~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 21, 2018

**S. 834**

Introduced by Senator Turner

S. Printed 3/21/18--S.

Read the first time January 9, 2018.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 834) to amend Section 56-1-146 of the 1976 Code, relating to the surrender of a driver’s license by a person convicted of certain crimes, to amend the definition, 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 1, by striking lines 23-29 and inserting:

/ or nolo contendere to a ~~crime of violence~~ violent crime as defined in Section ~~16‑23‑10(3)~~ 16-1-60 on or after July 1, ~~2011~~ 2018, in this State, the clerk of court must notify by mail, electronic mail, or facsimile the Department of Motor Vehicles within thirty days of the conviction of guilt or nolo contendere plea. The Department of Motor Vehicles must then notify the person who was convicted of the ~~crime of violence~~ violent crime as defined in Section ~~16‑23‑10(3)~~ 16-1-60 that he must /

Amend the bill further, as and if amended, page 1, by striking line 40 and inserting:

/ SECTION 2. Section 56-1-148 of the 1976 Code is amended to read:

“Section 56-1-148. (A) As used in this chapter ‘identifying code’ means a symbol, number, or letter of the alphabet developed by the department to identify a person convicted of or pleading guilty or nolo contendere to a crime of violence as defined in Section ~~16‑23‑10(3)~~ 16-1-60 on or after July 1, ~~2011~~ 2018. The symbol, number, or letter of the alphabet shall not be defined on the driver’s license or special identification card.

(B) In addition to the contents of a driver’s license provided for in Section 56-1-140 or a special identification card provided for in Section 56-1-3350, a person who has been convicted of or pled guilty or nolo contendere to a ~~crime of violence~~ violent crime as defined in Section ~~16‑23‑10(3)~~ 16-1-60 on or after July 1, ~~2011~~ 2018, must have an identifying code determined by the department affixed to the reverse side of his driver’s license or special identification card. The code must identify the person as having been convicted of a violent crime. The code must be developed by the department and made known to the appropriate law enforcement officers and judicial officials of this State.

(C) The presence of a special identifying code on a person’s driver’s license or special identification card may not be used as a grounds to extend the detention of the person by a law enforcement officer or grounds for a search of the person or his vehicle.

(D) ~~The department shall charge a fee of fifty dollars for affixing the identifying code provided in subsection (B). This fee is in addition to the fee provided for in Section 56-1-140. This fee must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.~~

~~(E)~~ A person whose driver’s license or special identification card has been canceled pursuant to Section 56-1-146 may apply for a new license or special identification card in a manner prescribed by the department. The department must issue by mail or in person a new license or special identification card with the identifying code required by this section after payment of the fifty-dollar fee provided in subsection (C). The department must not issue a new driver’s license to a person during any period of suspension or revocation for any reason other than Section 56-1-146 and a driver’s license may only be issued after the period of suspension or revocation has ended and the person is otherwise eligible to be issued a license.

~~(F)~~(E) The intent of placing an identifying code on a driver’s license or special identification card that identifies a person who has been convicted of a ~~crime of violence~~ violent crime as defined in Section ~~16‑23‑10(3)~~ 16-1-60 is to promote the state’s fundamental right to provide for the public health, welfare, and safety of its citizens and law enforcement officers. Notwithstanding this legitimate stated purpose, this provision is not intended to violate the guaranteed constitutional rights of persons who have violated our state’s laws.

~~(G)~~(F) If a person’s conviction or guilty plea for a ~~crime of violence~~ violent crime as defined in Section ~~16‑23‑10(3)~~ 16-1-60 is reversed on appeal, or if the person is subsequently pardoned, then the person may apply for a driver’s license or special identification card that does not have the identifying code affixed.

~~(H)~~(G) A person who is not convicted of a subsequent ~~crime of violence~~ violent crime as defined in Section ~~16‑23‑10(3)~~ 16-1-60 for five years after he has completely satisfied the terms of his sentence or during the term of the person’s probation or parole, whichever the sentencing judge determines is appropriate, may file an application with the department to have the identifying code affixed to his driver’s license or special identification card removed.

~~(I)~~(H) A person must provide appropriate supporting documentation prescribed by the department to verify his eligibility to have the identifying code removed pursuant to subsection ~~(F)~~ (E) or ~~(G)~~ (F). Upon verification and payment of the fee provided in Section 56-1-140, the person must be issued a new driver’s license or special identification card.”

SECTION 3. 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 4. This act takes effect July 1, 2018. /

Renumber sections to conform.

Amend title to conform.

LUKE A. RANKIN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on January 9, 2018**

**State Expenditure**

This bill requires DMV to notify an individual who is convicted of a crime of violence as defined in Section 16-1-60, instead of Section 16-23-10(3), that they must surrender their driver’s license or special identification card to DMV by mail or in person.

DMV indicates that the agency is currently notifying individuals who are convicted of a crime of violence in Section 16-23-10(3) to surrender their driver’s license or special identification card. Changing the reference to the definition of crime of violence from Section 16-23-10(3) to Section 16-1-60 will have no expenditure impact on the general fund, other funds, or federal funds.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 56-1-146 OF THE 1976 CODE, RELATING TO THE SURRENDER OF A DRIVER’S LICENSE BY A PERSON CONVICTED OF CERTAIN CRIMES, TO AMEND THE DEFINITION FOR A CRIME OF VIOLENCE.

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

SECTION 1. Section 56-1-146 of the 1976 Code is amended to read:

“Section 56-1-146.When a person is convicted of or pleads guilty or nolo contendere to a crime of violence as defined in Section ~~16‑23‑10(3) on or after July 1, 2011~~ 16-1-60, in this State, the clerk of court must notify by mail, electronic mail, or facsimile the Department of Motor Vehicles within thirty days of the conviction of guilt or nolo contendere plea. The Department of Motor Vehicles must then notify the person who was convicted of the crime of violence as defined in Section ~~16‑23‑10(3)~~ 16-1-60 that he must surrender his driver's license or special identification card to the Department of Motor Vehicles by mail or in person, and the Department of Motor Vehicles shall issue to the person by mail or in person a driver's license or special identification card with the identifying code as referenced in Section 56‑1‑148. If the person convicted of a crime of violence as defined in Section ~~16‑23‑10(3)~~ 16-1-60 fails to surrender his driver's license or special identification card to the Department of Motor Vehicles, the driver's license or special identification card is considered canceled.”

SECTION 2. This act takes effect July 1, 2017.

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