~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 3, 2016

**H. 3685**

Introduced by Reps. D.C. Moss and Pitts

S. Printed 2/3/16--H.

Read the first time February 18, 2015.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3685) to amend the Code of Laws of South Carolina, 1976, by adding Section 14‑1‑219 so as to provide that a five dollar surcharge is imposed upon all monetary, 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. Section 56‑7‑20 of the 1976 code, as last amended by act 1 of 2009, is further amended to read:

Section 56‑7‑20. Each ticket shall have a unique identifying number. Each printed copy must be labeled at the bottom with the purpose of the copy. A handwritten traffic ticket must consist of four copies, one of which must be blue and must be given to the vehicle operator who is the alleged traffic violator; one of which must be yellow and must be dispatched to the Department of Motor Vehicles for its records and for audit purposes; one of which must be white and must be dispatched to the police agency of which the arresting officer is a part; and one of which must be green and must be retained by the trial officer for his records. An electronic traffic ticket must consist of at least one printed copy that must be given to the vehicle operator who is the alleged traffic violator and as many as three additional printed copies if needed to communicate with the Department of Motor Vehicles, the police agency, and the trial officer. All tickets must be transmitted to the department electronically. Data transmissions to the department must be made pursuant to the agency’s electronic specifications.

SECTION 2. Section 56‑7‑30 of the 1976 Code, as last amended by Act 68 of 2005, is further amended to read:

“Section 56‑7‑30. (A) The Department of Public Safety shall have the traffic tickets printed. Law enforcement agencies shall order tickets from the Department of Public Safety and shall record the identifying numbers of the tickets received by them. The cost of the tickets must be paid by the law enforcement agency. The ~~Department of Motor Vehicles~~ records ~~and audit~~ copy must be forwarded electronically by the law enforcement agency to the Department of Motor Vehicles within ~~ten~~ five days of the disposition of the case by final trial court action or by nolle prosequi. The ~~head of each law enforcement agency is~~ courts are responsible for the forwarding of the ~~driver records and audit copies~~ court disposition information to the Department of Motor Vehicles ~~and for conducting an annual inventory on December thirty‑first of all tickets received but not disposed of by final trial court action or by nolle prosequi, and for forwarding the results of the inventory on a form prescribed by the Department of Motor Vehicles to the Department of Motor Vehicles within ten days of the completion of the inventory~~.

(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 to the offender. The agency ~~may~~ must 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 3. Section 56‑7‑40 of the 1976 Code is amended to read:

“Section 56‑7‑40. Any person intentionally violating the provisions of Section 56‑7‑10 or 56‑7‑30 shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than two hundred fifty dollars nor more than fifteen hundred dollars or imprisoned for not more than six months, or both, for each ticket unaccounted for, or each use of a nonuniform ticket, or each failure to timely electronically forward the Department of Motor Vehicles records copy ~~or audit copy~~ of a ticket. If the failure to account for a ticket, or the use of a nonuniform ticket, or the failure to timely forward the Department records or audit copy of the ticket is inadvertent or unintentional, such misuse shall be triable in magistrate’s court and upon conviction shall be punishable by a fine of not more than one hundred dollars. ~~Any person charged with failing to timely forward the results of the annual inventory shall be tried in magistrate’s court and upon conviction shall be fined not more than one hundred dollars.~~”

SECTION 4. Section 56‑1‑365 of the 1976 Code, as last amended by Act 201 of 2008 is amended to read:

“Section 56‑1‑365. (A) A person who forfeits bail posted for, is convicted of, or pleads guilty or nolo contendere in general sessions, municipal, or magistrate’s court to an offense which requires that his driver’s license be revoked or suspended shall surrender immediately or cause to be surrendered his driver’s license to the clerk of court or magistrate upon the verdict or plea. The defendant must be notified at the time of arrest of his obligation to bring, and surrender his license, if convicted, to the court or magistrate at the time of his trial, and if he fails to produce his license after conviction, he may be fined in an amount not to exceed two hundred dollars. If the defendant fails subsequently to surrender his license to the clerk or magistrate immediately after conviction, he must be fined not less than fifty dollars nor more than two hundred dollars.

(B) The Department of Motor Vehicles may collect from the clerk of court or magistrate the driver’s license and ticket immediately after receipt. Along with the driver’s license, the clerks and magistrates must give the department’s agents tickets, arrest warrants, and other documents or copies of them, including any reinstatement fee paid at the time of the verdict, guilty plea, or plea of nolo contendere, as necessary for the department to process the revocation or suspension of the licenses. If the department does not collect the license and ticket immediately, the magistrate or clerk must forward the license, ticket, and other documentation to the department within five days after receipt. A clerk or magistrate who wilfully fails or neglects to forward the driver’s license and ticket as required in this section is liable to indictment and, upon conviction, must be fined not exceeding five hundred dollars.

