**South Carolina General Assembly**

121st Session, 2015-2016

**H. 4500**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Putnam and V.S. Moss

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Introduced in the House on January 12, 2016

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

Summary: Oppose or resist a law enforcement officer

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/3/2015 House Prefiled

12/3/2015 House Referred to Committee on **Judiciary**

1/12/2016 House Introduced and read first time ([House Journal‑page 83](file:///h:\HJ%20Archive\2016\01-12-16.docx))

1/12/2016 House Referred to Committee on **Judiciary** ([House Journal‑page 83](file:///h:\HJ%20Archive\2016\01-12-16.docx))

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**VERSIONS OF THIS BILL**

[12/3/2015](file:///p:\pprever\2015-16\4500_20151203.docx)

**A** **BILL**

TO AMEND SECTION 16-9-320, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO OPPOSING OR RESISTING A LAW ENFORCEMENT OFFICER, SO AS TO INCREASE THE PENALTY ASSOCIATED WITH THIS OFFENSE; AND TO AMEND SECTION 56-5-750, RELATING TO THE FAILURE TO STOP A MOTOR VEHICLE WHEN SIGNALED BY A LAW ENFORCEMENT VEHICLE, SO AS TO PROVIDE THAT A DRIVER OF A MOTOR VEHICLE MAY PROCEED TO A REASONABLY CLOSE AND SAFE LOCATION BEFORE STOPPING, MAY NOT INCREASE HIS SPEED IN EXCESS OF FIVE MILES AN HOUR BEFORE STOPPING, TO INCREASE THE PENALTY FOR CERTAIN VIOLATIONS OF THIS SECTION, AND TO PROVIDE THAT A CONVICTION PURSUANT TO THIS SECTION SHALL NOT BE EXPUNGED.

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

SECTION 1. Section 16-9-320(A) of the 1976 Code is amended to read:

“(A) It is unlawful for a person knowingly and wilfully to oppose or resist a law enforcement officer in serving, executing, or attempting to serve or execute a legal writ or process or to resist an arrest being made by one whom the person knows or reasonably should know is a law enforcement officer, whether under process or not. A person who violates the provisions of this subsection is guilty of a ~~misdemeanor~~ felony and, upon conviction, must be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned not more than ~~one year~~ five years, or both.”

SECTION 2. Section 56-5-750 of the 1976 Code is amended to read:

“Section 56-5-750. (A) In the absence of mitigating circumstances, it is unlawful for a motor vehicle driver, while driving on a road, street, or highway of the State, to fail to stop when signaled by a law enforcement vehicle by means of a siren or flashing light. However, a driver may proceed to a reasonably close and safe location before stopping. The driver must proceed in a safe manner, observe the posted maximum speed limit, and allow the pursuing law enforcement officer to maintain appropriate surveillance of the vehicle. Nothing in this subsection prohibits a law enforcement officer from immediately stopping a vehicle if the officer believes the driver, a passenger, the vehicle, or the manner in which the vehicle is being driven is a threat to public safety. An attempt to increase the speed of a vehicle in excess of five miles an hour or in other manner avoid the pursuing law enforcement vehicle when signaled by a siren or flashing light is prima facie evidence of a violation of this section. Failure to see the flashing light or hear the siren does not excuse a failure to stop when the distance between the vehicles and other road conditions are such that it would be reasonable for a driver to hear or see the signals from the law enforcement vehicle.

(B) A person who violates the provisions of subsection (A):

(1) for a first offense where no great bodily injury or death resulted from the violation, is guilty of a ~~misdemeanor~~ felony and, upon conviction, must be fined not less than five hundred dollars or imprisoned for not ~~less than ninety days nor more than three~~ more than five years. The Department of Motor Vehicles must suspend the person’s driver’s license for at least thirty days; or

(2) for a second or subsequent offense where no great bodily injury or death resulted from the violation, is guilty of a felony and, upon conviction, must be imprisoned for not more than ~~five~~ ten years. The person’s driver’s license must be suspended by the department for a period of one year from the date of the conviction.

(C) A person who violates the provisions of subsection (A) and when driving performs an act forbidden by law or neglects a duty imposed by law in the driving of the vehicle:

(1) where great bodily injury resulted, is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years; or

(2) where death resulted, is guilty of a felony and, upon conviction, must be imprisoned for not more than twenty‑five years.

(D) The department must revoke the driver’s license of any person who is convicted pursuant to subsection (C)(1) or (C)(2) for a period to include any term of imprisonment, suspended sentence, parole, or probation, plus three years.

(E) ‘Great bodily injury’ means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss of or impairment of the function of a bodily member or organ.

(F) ~~After a conviction pursuant to subsection (B)(1) for a first offense, the person may, after three years from the date of completion of all terms and conditions of his sentence for the first offense, apply, or cause someone acting on his behalf to apply, to the court for an order expunging the records of the arrest and conviction. This provision does not apply to any crime classified as a felony. If the person has had no other conviction during the three‑year period following the completion of the terms and conditions of the sentence, the court shall issue an order expunging the records. No person has any rights under this section more than one time. After the expungement, the South Carolina Law Enforcement Division and the Department of Motor Vehicles are required to keep a nonpublic record of the offense and the date of its expungement to ensure that no person takes advantage of the rights permitted by this subsection more than once. This nonpublic record is not subject to release under the Freedom of Information Act or any other provision of law except to those authorized law or court officials who need to know this information in order to prevent the rights afforded by this subsection from being taken advantage of more than once.~~

~~(G)~~(1) If a person is employed or enrolled in a college or university at any time while his driver’s license is suspended pursuant to subsection (B) of this section, he may apply for a special restricted driver’s license permitting him to drive only to and from work or his place of education and in the course of his employment or education during the period of suspension. The department may issue the special restricted driver’s license only upon a showing by the person that he is employed or enrolled in a college or university, and that he lives further than one mile from his place of employment or place of education.

(2) If the department issues a special restricted driver’s license, it shall designate reasonable restrictions on the times during which and routes on which the person may operate a motor vehicle. A change in the employment hours, place of employment, status as a student, or residence must be reported immediately to the department by the licensee.

(3) The fee for each special restricted driver’s license is one hundred dollars, but no additional fee is due because of changes in the place and hours of employment, education, or residence. Of this fee twenty dollars must be distributed to the general fund and eighty dollars must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of the Department of Motor Vehicles.

(4) The operation of a motor vehicle outside the time limits and route imposed by a special restricted license by the person issued that license is a violation of Section 56‑1‑460.”

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

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