~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 6, 2012

**H. 3164**

Introduced by Reps. Young, G.R. Smith, Taylor, Forrester, Patrick, Bowers, Brannon and Clemmons

S. Printed 3/6/12--S.

Read the first time May 24, 2011.

**THE COMMITTEE ON EDUCATION**

To whom was referred a Bill (H. 3164) 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, 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, page 5, by striking SECTION 6 in its entirety and inserting:

/ SECTION 6. Section 56‑1‑396 of the 1976 Code is amended by adding a subsection at the end to read:

“(G) The provisions of this section do not apply to a person whose license is suspended pursuant to Section 56‑1‑176.” /

Renumber sections to conform.

Amend title to conform.

Majority favorable. Minority unfavorable.

JOHN E. COURSON GERALD MALLOY

For Majority. For Minority.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**REVENUE IMPACT** 1/

This bill, as last amended, would have no impact on state general fund revenue in FY 2013-14. It is expected to raise earmarked funds of the DMV by $87,290, the NFH by $36,163, the KBF by $1,247 and the ALC by $26,100, respectively, in FY 2013-14. It also is expected to raise $166,300 for local jurisdictions from civil fines assessed in summary courts.

**Explanation of Bill adopted by House (May 19, 2011):**

The last amendment struck language allowing for a route restricted drivers’ license pending final disposition of appeal at a fee of $100, and changed the former basis of penalty for driving unlawfully as a misdemeanor traffic violation to a civil fine of no more than $100. With an effective date of August 1, 2013, the timeline for startup of school attendance reports and related enforcement actions, to include the appeals process, would yield the equivalent of six months of collections in FY 2013-14.

Based on updated attendance data, we expect a total of 1,663 civil fines (at $100) under Section 56-1-46 to yield $166,300 for local jurisdictions. We further expect 1,247 students, or 75% of those fined, would ultimately pay a $100 reinstatement fee to yield $124,700, prorated at $87,290, DMV; $36,163, NFH; and $1,247, KBF. Additionally, we expect 166 total appeals, or 10% of those cited, would pursue contested case hearing with OMVH, at a $150 filing fee yields $24,900 to ALC; whereas only 12 would subsequently appeal on to the ALC, at a $100 filing fee yields $1,200. Total receipts from respective filing fees would raise ALC earmarked funds by a total of $26,100.

**Explanation of original version (April 5, 2011) – RIS by BEA:**

School attendance is currently required under Section 56-1-176 in order to be issued either a conditional or a special restricted driver’s license in this State. Effective August 1, 2012, this bill would also require school attendance, as defined, for anyone under age eighteen to be issued the aforementioned licenses, as well as a beginner’s permit and a regular driver’s license. If in violation, the minor would have his/her driving privilege suspended by the DMV. The minor could obtain a special route-restricted driver’s license, at a $100 fee, to continue driving until ruling of the Office of Motor Vehicle Hearings (OMVH) in a contested case hearing (at a filing fee of $150), and as applicable while on further appeal to the Administrative Law Court (ALC), at a filing fee of $100. The $100 fee for a route-restricted license would be allocated at $20 to the state’s General Fund, and at $80 to DMV earmarked funds to defray costs. All filing fees for hearings and/or appeals are retained as ALC earmarked funds. School attendance, or reaching age 18, would be prerequisites to subsequently have an applicable license/permit reinstated at a fee of $100, prorated at $70, DMV; $29, State Nonfederal Aid Highway Fund (NFH) within the Department of Transportation (DOT); and $1 to the Keep South Carolina Beautiful Fund (KBF), also within DOT. Further, a traffic conviction for driving without a valid license due to noncompliance with school attendance provisions imposes a fine of no less than $50 under new Section 56-1-46.

Based on historical data provided by the DMV, the Department of Education (DOE) and the ALC, we expect collections from associated license/permit suspensions to apply to no more than ten months in FY2012-13. Accordingly, we project 3,145 suspended drivers would be eligible for reinstatement by the close of FY2012-13 and pay the $100 fee, which would yield $314,500. Of these 3,145 total suspensions, approximately 786 would appeal their suspension and also procure a route-restricted license, at a $100 fee, to yield a total of $78,600. Of these 786 cases, all are expected to file an appeal with the OMVH, at a $150 filing fee; whereas only 262 would subsequently appeal to the ALC, at a $100 filing fee. Total receipts from respective filing fees would raise ALC earmarked funds by a total of $144,100. Additionally, we expect 315 traffic convictions under Section 56-1-20, based on 10% of 3,145 total suspensions, would raise respective court fines and accompanying court assessments/surcharges by a total of $42,132 in FY2012-13, prorated at $24,492, state allocation, and $17,640, local allocation. Of the total amount of $24,492 in state proceeds, $2,138 applies to court fines within the state’s general fund; whereas the balance of $22,354 is allocated to various state agencies and programs by temporary or permanent law.

Revenue generated from suspensions/reinstatements of driving privileges and filing fees for contested hearings/appeals in this bill is expected to total $579,332 in FY 2012-13. Of this total amount, a subtotal of $537,200 applies to various earmarked/restricted funds of selected agencies to be allocated as follows: Earmarked Funds to the DMV, $283,030; the ALC, $144,100; and the KBF within DOT, $3,145; Restricted Funds to the NFH within DOT, $91,205. Whereas the balance of $15,720 applies to an increase in Motor Vehicle License revenue within the state’s general fund in FY2012-13.

Taken separately, the traffic violation under new Section 56-1-46, as enforced under Section 56-1-20, is expected to generate additional revenue from fines, assessments and court surcharges to total $42,132 in FY2012-13, to be apportioned as follows: an increase of $2,138 in state General Fund revenue from court fines; a residual increase of $22,354 in funds earmarked for other state agencies and programs; and an allocation of $17,640 to local jurisdictions.

