~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 27, 2020

**H. 4696**

Introduced by Reps. Bennett, Chellis, Taylor, Felder, Davis and Robinson

S. Printed 2/27/20--H.

Read the first time January 14, 2020.

**THE COMMITTEE ON EDUCATION AND PUBLIC WORKS**

To whom was referred a Bill (H. 4696) to amend Section 56‑5‑2780, Code of Laws of South Carolina, 1976, relating to penalties associated with unlawfully passing a stopped school bus, 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, Section 56‑5‑2780, as contained in SECTION 1, by adding the following appropriately lettered subsections at the end to read:

/ ( ) All fines collected pursuant to this section shall be received and administered by the South Carolina Department of Education for the purchase of digital recording devices mounted on school buses as provided in Section 56‑5‑2770 and school bus extended stop arms.

( ) The month of August of each year is declared “School Bus Safety Month” in South Carolina. /

Amend the bill further by striking SECTION 3 in its entirety and inserting:

/SECTION 3. This act takes effect ninety days after approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

MERITA A. ALLISON for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Amended by House Education and Public Works on February 25, 2020**

**State Expenditure**

This bill revises the penalty schedule for unlawfully passing a stopped school bus.  Currently, a driver who commits this act as a first offense is guilty of a misdemeanor and must be fined not less than $500 or imprisoned for not more than 30 days.  Under the provisions of the bill, a first offense would be punishable by a fine of not less than $1,000 nor more than $2,000, a prison term of not more than 30 days, and a 30-day driver’s license suspension.  The court may opt to sentence the offender to a term of community service for not fewer than ten days in lieu of imprisonment.  Should the offender be imprisoned, his driver’s license suspension will run for the term of imprisonment plus 30 days.

A second or subsequent offense is currently a misdemeanor punishable by a fine of not less than $2,000 nor more than $5,000 or imprisonment for not fewer than 30 days nor more than 60 days.  Under the provisions of the bill, a second or subsequent offense would be punishable by a fine of not less than $5,000 nor more than $10,000, imprisonment for not fewer than six months nor more than one year, and a six-month driver’s license suspension.  Should the offender be imprisoned, his driver’s license suspension will run for the term of imprisonment plus six months.

The bill also increases the penalties associated with the great bodily injury or death of a pedestrian by a driver who unlawfully passes a school bus.  Currently, these offenses are felonies punishable by a fine of not less than $5,000 nor more than $10,000 and imprisonment for not less than 60 days nor more than one year (for great bodily injury of a pedestrian) and a fine of not less than $10,000 nor more than $25,000 and imprisonment for not less than one year nor more than five years (for death of a pedestrian).  Under the provisions of the bill, these amounts change to not less than $10,000 nor more than $15,000 and imprisonment for not less than six months nor more than one year when great bodily injury results and a fine of not less than $15,000 nor more than $25,000 and imprisonment for not less than one year nor more than five years when death results.  For either felony offense, the driver’s license of the offender must be suspended for the term of his imprisonment plus one year.  For both misdemeanor and felony offenses, the driver must successfully complete a classroom course in driver’s safety before his driving privileges may be reinstated.

Additionally, the bill enables the State Superintendent of Education to overrule the decision of a local school district regarding the placement of a student school bus stop should he determine the location to be dangerous.  The act takes effect upon approval by the Governor.

**Department of Corrections.** The bill requires the department to perform activities that will be conducted in the normal course of agency business.  As a result, this bill does not have an expenditure impact on the general fund, federal funds, or other funds. This section of the fiscal impact has been updated to include a response from the agency.

**State Department of Education.** The State Department of Education indicates that any expenses associated with overruling the decision on placement of a student school bus stop can be managed within current appropriations. Additionally, we anticipate that the agency will be able to utilize the funds for recording devices and extended stop arms for school buses with existing staff. Therefore, the amended bill will have no expenditure impact on the State Department of Education.

**Department of Motor Vehicles.** DMV indicates that approximately 12 hours of programming are needed to add the violation, suspension of license, and requirements related to unlawfully passing a stopped school bus. At $110 per hour, the total cost to the agency is $1,320.

**State Revenue**

South Carolina law currently states that the revenue collected from any fines must be retained by the jurisdiction that heard or processed the case and paid to the State Treasurer within thirty days of receipt. The Judicial Department reports that 73 persons were tried and found guilty of unlawfully passing a stopped school bus in FY 2018-19. Fines collected from those offenses totaled $27,258, and court fees collected totaled $32,080. Assuming the same number of persons found guilty next fiscal year, the amended bill will shift the $27,258 in other funds revenue from fines collected by local law enforcement to the State Department of Education for the purchase of digital recording devices to be mounted on school buses and for school bus extended stop arms. The number of buses to be equipped with digital recording devices and extended stop arms is dependent upon the actual amount of revenue allocated to the State Department of Education for this purpose in FY 2020-21 and the cost of the digital recording devices and stop arms. The remaining $32,080 in court fees will continue to be continue to be collected by local law enforcement and allocated by the State Treasurer according to applicable formulas

