~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 3, 2011

**S. 336**

Introduced by Senator Grooms

S. Printed 2/3/11--S.

Read the first time January 11, 2011.

**THE COMMITTEE ON TRANSPORTATION**

To whom was referred a Bill (S. 336) to amend Section 56‑7‑30 of the 1976 Code, relating to generating uniform traffic citations with an electronic device, to require that a copy of the citation is, 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. Chapter 7, Title 56 of the 1976 Code is amended by adding:

“Section 56‑7‑35. (A) A uniform traffic ticket may only be issued for violating a local ordinance or the traffic laws relating to speeding or disregarding a traffic control device by a law enforcement officer incident to and contemporaneous with a traffic stop for the offense.

(B) A copy of the citation must be given directly to the offender by the law enforcement officer issuing the citation at the time of the traffic stop for the offense.

(C) A law enforcement agency may not utilize the United States mail, a parcel delivery service, electronic means, or otherwise to send to the operator or owner of a motor vehicle or motorcycle, as defined in Section 56‑3‑20, a uniform traffic citation alleging a violation of a local ordinance or the traffic laws relating to speeding or disregarding traffic control devices. This subsection does not prohibit the law enforcement agency from sending the operator or owner an additional copy of a uniform citation that was issued to the operator or owner during the traffic stop for the offense upon request of the operator or owner.

(D) A uniform traffic citation alleging the violation of a local ordinance or the traffic laws relating to speeding or disregarding traffic control devices may not be issued based in whole or in part upon photographic evidence, whether gathered in conjunction with radar speed detection devices and whether the camera or other electronic device capturing the photographic evidence was attended or unattended at the time it captured the photographic evidence. This section does not prohibit the use of photographic or video evidence at any hearing related to the offense to corroborate the testimony of a law enforcement officer who personally observed the offense.

(E) The provisions of this section do not apply to toll collection.”

SECTION 2. Section 56‑5‑710 of the 1976 Code is amended to read:

“Section 56‑5‑710. (A) Subject to the limitations prescribed in Section 56‑5‑930, the provisions of this chapter shall not be deemed to prevent local authorities with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power from:

(1) ~~Regulating~~ regulating the standing or parking of vehicles;

(2) ~~Regulating~~ regulating traffic by means of police officers or traffic‑control signals;

(3) ~~Regulating~~ regulating or prohibiting processions or assemblages on the highways;

(4) ~~Designating~~ designating particular highways as one‑way highways and requiring that all vehicles thereon be moved in one specific direction;

(5) ~~Regulating~~ regulating the speed of vehicles in public parks;

(6) ~~Designating~~ designating any highway as a through highway and requiring that all vehicles stop before entering or crossing it or designating any intersection as a stop intersection and requiring all vehicles to stop at one or more entrances at such intersection;

(7) ~~Restricting~~ restricting the use of highways as authorized in Sections 56‑5‑4210 and 56‑5‑4220;

(8) ~~Regulating~~ regulating the operation of bicycles and requiring the registration and licensing of them, including the requirement of a registration fee;

(9) ~~Regulating~~ regulating or prohibiting the turning of vehicles or specified types of vehicles at intersections;

(10) ~~Altering~~ altering the prima facie speed limits as authorized herein; or

(11) ~~Adopting~~ adopting such other traffic regulations as are specifically authorized by this chapter.

(B) Nothing in subsection (A) may be construed to permit a local authority to issue a uniform traffic citation for violating a local ordinance or the traffic laws relating to speeding or disregarding traffic control devices based in whole or in part upon photographic evidence whether gathered in conjunction with radar speed detection devices and whether the camera or other electronic device capturing the photographic evidence was attended or unattended at the time it captured the photographic evidence.”

SECTION 3. Section 56‑5‑70(E) of the 1976 Code, as last amended by Act 250 of 2010, is further amended to read:

“(E)(1) Citations for violating a local ordinance or the ~~for violating~~ traffic laws relating to speeding or disregarding traffic control devices based ~~solely~~ in whole or in part on photographic evidence, whether gathered in conjunction with radar speed detection devices and whether the camera or other electronic device capturing the photographic evidence was attended or unattended at the time it captured the photographic evidence, only may be issued for violations that occur while relief from regulations pursuant to 49 C.F.R. 390.23 has been granted due to an emergency. A person who receives a citation for violating traffic laws relating to speeding or disregarding traffic control devices based ~~solely~~ in whole or in part on photographic evidence must be served in person with notice of the violation within one hour of the occurrence of the violation. The provisions of this subsection do not apply to toll collection enforcement.”

