~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 15, 2015

**S. 84**

Introduced by Senator Massey

S. Printed 4/15/15--S. [SEC 4/16/15 11:43 AM]

Read the first time January 13, 2015.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 84) to amend Section 56‑5‑2910 of the 1976 Code, relating to reckless vehicular homicide, to provide that a person who is convicted of, pleads guilty to, 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, page 2, by striking lines 27-29, and inserting:

/ county. The solicitor shall notify the representative of the victim of the reckless vehicular homicide pursuant to Article 15, Chapter 3 of Title 16, of the person’s intent to seek reinstatement of the person’s driver’s license. The solicitor or his /

Amend the bill further, as and if amended, page 3, by striking lines 37-39, and inserting:

/ a copy of the petition upon the solicitor of the county. The solicitor shall notify the victim of the felony reckless driving offense pursuant to Article 15, Chapter 3 of Title 16, of the person’s intent to seek reinstatement of the person’s driver’s license. /

Renumber sections to conform.

Amend title to conform.

Majority favorable. Minority unfavorable.

A. SHANE MASSEY JOHN L. SCOTT, JR.

For Majority. For Minority.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

This bill would have minimal impact on the general fund, and no impact on federal or other funds.

**Explanation of Fiscal Impact**

**State Expenditure**

This bill increases the penalties for reckless vehicular homicide and creates the new criminal offense of felony reckless driving.

**Judicial Department.**

The increase in penalties for reckless vehicular homicide are expected to have minimal impact, if any, on the general fund. The new offense of felony reckless driving would be heard in General Sessions court. During fiscal year 2013-2014, there were 149 cases and 85 convictions for the charge of reckless driving. There are no data available which would allow the Judicial Department to determine how many of the reckless driving charges would have been considered felony reckless driving under the proposed legislation, and there are no data available to determine how many additional hearings or trials, if any, would be held as a result of the new offense. However, if any additional hearing or trials would be held as a result of this legislation, it is anticipated that the Judicial Department would absorb this cost. It is also anticipated that the passage of the bill could impact the General Sessions court dockets due to additional hearings and trials. There would be no impact on federal or other funds.

**Department of Motor Vehicles**.

The Department of Motor Vehicles reported that there would be no additional expenditures or savings in the general fund, federal, or other funds.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 56‑5‑2910 OF THE 1976 CODE, RELATING TO RECKLESS VEHICULAR HOMICIDE, TO PROVIDE THAT A PERSON WHO IS CONVICTED OF, PLEADS GUILTY TO, OR PLEADS NOLO CONTENDERE TO RECKLESS VEHICULAR HOMICIDE IS GUILTY OF A FELONY, AND MUST BE FINED NOT LESS THAN FIVE THOUSAND DOLLARS NOR MORE THAN FIFTEEN THOUSAND DOLLARS OR IMPRISONED NOT MORE THAN FIFTEEN YEARS, OR BOTH, AND AFTER ONE YEAR FROM THE DATE OF REVOCATION OF THE PERSON’S DRIVER’S LICENSE, THE PERSON MAY PETITION THE CIRCUIT COURT IN THE COUNTY OF THE PERSON’S CONVICTION FOR REINSTATEMENT OF THE PERSON’S DRIVER’S LICENSE; TO AMEND ARTICLE 23, CHAPTER 5, TITLE 56 RELATING TO RECKLESS HOMICIDE, RECKLESS DRIVING, AND DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR, DRUGS, OR NARCOTICS, BY ADDING SECTION 56‑5‑2925 TO DEFINE “GREAT BODILY INJURY” AS 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, TO PROVIDE FOR THE OFFENSE OF FELONY RECKLESS DRIVING, TO PROVIDE FOR THE PENALTIES OF FELONY RECKLESS DRIVING, TO PROVIDE FOR THE PROCEDURE FOR REINSTATEMENT OF THE DRIVER’S LICENSE OF A PERSON CONVICTED OF FELONY RECKLESS DRIVING, AND TO PROVIDE THAT IF THE PERSON’S PRIVILEGE TO OPERATE A MOTOR VEHICLE IS REINSTATED, A SUBSEQUENT VIOLATION OF THE MOTOR VEHICLE LAWS FOR ANY MOVING VIOLATION REQUIRES THE AUTOMATIC CANCELLATION OF THE PERSON’S DRIVER’S LICENSE AND IMPOSITION OF THE FULL PERIOD OF REVOCATION FOR THE FELONY RECKLESS DRIVING VIOLATION.