*Approved By:*

Frank A. Rainwater

Board of Economic Advisors

1/ This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.

**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, SO AS 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 EIGHTEEN YEARS OF AGE; BY ADDING SECTION 56‑1‑177 SO AS TO PROVIDE THAT A MINOR’S PRIVILEGE TO DRIVE MUST BE SUSPENDED UNDER CERTAIN CIRCUMSTANCES; AND BY ADDING SECTION 56‑1‑46 SO AS TO PROVIDE A PENALTY FOR A PERSON WHO DRIVES A MOTOR VEHICLE WHEN HIS LICENSE TO DRIVE HAS BEEN SUSPENDED, CANCELLED, REVOKED, OR DENIED PURSUANT TO CERTAIN PROVISIONS.

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 eighteen years of age. The Department of Motor Vehicles may not issue or reinstate a beginner’s permit, a conditional driver’s license, ~~or~~ a special restricted driver’s license, or a regular driver’s license to a person less than eighteen 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 awarded by a public, private, or home school or a certificate of attendance issued by a public, private, or home school, or a ~~General Education Development Diploma~~ South Carolina High School Equivalency Diploma (GED); or

(2) is enrolled in a public or private school or is home schooled under the provisions contained in ~~Section~~ Sections 59‑65‑40, 59‑65‑45, or 59‑65‑47, or is enrolled in an adult education program and is making progress toward completion of a program leading to a South Carolina High School Equivalency Diploma (GED) or regular high school 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,~~ student’s public school, private school, or home school as applicable; and

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

(B) ~~Documentation~~ At the time of application for a license described in subsection (A), documentation of enrollment status must be presented to the Department of Motor Vehicles by the applicant on a form approved by the department. The documentation must indicate whether the student is in compliance with the requirements as provided in ~~item (2)~~ subsection (A). By applying for a license, the parent, or guardian, or both, consents to the release of attendance information to the department. The department shall include the consent language on its application form.

(C) Within twenty‑eight days of learning that an enrolled student who is at least fifteen but less than eighteen years of age has accumulated ten or more total unlawful absences, been expelled, or dropped out of school as provided for in Section 56‑1‑177, the board of trustees of the school district or its designee, the governing body of a private school, or an official of a home school association shall notify the Department of Motor Vehicles. This notification must be by an electronic method as determined by the Department of Motor Vehicles and the Department of Education. Nothing in this subsection should be construed to change the way or the frequency with which home school students or parents of home school students report a home school student’s attendance in an academic year.

(D) Upon receipt of notice of a student whose attendance to school falls in either subsection (1) or subsection (2) of Section 56‑1‑177, the Department of Motor Vehicles must within ten days notify the minor of the suspension of the minor’s license and driving privileges. The notice must be in the manner used by the department for similar driving suspensions.

(E) Upon receipt of notice of suspension of the minor’s license and driving privileges, the minor student’s parent or guardian or in a case where the parent or guardian is unavailable an advocate for the student may appeal the decision. The notice must provide that a person aggrieved by the department’s determination may file a request for a contested case hearing with the Office of Motor Vehicle Hearings in accordance with its rules of procedure. The Office of Motor Vehicle Hearings has exclusive jurisdiction to conduct these hearings. In such appeal, the student’s parent or guardian has the burden of demonstrating with clear and convincing evidence the need for a waiver as provided in this section. A waiver of the requirements of this section may be granted by the Office of Motor Vehicle Hearings 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:

(1) 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 or the student for treatment; or

(2) employment requiring the student to maintain a driver’s license to support himself or his immediate family. Additionally, a waiver must be granted if the student is seventeen years old, and it can be shown by clear and convincing evidence that the student has joined a branch of the United States Armed Forces, active or reserve.

The filing of an appeal stays the suspension until a final decision is issued on appeal. The Office of Motor Vehicle Hearings shall notify the appropriate school district, governing body of a private school, or official of a home school association when an appeal decision results in the granting of a waiver of the provisions of Section 56‑1‑177. An appeal from the determination of the Office of Motor Vehicle Hearings must be to the Administrative Law Court.

(F) The suspension of driving privileges as provided in this section shall end upon the date of such minor’s eighteenth birthday unless such minor can show that the minor complies with the requirements of subitems (A)(1) and (A)(2) of this section.”

SECTION 2. Article 1, Chapter 1, Title 56 of the 1976 Code is amended by adding:

“Section 56‑1‑177. A person’s, who is less than eighteen years of age, privilege to operate a motor vehicle must be suspended if the person has:

(1) been expelled from or dropped out of school for seven consecutive school days; or

(2) accumulated ten or more unlawful absences in the current academic year or ten or more unlawful absences in the previous academic semester.”

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

“Section 56‑1‑46. A person who drives a motor vehicle on a public highway of this State when his license to drive has been suspended, cancelled, revoked, or denied pursuant to Section 56‑1‑176 or 56‑1‑177:

(1) is guilty of violating Section 56‑1‑440;

(2) is subject to a civil fine not to exceed one hundred dollars;

(3) must not be penalized pursuant to the provisions contained in Section 56‑1‑460; and

(4) must not be subject to any administrative suspension associated with driving with a suspended driver’s license.”

SECTION 4. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 5. The Department of Education and the Department of Motor Vehicles may promulgate regulations to implement the provisions of this act.

SECTION 6. Section 59‑1‑396 of the 1976 Code, as added by Act 273 of 2010, is amended by adding a subsection at the end to read:

“(E) The provisions of this section do not apply to a person whose license is suspended pursuant to Section 56‑1‑176.”

SECTION 7. This act takes effect on August 1, 2013.

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