENSE SHALL BE DESIGNATED AS RECKLESS VEHICULAR HOMICIDE, AND TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 56‑5‑2946, RELATING TO THE REQUIREMENT THAT A PERSON MUST SUBMIT TO CHEMICAL TESTS OF HIS BREATH, BLOOD, OR URINE FOR THE PURPOSE OF DETERMINING WHETHER HE IS UNLAWFULLY OPERATING A VEHICLE, SO AS TO PROVIDE THAT THE OFFICER WHO DIRECTS THAT THE TESTS MUST BE ADMINISTERED DOES NOT HAVE TO HAVE PROBABLE CAUSE TO BELIEVE THAT THE PERSON IS GUILTY OF FELONY DRIVING UNDER THE INFLUENCE OF ALCOHOL, DRUGS, OR ANOTHER SUBSTANCE; AND BY ADDING SECTION 56‑5‑2948 SO AS TO PROVIDE THAT WHEN A PERSON IS SUSPECTED OF CAUSING A MOTOR VEHICLE INCIDENT RESULTING IN THE DEATH OF ANOTHER PERSON, THE DRIVER MUST SUBMIT TO FIELD SOBRIETY TESTS IF HE IS PHYSICALLY ABLE TO SUBMIT TO THE TESTS.**

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

**Reckless vehicular homicide**

SECTION 1. Section 56‑5‑2910 of the 1976 Code is amended to read:

 “Section 56‑5‑2910. (A) When the death of a person ensues within three years as a proximate result of injury received by the driving of a vehicle in reckless disregard of the safety of others, the person operating the vehicle is guilty of reckless vehicular homicide. A person who is convicted of, pleads guilty to, or pleads nolo contendere to reckless vehicular homicide is guilty of a felony, and must be fined not less than one thousand dollars nor more than five thousand dollars or imprisoned not more than ten years, or both. The Department of Motor Vehicles shall revoke for five years the driver’s license of a person convicted of reckless vehicular homicide.

 (B) After one year from the date of revocation, the person may petition the circuit court in the county of the person’s residence for reinstatement of the person’s driver’s license. The person shall serve a copy of the petition upon the solicitor of the county. The solicitor shall notify the representative of the victim of the reckless vehicular homicide of the person’s intent to seek reinstatement of the person’s driver’s license. The solicitor or his designee within thirty days may respond to the petition and demand a hearing on the merits of the petition. If the solicitor or his designee does not demand a hearing, the circuit court shall consider any affidavit submitted by the petitioner and the solicitor or his designee when determining whether the conditions required for driving privilege reinstatement have been met by the petitioner. The court may order the reinstatement of the person’s driver’s license upon the following conditions:

 (1) intoxicating alcohol, beer, wine, drugs, or narcotics were not involved in the vehicular accident which resulted in the reckless homicide conviction or plea;

 (2) the petitioner has served the term of imprisonment or paid the fine, assessment, and restitution in full, or both; and

 (3) the person’s overall driving record, attitude, habits, character, and driving ability would make it safe to reinstate the privilege of operating a motor vehicle.

 The circuit court may order the reinstatement of the driver’s license before the completion of the full five‑year revocation period, or the judge may order the granting of a route restricted license for the remainder of the five‑year period to allow the person to drive to and from employment or school, or the judge may place other restrictions on the driver’s license reinstatement. The order of the judge must be transmitted to the Department of Motor Vehicles within ten days.

 (C) If the person’s privilege to operate a motor vehicle is reinstated, a subsequent violation of the motor vehicle laws for any moving violation requires the automatic cancellation of the person’s driver’s license and imposition of the full period of revocation for the reckless vehicular homicide violation.”

**Chemical tests of breath, blood, or urine**

SECTION 2. Section 56‑5‑2946 of the 1976 Code is amended to read:

 “Section 56‑5‑2946. (A) Notwithstanding any other provision of law, a person must submit to either one or a combination of chemical tests of his breath, blood, or urine for the purpose of determining the presence of alcohol, drugs, or a combination of alcohol and drugs if there is probable cause to believe that the person violated or is under arrest for a violation of Section 56‑5‑2945.

 (B) The tests must be administered at the direction of a law enforcement officer. The administration of one test does not preclude the administration of other tests. The resistance, obstruction, or opposition to testing pursuant to this section is evidence admissible at the trial of the offense which precipitated the requirement for testing. A person who is tested or gives samples for testing may have a qualified person of his choice conduct additional tests at his expense and must be notified of that right. A person’s request or failure to request additional blood or urine tests is not admissible against the person in the criminal trial.

 (C) The provisions of Section 56‑5‑2950, relating to the administration of tests to determine a person’s alcohol concentration, additional tests at the person’s expense, the availability of other evidence on the question of whether or not the person was under the influence of alcohol, drugs, or a combination of them, availability of test information to the person or his attorney, and the liability of medical institutions and persons administering the tests are applicable to this section and also extend to the officer requesting the test, the State or its political subdivisions, or governmental agency, or entity which employs the officer making the request, and the agency, institution, or employer, either governmental or private, of persons administering the tests. Notwithstanding any other provision of state law pertaining to confidentiality of hospital records or other medical records, information regarding tests performed pursuant to this section must be released, upon subpoena, to a court, prosecuting attorney, defense attorney, or law enforcement officer in connection with an alleged violation of Section 56‑5‑2945.”

**Field sobriety tests**

SECTION 3. Article 23, Chapter 5, Title 56 of the 1976 Code is amended by adding:

 “Section 56‑5‑2948. When a person is suspected of causing a motor vehicle incident resulting in the death of another person by the investigating law enforcement officer on the scene of the incident, the driver must submit to field sobriety tests if he is physically able to do so.”

**Time effective**

SECTION 4. This act takes effect six months after approval by the Governor.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

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