**South Carolina General Assembly**

120th Session, 2013-2014

**S. 778**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Hembree

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Introduced in the Senate on June 5, 2013

Currently residing in the Senate Committee on **Judiciary**

Summary: Breath test

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

6/5/2013 Senate Introduced and read first time ([Senate Journal‑page 5](file:///h:\SJ%20Archive\2013\06-05-13.docx))

6/5/2013 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 5](file:///h:\SJ%20Archive\2013\06-05-13.docx))

**VERSIONS OF THIS BILL**

[6/5/2013](file:///p:\pprever\2013-14\778_20130605.docx)

**A** **BILL**

TO AMEND SECTION 56‑5‑2953(A), THE CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE VIDEO RECORDING OF A PERSON WHO VIOLATES SECTION 56‑5‑2930, 56‑5‑2922, OR 56‑5‑2945, SO AS TO PROVIDE THAT A VIDEO RECORDING AT A BREATH TEST SITE DOES NOT HAVE TO INCLUDE A PERSON’S CONDUCT DURING THE REQUIRED TWENTY‑MINUTE PRE‑TEST WAITING PERIOD IF THE PERSON REFUSES TO TAKE THE TEST.

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

SECTION 1. Section 56‑5‑2953(A) of the 1976 Code is amended to read:

“(A) A person who violates Section 56‑5‑2930, 56‑5‑2933, or 56‑5‑2945 must have ~~his~~ the person’s conduct at the incident site and the breath test site video recorded.

(1)(a) The video recording at the incident site must:

(i) not begin later than the activation of the officer’s blue lights;

(ii) include any field sobriety tests administered; and

(iii) include the arrest of a person for a violation of Section 56‑5‑2930 or Section 56‑5‑2933, or a probable cause determination ~~in~~ that the person violated Section 56‑5‑2945, and show the person being advised of ~~his~~ the person’s Miranda rights.

(b) A refusal to take a field sobriety test does not constitute disobeying a police command.

(2) The video recording at the breath test site must:

(a) include the entire breath test procedure if a test is administered, the person being informed that ~~he~~ the person is being video recorded, and that ~~he~~ the person has the right to refuse the test;

(b) include the person taking or refusing the breath test and the actions of the breath test operator while conducting the test, if a test is administered; and

(c) also include the person’s conduct during the required twenty‑minute pre‑test waiting period, unless the officer submits a sworn affidavit certifying that it was physically impossible to video record this waiting period or the person refuses to take the test.

(3) The video recordings of the incident site and of the breath test site are admissible pursuant to the South Carolina Rules of Evidence in a criminal, administrative, or civil proceeding by any party to the action.”

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

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