~~Indicates Matter Stricken~~

Indicates New Matter

AS PASSED BY THE SENATE

March 6, 2014

**S. 560**

Introduced by Senator L. Martin

S. Printed 3/6/14--S.

Read the first time March 21, 2013.

**A** **BILL**

TO AMEND SECTION 58‑15‑870, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE WILFULL AND MALICIOUS INJURY TO A RAILROAD OR ELECTRIC RAILWAY, SO AS TO PROVIDE A TIER OF PENALTIES FOR VIOLATIONS; AND TO AMEND ARTICLE 9, CHAPTER 15, TITLE 58, RELATING TO RAILROADS, ELECTRIC RAILROADS, AND THE LIKE, SO AS TO PROVIDE THAT IT IS UNLAWFUL TO PURCHASE, SELL, OR TRANSPORT RAILROAD TRACK MATERIALS, TO PROVIDE EXCEPTIONS, AND TO PROVIDE A TIER OF PENALTIES FOR VIOLATIONS.

Amend Title To Conform

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

SECTION 1. Section 58‑15‑870 of the 1976 Code is amended to read:

“Section 58‑15‑870. ~~Whoever wilfully and maliciously injures in any way any railroad or electric railway or anything appertaining thereto or any material or instrument for the construction or use thereof, or aids or abets in such trespass, shall be punished by a fine not exceeding one thousand dollars or imprisonment not exceeding one year and, except in the case of an electric railway, shall forfeit to the use of the corporation for each offense treble the amount of damages proved to have been sustained thereby to be recovered in an action of tort in the name of the corporation. Whoever commits any of the acts mentioned in this section in such manner as thereby to endanger life shall be punished as herein provided or by imprisonment in the Penitentiary not exceeding twenty years.~~

(A) It is unlawful for a person to wilfully and maliciously cut, mutilate, deface, or otherwise injure a railroad or electric railway, including anything appertaining to the railroad or electric railway or any material or instrument for the construction of the railroad or electric railway.

(B) A person who violates this section is guilty of a misdemeanor, and, upon conviction, must be fined not less than one thousand dollars, or imprisoned not more than five years, or both.

(C) A person who violates this section resulting in the endangerment of another person’s life or great bodily injury to another person is guilty of a felony, and, upon conviction, must be imprisoned not more than twenty years. ‘Great bodily injury’ means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(D) A person who violates this section resulting in the death of another person is guilty of a felony, and, upon conviction, must be imprisoned not more than thirty years.

(E) In addition to the penalties provided by subsections (B), (C), and (D), except in the case of an electric railway, the person shall forfeit to the railroad company for each offense treble the damages proved to have been sustained to be recovered in a tort action in the railroad company’s name.”

SECTION 2. Article 9, Chapter 15, Title 58 of the 1976 Code is amended by adding:

“Section 58‑15‑875. (A) It is unlawful to purchase, sell, or transport railroad track materials for the purpose of recycling.

(B) This section does not apply to:

(1) a railroad company or a railroad company’s authorized agent;

(2) a business that owns a railroad spur;

(3) an independent railroad contractor; or

(3) a person or business with a letter of authorization from a special agent of a railroad company class 1 or shortline. An entity removing or authorizing the removal of railroad track materials from private property must obtain a letter of authorization from the railroad company servicing the property.

(C) Payment for railroad track materials must only be made to the railroad company or the company’s principals, the business that owns the railroad spur or the businesses’ principals, the independent railroad contractor or the contractor’s principals, or the person or business authorized by the railroad company or the businesses’ principals.

(D) A person who violates this section:

(1) for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than two hundred and fifty dollars, or imprisoned not more than one year, or both;

(2) for a second offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than five hundred dollars, or imprisoned not more than three years, or both; and

(3) for a third or subsequent offense, is guilty of a felony, and, upon conviction, must be fined not less than one thousand dollars, or imprisoned not more than five years, or both.”

SECTION 3. This act takes effect upon approval by the Governor.

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