SECTION 4. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

LAWRENCE K. GROOMS for Committee.

**A** **BILL**

TO AMEND SECTION 56‑7‑30 OF THE 1976 CODE, RELATING TO GENERATING UNIFORM TRAFFIC CITATIONS WITH AN ELECTRONIC DEVICE, TO REQUIRE THAT A COPY OF THE CITATION IS HANDED DIRECTLY TO THE OFFENDER BY THE LAW ENFORCEMENT OFFICER ISSUING THE TICKET; TO AMEND CHAPTER 7, TITLE 56, RELATING TO MOTOR VEHICLE TRAFFIC TICKETS, BY ADDING SECTION 56‑7‑35 TO PROVIDE THAT A LAW ENFORCEMENT OFFICER MUST STOP AN OWNER OR OPERATOR OF A VEHICLE TO ISSUE A TRAFFIC TICKET, TO PROVIDE THAT THE TRAFFIC TICKET MUST BE HANDED DIRECTLY TO THE OWNER OR OPERATOR OF THE VEHICLE, TO PROVIDE THAT A LAW ENFORCEMENT AGENCY MAY NOT MAIL OR OTHERWISE SEND A TRAFFIC TICKET TO AN OFFENDER, TO PROVIDE THAT A TRAFFIC TICKET CANNOT BE ISSUED BASED IN WHOLE OR IN PART UPON PHOTOGRAPHIC EVIDENCE REGARDLESS OF WHETHER THE CAMERA OR OTHER DEVICE CAPTURING THE IMAGE WAS ATTENDED OR UNATTENDED, AND TO PROVIDE THAT THE PROVISIONS OF THE SECTION DO NOT APPLY TO TOLL COLLECTION; TO AMEND SECTION 56‑5‑710, RELATING TO THE POWER OF LOCAL AUTHORITIES CONCERNING TRAFFIC LAWS, TO PROVIDE THAT A TRAFFIC TICKET CANNOT BE ISSUED BASED IN WHOLE OR IN PART UPON PHOTOGRAPHIC EVIDENCE REGARDLESS OF WHETHER THE CAMERA OR OTHER DEVICE CAPTURING THE IMAGE WAS ATTENDED OR UNATTENDED; TO AMEND SECTION 56‑5‑70, AS AMENDED, RELATING TO CERTAIN VEHICLE REQUIREMENTS BEING SUSPENDED DURING A STATE OF EMERGENCY, TO CLARIFY THAT UNIFORM TRAFFIC CITATIONS MAY NOT BE ISSUED IN WHOLE OR IN PART ON PHOTOGRAPHIC EVIDENCE REGARDLESS OF WHETHER THE CAMERA OR OTHER ELECTRONIC DEVICE CAPTURING THE PHOTOGRAPHIC EVIDENCE WAS ATTENDED OR UNATTENDED AT THE TIME IT CAPTURED THE PHOTOGRAPHIC EVIDENCE; AND TO DISGORGE ANY FINES COLLECTED IN VIOLATION OF SECTION 56‑5‑70.

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

SECTION 1. Section 56‑7‑30(B) of the 1976 Code is amended to read:

“(B) A law enforcement agency that issues uniform traffic tickets in an electronic format as provided in Section 56‑7‑10 may generate a printed copy of this ticket by using an in‑car data terminal or hand held device. A copy of the ticket must be ~~given~~ handed directly to the offender by the law enforcement officer issuing the ticket. The agency may then transmit the ticket data electronically to the Department of Motor Vehicles for its records and for audit purposes, the law enforcement agency by which the arresting officer is employed, and the trial officer for his records. If any of these entities does not have the capability to accept the ticket data solely using electronic means, the arresting agency must provide the entity with a printed copy of the ticket generated by the in‑car data terminal or hand held device. Data transmissions to the Department of Motor Vehicles must be made pursuant to that agency’s electronic system specifications. Printed copies provided to the Department of Motor Vehicles must meet that agency’s document processing requirements.”

SECTION 2. Chapter 7, Title 56 of the 1976 Code is amended by adding:

“Section 56‑7‑35. (A) A law enforcement officer must stop the operator or owner of a motor vehicle or motorcycle, as defined in Section 56‑3‑20, to issue the operator or owner a uniform traffic citation for violating a local ordinance or for a violation of traffic laws relating to speeding or disregarding traffic control devices.

(B) A copy of the citation must be handed directly to the offender by the law enforcement officer upon issuing the citation.