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

SECTION 1. Section 56‑5‑2910 of the 1976 Code is amended to read:

“Section 56‑5‑2910. (A) When the death of a person ensues within three years as a proximate result of injury received by the driving of a vehicle in reckless disregard of the safety of others, the person operating the vehicle is guilty of reckless vehicular homicide. A person who is convicted of, pleads guilty to, or pleads nolo contendere to reckless vehicular homicide is guilty of a felony, and must be fined not less than ~~one~~ five thousand dollars nor more than ~~five~~ fifteen thousand dollars or imprisoned not more than ~~ten~~ fifteen years, or both. The Department of Motor Vehicles shall revoke for five years the driver’s license of a person convicted of reckless vehicular homicide.

(B) After one year from the date of revocation, the person may petition the circuit court in the county of the person’s ~~residence~~ conviction for reinstatement of the person’s driver’s license. The person shall serve a copy of the petition upon the solicitor of the county. The solicitor shall notify the representative of the victim of the reckless vehicular homicide of the person’s intent to seek reinstatement of the person’s driver’s license. The solicitor or his designee within thirty days may respond to the petition and demand a hearing on the merits of the petition. If the solicitor or his designee does not demand a hearing, the circuit court shall consider any affidavit submitted by the petitioner and the solicitor or his designee when determining whether the conditions required for driving privilege reinstatement have been met by the petitioner. The court may order the reinstatement of the person’s driver’s license upon the following conditions:

(1) intoxicating alcohol, beer, wine, drugs, or narcotics were not involved in the vehicular accident which resulted in the reckless homicide conviction or plea;

(2) the petitioner has served the term of imprisonment or paid the fine, assessment, and restitution in full, or both; and

(3) the person’s overall driving record, attitude, habits, character, and driving ability would make it safe to reinstate the privilege of operating a motor vehicle.

The circuit court may order the reinstatement of the driver’s license before the completion of the full five‑year revocation period, or the judge may order the granting of a route restricted license for the remainder of the five‑year period to allow the person to drive to and from employment or school, or the judge may place other restrictions on the driver’s license reinstatement. The order of the judge must be transmitted to the Department of Motor Vehicles within ten days.

(C) If the person’s privilege to operate a motor vehicle is reinstated, a subsequent violation of the motor vehicle laws for any moving violation requires the automatic cancellation of the person’s driver’s license and imposition of the full period of revocation for the reckless vehicular homicide violation.”

SECTION 2. Article 23, Chapter 5, Title 56 of the 1976 Code is amended by adding:

“Section 56‑5‑2925. (A) As used in this section, ‘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.

(B) A person is guilty of the offense of felony reckless driving if while driving a motor vehicle in reckless disregard of the safety of others he causes great bodily injury to a person other than himself. A person who is convicted of, pleads guilty to, or pleads nolo contendere to felony reckless driving must be fined not less than one thousand dollars nor more than ten thousand dollars or imprisoned not more than ten years, or both. The Department of Motor Vehicles shall revoke for three years the driver’s license of a person convicted of felony reckless driving.

(C)(1) After one year from the date of revocation, the person may petition the circuit court in the county of the person’s conviction for reinstatement of the person’s driver’s license. The person shall serve a copy of the petition upon the solicitor of the county. The solicitor shall notify the victim of the felony reckless driving offense of the person’s intent to seek reinstatement of the person’s driver’s license. The solicitor or his designee within thirty days may respond to the petition and demand a hearing on the merits of the petition. If the solicitor or his designee does not demand a hearing, the circuit court shall consider any affidavit submitted by the petitioner and the solicitor or his designee when determining whether the conditions required for driving privilege reinstatement have been met by the petitioner. The court may order the reinstatement of the person’s driver’s license upon the following conditions:

(a) intoxicating alcohol, beer, wine, drugs, or narcotics were not involved in the vehicular accident which resulted in the felony reckless driving offense conviction or plea;

(b) the petitioner has served the term of imprisonment or paid the fine, assessment, and restitution in full, or both; and

(c) the person’s overall driving record, attitude, habits, character, and driving ability would make it safe to reinstate the privilege of operating a motor vehicle.

(2) The circuit court may order the reinstatement of the driver’s license before the completion of the full three‑year revocation period, or the judge may order the granting of a route restricted license for the remainder of the three‑year period to allow the person to drive to and from employment or school, or the judge may place other restrictions on the driver’s license reinstatement. The order of the judge must be transmitted to the Department of Motor Vehicles within ten days.

(D) If the person’s privilege to operate a motor vehicle is reinstated, a subsequent violation of the motor vehicle laws for any moving violation requires the automatic cancellation of the person’s driver’s license and imposition of the full period of revocation for the felony reckless driving violation.”

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

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