**South Carolina General Assembly**

124th Session, 2021-2022

**S. 138**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Massey and Hembree

Document Path: l:\s-res\asm\016safe.kmm.asm.docx

Introduced in the Senate on January 12, 2021

Currently residing in the Senate Committee on **Judiciary**

Summary: Safety belts, evidence admissibility in civil action

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/9/2020 Senate Prefiled

12/9/2020 Senate Referred to Committee on **Judiciary**

1/12/2021 Senate Introduced and read first time ([Senate Journal‑page 188](file:///h:\sj\20210112.docx))

1/12/2021 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 188](file:///h:\sj\20210112.docx))

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=138&session=124&summary=B) at the website

**VERSIONS OF THIS BILL**

[12/9/2020](file:///p:\pprever\2021-22\138_20201209.docx)

**A** **BILL**

TO AMEND SECTION 56‑5‑6540 OF THE 1976 CODE, RELATING TO THE ADMISSIBILITY AS EVIDENCE OF NEGLIGENCE IN A CIVIL ACTION REGARDING THE USE OF SAFETY BELTS, TO REMOVE THE PROVISION THAT A VIOLATION OF CERTAIN PROVISIONS RELATING TO SAFETY BELTS IS NOT NEGLIGENCE PER SE OR CONTRIBUTORY NEGLIGENCE, AND TO REMOVE THE PROVISION THAT A VIOLATION IS NOT ADMISSIBLE AS EVIDENCE IN A CIVIL ACTION.

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

SECTION 1. Section 56‑5‑6540 of the 1976 Code is amended to read:

“Section 56‑5‑6540. (A) A person who is adjudicated to be in violation of the provisions of this article must be fined not more than twenty five dollars, no part of which may be suspended. No court costs, assessments, or surcharges may be assessed against a person who violates a provision of this section. A person must not be fined more than fifty dollars for any one incident of one or more violations of the provisions of this article. A custodial arrest for a violation of this article must not be made, except upon a warrant issued for failure to appear in court when summoned or for failure to pay an imposed fine. A violation of this article does not constitute a criminal offense. Notwithstanding Section 56‑1‑640, a violation of this article must not be:

(1) included in the offender’s motor vehicle records maintained by the Department of Motor Vehicles or in the criminal records maintained by SLED; or

(2) reported to the offender’s motor vehicle insurer.

(B) A law enforcement officer must not issue a citation to a driver or a passenger for a violation of this article when the stop is made in conjunction with a driver’s license check, safety check, or registration check conducted at a checkpoint established to stop all drivers on a certain road for a period of time, except when the driver is cited for violating another motor vehicle law. The driver and any passenger shall be required to buckle up before departing the checkpoint and should the driver or the passenger refuse, then the person refusing may be charged with a primary violation.

(C) ~~A violation of this article is not negligence per se or contributory negligence, and is not admissible as evidence in a civil action.~~

~~(D)~~ A vehicle, driver, or occupant in a vehicle must not be searched, nor may consent to search be requested by a law enforcement officer, solely because of a violation of this article.

~~(E)~~(D) A law enforcement officer must not stop a driver for a violation of this article except when the officer has probable cause that a violation has occurred based on his clear and unobstructed view of a driver or an occupant of the motor vehicle who is not wearing a safety belt or is not secured in a child restraint system as required by Article 47 of this chapter.

~~(F)~~(E) A person charged with a violation of this article may admit or deny the violation, enter a plea of nolo contendere, or be tried before either a judge or a jury. If the trier of fact is convinced beyond a reasonable doubt that the person was not wearing a safety belt at the time of the incident, the penalty is a civil fine pursuant to ~~Section 56‑5‑6540~~ this section. If the trier of fact determines that the State has failed to prove beyond a reasonable doubt that the person was not wearing a safety belt, no penalty shall be assessed.

~~(G)~~(F) A person found to be in violation of this article may bring an appeal to the court of common pleas pursuant to Section 18‑3‑10 or Section 14‑25‑95.”

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

‑‑‑‑XX‑‑‑‑