**Updated for Additional Agency Response on February 24, 2020**

**Introduced on January 14, 2020**

**State Expenditure**

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A second or subsequent offense is currently a misdemeanor punishable by a fine of not less than $2,000 nor more than $5,000 or imprisonment for not fewer than 30 days nor more than 60 days.  Under the provisions of the bill, a second or subsequent offense would be punishable by a fine of not less than $5,000 nor more than $10,000, imprisonment for not fewer than six months nor more than one year, and a six-month driver’s license suspension.  Should the offender be imprisoned, his driver’s license suspension will run for the term of imprisonment plus six months.

The bill also increases the penalties associated with the great bodily injury or death of a pedestrian by a driver who unlawfully passes a school bus.  Currently, these offenses are felonies punishable by a fine of not less than $5,000 nor more than $10,000 and imprisonment for not less than 60 days nor more than one year (for great bodily injury of a pedestrian) and a fine of not less than $10,000 nor more than $25,000 and imprisonment for not less than one year nor more than five years (for death of a pedestrian).  Under the provisions of the bill, these amounts change to not less than $10,000 nor more than $15,000 and imprisonment for not less than six months nor more than one year when great bodily injury results and a fine of not less than $15,000 nor more than $25,000 and imprisonment for not less than one year nor more than five years when death results.  For either felony offense, the driver’s license of the offender must be suspended for the term of his imprisonment plus one year.  For both misdemeanor and felony offenses, the driver must successfully complete a classroom course in driver’s safety before his driving privileges may be reinstated.

Additionally, the bill enables the State Superintendent of Education to overrule the decision of a local school district regarding the placement of a student school bus stop should he determine the location to be dangerous.  The act takes effect upon approval by the Governor.

**Department of Corrections.** The bill requires the department to perform activities that will be conducted in the normal course of agency business.  As a result, this bill does not have an expenditure impact on the general fund, federal funds, or other funds. This section of the fiscal impact has been updated to include a response from the agency.

**State Department of Education.** The State Department of Education indicates that any expenses associated with overruling the decision on placement of a student school bus stop can be managed within current appropriations. Therefore, this bill will have no expenditure impact on the agency.

**Department of Motor Vehicles.** DMV indicates that approximately 12 hours of programming are needed to add the violation, suspension of license, and requirements related to unlawfully passing a stopped school bus. At $110 per hour, the total cost to the agency is $1,320.

**State Revenue**

South Carolina law states that the revenue collected from any fines must be retained by the jurisdiction that heard or processed the case and paid to the State Treasurer within thirty days of receipt. The Judicial Department reports that 73 persons were tried and found guilty of unlawfully passing a stopped school bus in FY 2018-19. Fines collected from those offenses totaled $27,258, and court fees collected totaled $32,080. Assuming the same number of persons found guilty next fiscal year, other funds revenue will increase by $59,338 in FY 2020-21.

**Introduced on January 14, 2020**

**State Expenditure**

This bill revises the penalty schedule for unlawfully passing a stopped school bus.  Currently, a driver who commits this act as a first offense is guilty of a misdemeanor and must be fined not less than $500 or imprisoned for not more than 30 days.  Under the provisions of the bill, a first offense would be punishable by a fine of not less than $1,000 nor more than $2,000, a prison term of not more than 30 days, and a 30-day driver’s license suspension.  The court may opt to sentence the offender to a term of community service for not fewer than ten days in lieu of imprisonment.  Should the offender be imprisoned, his driver’s license suspension will run for the term of imprisonment plus 30 days.

A second or subsequent offense is currently a misdemeanor punishable by a fine of not less than $2,000 nor more than $5,000 or imprisonment for not fewer than 30 days nor more than 60 days.  Under the provisions of the bill, a second or subsequent offense would be punishable by a fine of not less than $5,000 nor more than $10,000, imprisonment for not fewer than six months nor more than one year, and a six-month driver’s license suspension.  Should the offender be imprisoned, his driver’s license suspension will run for the term of imprisonment plus six months.

The bill also increases the penalties associated with the great bodily injury or death of a pedestrian by a driver who unlawfully passes a school bus.  Currently, these offenses are felonies punishable by a fine of not less than $5,000 nor more than $10,000 and imprisonment for not less than 60 days nor more than one year (for great bodily injury of a pedestrian) and a fine of not less than $10,000 nor more than $25,000 and imprisonment for not less than one year nor more than five years (for death of a pedestrian).  Under the provisions of the bill, these amounts change to not less than $10,000 nor more than $15,000 and imprisonment for not less than six months nor more than one year when great bodily injury results and a fine of not less than $15,000 nor more than $25,000 and imprisonment for not less than one year nor more than five years when death results.  For either felony offense, the driver’s license of the offender must be suspended for the term of his imprisonment plus one year.  For both misdemeanor and felony offenses, the driver must successfully complete a classroom course in driver’s safety before his driving privileges may be reinstated.

