COMMITTEE REPORT

May 19, 2016

**S. 946**

Introduced by Senators Hayes and Alexander

S. Printed 5/19/16--S.

Read the first time January 13, 2016.

**THE COMMITTEE ON TRANSPORTATION**

To whom was referred a Bill (S. 946) to amend the Code of Laws of South Carolina, 1976, by adding Section 56-5-2774 so as to provide that the registered owner of a vehicle that unlawfully, 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 SECTION 1 and inserting:

/ SECTION 1. Article 21, Chapter 5, Title 56 of the 1976 Code is amended by adding:

“Section 56‑5‑2774. (A) The registered owner of a vehicle identified as having been operated in violation of Section 56‑5‑2770 is liable to the South Carolina Department of Public Safety for the civil penalty and administrative fees provided in this section if:

(1) the identity of the vehicle operator cannot be identified based upon an inspection of photographs, microphotographs, videotape, or other digitally recorded images produced by a digital recording system mounted on a school bus; or

(2) the vehicle’s registered owner can be identified based upon an inspection of photographs, microphotographs, videotape, or other digitally recorded images produced by a digital recording system mounted on a school bus.

(B) If the registered owner of a vehicle, operated in violation of Section 56‑5‑2770 is determined to be liable as described in subsection (A), a certificate, sworn to or affirmed by an agent of the department, or a facsimile of it, is prima facie evidence of the violation and is admissible in any proceeding alleging a violation of Section 56‑5‑2770. A photograph, microphotograph, videotape, or other recorded image evidencing a violation must be available for inspection by the registered owner and is admissible into evidence in a proceeding to adjudicate liability for a violation.

(C) The department may assess and collect:

(1) civil penalties of:

(a) not more than two hundred fifty dollars for the first violation;

(b) not more than five hundred dollars for each subsequent violation; and

(2) an administrative fee of twenty‑five dollars for the first and any subsequent violation.

(D) If a magistrate determines that the registered owner charged under this section is liable, the magistrate shall forward any civil penalty and administrative fee collected to the department. Court costs may also be imposed for each violation. The civil penalty must be distributed in the same manner as other fines and penalties collected by the magistrate. Notwithstanding any other provision of law:

(1) adjudication of liability must be made by the magistrate’s court of the county in which the school bus stop arm violation occurred; and

(2) an imposition of liability must be based upon a preponderance of evidence submitted and is not a conviction as an operator pursuant to Section 56‑5‑2770.

(E)(1) The department shall send:

(a) a ‘Notice to Pay a School Bus Stop Arm Violation Civil Penalty’ to the registered owner of a vehicle that is identified as having been operated in violation of Section 56‑5‑2770. The citation must require payment to the department of the civil penalty and administrative fee as provided for in subsection (C) within thirty days of the mailing of the notice, or the registered owner must appear in magistrate’s court of the county in which the violation occurred to contest the citation;

(b) a ‘Failure to Pay a School Bus Stop Arm Civil Penalty’ to the registered owner of a vehicle that is identified as having been operated in violation of Section 56‑5‑2770 if the owner has failed to respond to the notice provided in subsection (C) within thirty days of the mailing of the notice. The citation must require payment to the department of the unpaid civil penalty and administrative fee, plus an additional administrative fee of not more than twenty‑five dollars, for each violation within thirty days of the mailing of the citation or the registered owner must appear in magistrate’s court of the county in which the violation occurred to contest the citation. A ‘Failure to Pay a School Bus Stop Arm Civil Penalty’ constitutes the summons and complaint for an action to recover the civil penalties and all applicable fees allowed pursuant to this section;

(2) notwithstanding any other provision of law, the notice and citation required by this section must be sent by first‑class mail to the registered owner of the vehicle identified as having been operated in violation of Section 56‑5‑2770. If a vehicle is registered in two or more names, the notice or citation must be mailed to the first name listed on the registration. Personal delivery of the notice and citation is not required. A manual or automatic record of the mailing of the notice or citation prepared in the ordinary course of business is prima facie evidence of the mailing of the notice or citation;

(3) the notice and citation required by this section must contain the following:

(a) the name and address of the person or entity alleged to be liable for failure to pay the civil penalty pursuant to this section;

(b) the registration number of the vehicle;

(c) the location of the alleged school bus stop arm violation;

(d) the date and time of the alleged school bus stop arm violation;

(e) the serial identification number of the digital recording system which recorded or photographed the violation;

(f) the manner and time in which liability may be contested;

(g) notice that failure to contest liability in the manner and time provided in this section is an admission of liability; and

(h) notice that failure to pay a school bus stop arm civil penalty may result in the suspension of vehicle registration.