(C) The department shall notify the defendant of the suspension or revocation. Except as provided in Section 56‑5‑2990, if the defendant surrendered his license to the magistrate or clerk immediately after conviction, the effective date of the revocation or suspension is the date of surrender. If the magistrate or clerk wilfully fails to forward electronically the ~~license and~~ ticket and license surrender information to the department within five days, the suspension or revocation does not begin until the department receives and processes the license and ticket; provided that the end date of the term of suspension or revocation shall be calculated from the date of surrender and not the date the department receives and processes the ticket.

(D) If the defendant is already under suspension for a previous offense at the time of his conviction or plea, the court shall use its judicial discretion in determining if the period of suspension for the subsequent offense runs consecutively and ~~does not commence until~~ commences upon the expiration of the suspension or revocation for the prior offense, or if the period of suspension for the subsequent offense runs concurrently with the suspension or revocation of the prior offense.

(E) If the defendant fails to surrender his license, the suspension or revocation operates as otherwise provided by law.

(F) If the defendant surrenders his license, upon conviction, and subsequently files a notice of appeal, the appeal acts as a supersedeas as provided in Section 56‑1‑430. Upon payment of a ten‑dollar fee and presentment by the defendant of a certified or clocked‑in copy of the notice of appeal, the department shall issue him a certificate which entitles him to operate a motor vehicle for a period of six months after the verdict or plea. The certificate must be kept in the defendant’s possession while operating a motor vehicle during the six‑month period, and failure to have it in his possession is punishable in the same manner as failure to have a driver’s license in possession while operating a motor vehicle.”

SECTION 5. Section 56‑1‑370 of the 1976 Code, as last amended by Act 381 of 2006, is further amended to read:

“Section 56‑1‑370. The licensee may, within ten days after notice of suspension, cancellation, or revocation, except in cases where the suspension, cancellation, or revocation is made mandatory upon the Department of Motor Vehicles, request in writing an administrative hearing with the Division of Motor Vehicle Hearings in accordance with the rules of procedure of the Administrative Law Court and the State Administrative Procedures Act, in the judicial circuit where the licensee was arrested unless the Division of Motor Vehicle Hearings and the licensee agree that the hearing may be held in another jurisdiction. The hearing must be heard by a hearing officer of the Division of Motor Vehicle Hearings. Upon the review, the hearing officer shall either rescind the department’s order of suspension, cancellation, or revocation or, good cause appearing therefor, may continue, modify, or extend the suspension, cancellation, or revocation of the license. If the administrative hearing results in the continued suspension, cancellation, or revocation of the license, the term of the suspension, cancellation, or revocation of the defendant’s license is deemed to commence upon the date of the administrative hearing and not on the date of the notice provided by the Department of Motor Vehicles.”

SECTION 6. Section 56‑3‑1972 of the 1976 Code is repealed.

SECTION 7. 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 8. This act takes effect upon approval by the Governor.

Renumber sections to conform.

Amend title to conform.

F. GREGORY DELLENEY, JR. for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 14‑1‑219 SO AS TO PROVIDE THAT A FIVE DOLLAR SURCHARGE IS IMPOSED UPON ALL MONETARY PENALTIES IMPOSED BY CERTAIN COURTS FOR OFFENSES IN WHICH AN ELECTRONIC TICKET OR CITATION WAS ISSUED, AND TO PROVIDE FOR THE DISTRIBUTION OF THE SURCHARGE.

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

SECTION 1. Chapter 1, Title 14 of the 1976 Code is amended by adding:

“Section 14‑1‑219. (A) In addition to all other assessments and surcharges, a five dollar surcharge is imposed upon all fines, forfeitures, escheatment, or other monetary penalties imposed in general sessions, magistrates, and municipal court for misdemeanor traffic offenses and for nontraffic violations which an electronic ticket or citation was issued. No portion of the surcharge may be waived, reduced, or suspended.

(B) The revenue collected pursuant to subsection (A) must be retained by the jurisdiction which heard or processed the case and paid to the State Treasurer within thirty days after receipt. The State Treasurer shall allocate and transfer quarterly the revenue as follows:

(1) twenty percent to the Office of Court Administration; and

(2) eighty percent to the law enforcement agency that prepares the citation or ticket.

(C) The State Treasurer may request the State Auditor to examine the financial records of any jurisdiction which he believes is not timely transmitting revenues that are required to be paid to the State Treasurer pursuant to subsection (A). The State Treasurer also is authorized to conduct those examinations and the local jurisdiction is required to participate in and cooperate fully with the examination.

(D) All funds derived from this surcharge must be used for procurement of electronic citation systems equipment and maintenance and repair of these systems.”

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

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