Additionally, the bill enables the State Superintendent of Education to overrule the decision of a local school district regarding the placement of a student school bus stop should he determine the location to be dangerous.  The act takes effect upon approval by the Governor.

**Department of Corrections.** This section of the fiscal impact statement is pending, contingent upon a response from DOC.

**State Department of Education.** The State Department of Education indicates that any expenses associated with overruling the decision on placement of a student school bus stop can be managed within current appropriations. Therefore, this bill will have no expenditure impact on the agency.

**Department of Motor Vehicles.** DMV indicates that approximately 12 hours of programming are needed to add the violation, suspension of license, and requirements related to unlawfully passing a stopped school bus. At $110 per hour, the total cost to the agency is $1,320.

**State Revenue**

South Carolina law states that the revenue collected from any fines must be retained by the jurisdiction that heard or processed the case and paid to the State Treasurer within thirty days of receipt. The Judicial Department reports that 73 persons were tried and found guilty of unlawfully passing a stopped school bus in FY 2018-19. Fines collected from those offenses totaled $27,258, and court fees collected totaled $32,080. Assuming the same number of persons found guilty next fiscal year, other funds revenue will increase by $59,338 in FY 2020-21.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 56‑5‑2780, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PENALTIES ASSOCIATED WITH UNLAWFULLY PASSING A STOPPED SCHOOL BUS, SO AS TO REVISE THE PENALTIES AND MAKE TECHNICAL CHANGES; AND BY ADDING SECTION 59‑67‑512 SO AS TO PROVIDE THE STATE SUPERINTENDENT OF EDUCATION MAY OVERRULE THE DECISION OF A LOCAL SCHOOL DISTRICT REGARDING THE PLACEMENT OF CERTAIN STUDENT SCHOOL BUS STOPS.

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

SECTION 1. Section 56‑5‑2780 of the 1976 Code is amended to read:

“Section 56‑5‑2780. (A) A driver of a vehicle violating Section 56‑5‑2770 (A) or (C) is guilty of a misdemeanor and, upon conviction~~, entry of a plea of guilty or nolo contendere, or forfeiture of bail~~ for a first offense, must be fined not less than ~~five hundred~~ one thousand dollars ~~or~~ and not more than two thousand dollars and imprisoned not more than thirty days. In lieu of imprisonment, the court may require that the individual complete an appropriate term of community service of not fewer than ten days upon terms and conditions the court considers proper. Notwithstanding any other provision of law, a first offense for a violation of Section 56‑5‑2770 (A) or (C) may be tried in ~~magistrate’s court~~ magistrates court. The Department of Motor Vehicles shall suspend the driver’s license of a person convicted pursuant to this subsection for thirty days. If he is imprisoned, the suspension shall run for the term of imprisonment plus thirty days.

(B) Upon conviction~~, entry of a plea of guilty or nolo contendere, or forfeiture of bail~~ for a second or subsequent violation of Section 56‑5‑2770 (A) or (C), a person is guilty of a misdemeanor and must be fined not less than ~~two~~ five thousand dollars or more than ~~five~~ ten thousand dollars ~~or~~ and imprisoned for not fewer than ~~thirty days~~ six months and not more than ~~sixty days~~ one year.

The Department of Motor Vehicles shall suspend the driver’s license of a person convicted pursuant to this subsection for six months. If the person is imprisoned, the suspension shall run for the term of imprisonment plus six months.

~~(B)~~(C) If a driver of a vehicle violates Section 56‑5‑2770 (A) or (C), and the violation proximately causes great bodily injury or death to a pedestrian, the person is guilty of a felony and, upon conviction, ~~entry of a plea of guilty or nolo contendere, or forfeiture of bond,~~ the person must be:

(1) fined not less than ~~five~~ ten thousand dollars or more than ~~ten~~ fifteen thousand dollars and imprisoned for not less than ~~sixty days~~ six months or more than one year when great bodily injury results;

(2) fined not less than ~~ten~~ fifteen thousand dollars or more than twenty‑five thousand dollars and imprisoned for not less than one year or more than five years when death results.

As used in this subsection, ‘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.

The Department of Motor Vehicles shall suspend the driver’s license of a person ~~who is~~ convicted ~~or who receives a sentence upon a plea of guilty or nolo contendere~~ pursuant to this subsection for the term of imprisonment plus one year.

(D) A violation of the provisions of this section also requires successful completion of a classroom course in driver’s safety before reinstatement of driving privileges.”

SECTION 2. Article 3, Chapter 67, Title 59 of the 1976 Code is amended by adding:

“Section 59‑67‑512. The State Superintendent of Education has the discretion to overrule the decision of a local school district regarding the placement of a student school bus stop. The exercise of this discretion is limited to school bus stops that the Superintendent determines to be dangerous.”

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

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