(F) Upon failure to pay the civil penalty and administrative fees within thirty days of the mailing of the notice, the registered owner may be cited for ‘Failure to Pay a School Bus Stop Arm Civil Penalty’ pursuant to this subsection and, upon an adjudication of liability, is subject to an additional civil penalty not to exceed one hundred dollars for each violation as contained in subsection (C). Upon an adjudication of liability, a judgment in the amount of the unpaid civil penalties and administrative fees must be entered against the registered owner, and the court must mail a copy of the judgment to the registered owner. Upon failure to satisfy the judgment within thirty days, the court must notify the Department of Motor Vehicles, which must suspend the registration and deny the vehicle’s registration or re‑registration pursuant to Section 56‑3‑1335. The suspension must remain in effect until the judgment is satisfied and evidence of its satisfaction has been presented to the Department of Motor Vehicles.

(G) If a registered owner receives a notice or citation pursuant to this section for a period during which the vehicle involved in the school bus stop arm violation was:

(1) reported to a law enforcement agency as having been stolen, a defense to an allegation of liability for a school bus stop arm civil penalty is that the vehicle had been reported to a law enforcement agency as stolen before the time the violation occurred and had not been recovered by the time of the violation. If a registered owner receives a notice or citation pursuant to this section for a violation which occurred during a time period in which the vehicle was stolen but had not been reported to a law enforcement agency as having been stolen, a valid defense to an allegation of liability for a school bus stop arm civil penalty pursuant to this section is that the vehicle was reported as stolen within two hours after the discovery of the theft by the registered owner. For purposes of asserting the defense, a certified copy of the police report on the stolen vehicle sent by first‑class mail to the department within thirty days after receipt of the notice or citation is sufficient;

(2) leased to another person or entity, the lessor is not liable for the violation if the lessor sends to the department or to the court having jurisdiction over the citation a copy of the rental, lease, or other contract document covering the vehicle on the date of the violation, with the name and address of the lessee clearly legible, within thirty days after receiving the notices or citation. Failure to send the information within the thirty‑day period renders the lessor liable for the unpaid school bus stop arm civil penalty and any administrative fees or penalties assessed pursuant to this section. If the lessor complies with the provisions of this subsection, the lessee of the vehicle on the date of the violation is subject to liability for the failure to pay the school bus stop arm civil penalty if the department mails a notice of liability to the lessee within thirty days after receipt of a copy of the rental, lease, or other contract document.

(H) If a person or entity receives a notice or citation pursuant to this section, it is a defense to liability that the person or entity that receives the notice was not the registered owner of the vehicle at the time of the school bus stop armviolation.

(I) If a registered owner who pays the required civil penalties, fees, or both, pursuant to this section was not the operator of the vehicle at the time of the violation, the registered owner may maintain an action for indemnification against the operator.

(J) A registered owner of a vehicle is not liable for a penalty imposed pursuant to this section if the registered owner or operator of the vehicle has been convicted of a violation of Section 56‑5‑2770 for the same incident.” /

Renumber sections to conform.

Amend title to conform.

LAWRENCE K. GROOMS for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56‑5‑2774 SO AS TO PROVIDE THAT THE REGISTERED OWNER OF A VEHICLE THAT UNLAWFULLY OVERTAKES A SCHOOL BUS MAY BE ISSUED A CIVIL CITATION IF THE DRIVER OF HIS VEHICLE CAN NOT BE IDENTIFIED BY A LAW ENFORCEMENT OFFICER OR A DIGITAL VIDEO RECORDING DEVICE MOUNTED ON A SCHOOL BUS, TO PROVIDE THE PROCEDURE WHEREBY THE CITATION MAY BE DISMISSED, AND TO PROVIDE THE PROCEDURE WHEREBY THE CITATION IS ISSUED.

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

SECTION 1. Article 21, Chapter 5, Title 56 of the 1976 Code is amended by adding:

“Section 56‑5‑2774. (A) If a driver of a vehicle violates Section 56‑5‑2770(A) or (C) and can not be identified by a law enforcement officer from images obtained from a digital video recording device mounted on a school bus, then the registered owner of the vehicle may be issued a five hundred dollar civil penalty citation. The citation must be dismissed if the registered owner of the vehicle furnishes evidence to the court that at the time of the violation the vehicle was in the care, custody, or control of another person.

(B) The registered owner of the vehicle shall not be responsible for the violation if, within thirty days after being notified of the violation, he provides the court the following information:

(1) an affidavit that contains the name and address of the person or company that had care, custody, and control of the vehicle at the time of the violation; or

(2) an affidavit that states that the vehicle was stolen at the time of the violation. This affidavit must be supported by evidence that the vehicle was insured at the time of the violation and must be accompanied with a police report that confirms that the vehicle was stolen.

(C) No points contained in Section 56‑1‑720 shall be imposed against the driving record of the registered owner of the vehicle.

(D) A citation issued pursuant to this section shall state clearly the manner in which the citation may be challenged. The citation must be sent by first class mail to the registered owner of the vehicle at the address provided by the Department of Motor Vehicles.”

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

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