(C) A law enforcement agency may not utilize the United States mail, a parcel delivery service, electronic means, or otherwise to send to the operator or owner of a motor vehicle or motorcycle, as defined in Section 56‑3‑20, a uniform traffic citation alleging the violation of a local ordinance or the violation of traffic laws relating to speeding or disregarding traffic control devices.

(D) A uniform traffic citation alleging the violation of a local ordinance or the violation of traffic laws, relating to speeding or disregarding traffic control devices, may not be issued based in whole or in part upon photographic evidence, whether gathered in conjunction with radar speed detection devices and whether the camera or other electronic device capturing the photographic evidence was attended or unattended at the time it captured the photographic evidence.

(E) The provisions of this section do not apply to toll collection.

(F) For each violation of this section, the offending law enforcement agency must transmit five hundred dollars to the State Treasurer to be credited to the account of the South Carolina Highway Patrol Division of the Department of Public Safety.”

SECTION 3. Section 56‑5‑710 of the 1976 Code is amended to read:

“Section 56‑5‑710. (A) Subject to the limitations prescribed in Section 56‑5‑930, the provisions of this chapter shall not be deemed to prevent local authorities with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power from:

(1) ~~Regulating~~ regulating the standing or parking of vehicles;

(2) ~~Regulating~~ regulating traffic by means of police officers or traffic‑control signals;

(3) ~~Regulating~~ regulating or prohibiting processions or assemblages on the highways;

(4) ~~Designating~~ designating particular highways as one‑way highways and requiring that all vehicles thereon be moved in one specific direction;

(5) ~~Regulating~~ regulating the speed of vehicles in public parks;

(6) ~~Designating~~ designating any highway as a through highway and requiring that all vehicles stop before entering or crossing it or designating any intersection as a stop intersection and requiring all vehicles to stop at one or more entrances at such intersection;

(7) ~~Restricting~~ restricting the use of highways as authorized in Sections 56‑5‑4210 and 56‑5‑4220;

(8) ~~Regulating~~ regulating the operation of bicycles and requiring the registration and licensing of them, including the requirement of a registration fee;

(9) ~~Regulating~~ regulating or prohibiting the turning of vehicles or specified types of vehicles at intersections;

(10) ~~Altering~~ altering the prima facie speed limits as authorized herein; or

(11) ~~Adopting~~ adopting such other traffic regulations as are specifically authorized by this chapter.

(B) Nothing in subsection (A) may be construed to permit a local authority to issue a uniform traffic citation for violating a local ordinance or for violating traffic laws relating to speeding or disregarding traffic control devices based in whole or in part upon photographic evidence whether gathered in conjunction with radar speed detection devices and whether the camera or other electronic device capturing the photographic evidence was attended or unattended at the time it captured the photographic evidence.”

SECTION 4. Section 56‑5‑70(E) of the 1976 Code, as amended by Act 250 of 2010, is further amended to read:

“(E)(1) Citations for violating a local ordinance or for violating traffic laws relating to speeding or disregarding traffic control devices based ~~solely~~ in whole or in part on photographic evidence whether gathered in conjunction with radar speed detection devices and whether the camera or other electronic device capturing the photographic evidence was attended or unattended at the time it captured the photographic evidence, only may be issued for violations that occur while relief from regulations pursuant to 49 C.F.R. 390.23 has been granted due to an emergency. A person who receives a citation for violating traffic laws relating to speeding or disregarding traffic control devices based ~~solely~~ in whole or in part on photographic evidence must be served in person with notice of the violation within one hour of the occurrence of the violation. The provisions of this subsection do not apply to toll collection enforcement.

(2) For each violation of this section, the offending law enforcement agency must transmit five hundred dollars to the State Treasurer to be credited to the account of the South Carolina Highway Patrol Division of the Department of Public Safety.”

SECTION 5. Any law enforcement agency that issued traffic citations for a violation of a local ordinance or for a violation of traffic laws relating to speeding or disregarding traffic control devices, prior to the effective date of this act, based in whole or in part on photographic evidence whether gathered in conjunction with radar speed detection devices and whether the camera and speed detection system was manned or unmanned, must:

(1) identify each person who has received a citation and provide the person with a complete refund of all fines and assessments levied pursuant to the citation;

(2) refund all court costs, attorney’s fees, and reasonable expenses associated with defending the allegations raised in the citation; and

(3) transmit to the State Treasurer five hundred dollars for every citation issued to be credited to the account of the South Carolina Highway Patrol Division of the Department of Public Safety.

SECTION 6. This act takes effect upon approval by the Governor.

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