**A** **BILL**

TO AMEND SECTION 56‑5‑2953, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE VIDEO RECORDING OF AN INCIDENT SITE AND BREATH TEST SITE RELATING TO A VIOLATION OF LAWS THAT PROHIBIT DRIVING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL, DRUGS, OR ANOTHER SUBSTANCE, SO AS TO DELETE THE PROVISION THAT MAKES THE DEPARTMENT OF PUBLIC SAFETY RESPONSIBLE FOR MONITORING LAW ENFORCEMENT VEHICLES USED FOR TRAFFIC ENFORCEMENT, TO ESTABLISH AN “IN‑CAR‑VIDEO CAMERAS FUND” WITHIN THE DEPARTMENT FOR THE PURPOSE OF ASSISTING LAW ENFORCEMENT AGENCIES IN PURCHASING, MAINTAINING, AND REPLACING IN‑CAR VIDEO CAMERAS AND OTHER COSTS RELATED TO THE CAMERAS, AND TO PROVIDE FOR THE DISTRIBUTION OF THE MONIES CONTAINED IN THE FUND.

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

SECTION 1. Section 56‑5‑2953 of the 1976 Code is amended to read:

“Section 56‑5‑2953. (A) A person who violates Section 56‑5‑2930, 56‑5‑2933, or 56‑5‑2945 must have his conduct at the incident site and the breath test site video recorded.

(1)(a) The video recording at the incident site must:

(i) not begin later than the activation of the officer’s blue lights;

(ii) include any field sobriety tests administered; and

(iii) include the arrest of a person for a violation of Section 56‑5‑2930 or Section 56‑5‑2933, or a probable cause determination in that the person violated Section 56‑5‑2945, and show the person being advised of his Miranda rights.

(b) A refusal to take a field sobriety test does not constitute disobeying a police command.

(2) The video recording at the breath test site must:

(a) include the entire breath test procedure, the person being informed that he is being video recorded, and that he has the right to refuse the test;

(b) include the person taking or refusing the breath test and the actions of the breath test operator while conducting the test; and

(c) also include the person’s conduct during the required twenty‑minute pre‑test waiting period, unless the officer submits a sworn affidavit certifying that it was physically impossible to video record this waiting period.

(3) The video recordings of the incident site and of the breath test site are admissible pursuant to the South Carolina Rules of Evidence in a criminal, administrative, or civil proceeding by any party to the action.

(B) Nothing in this section may be construed as prohibiting the introduction of other relevant evidence in the trial of a violation of Section 56‑5‑2930, 56‑5‑2933, or 56‑5‑2945. Failure by the arresting officer to produce the video recording required by this section is not alone a ground for dismissal of any charge made pursuant to Section 56‑5‑2930, 56‑5‑2933, or 56‑5‑2945 if the arresting officer submits a sworn affidavit certifying that the video recording equipment at the time of the arrest or probable cause determination, or video equipment at the breath test facility was in an inoperable condition, stating which reasonable efforts have been made to maintain the equipment in an operable condition, and certifying that there was no other operable breath test facility available in the county or, in the alternative, submits a sworn affidavit certifying that it was physically impossible to produce the video recording because the person needed emergency medical treatment, or exigent circumstances existed. In circumstances including, but not limited to, road blocks, traffic accident investigations, and citizens’ arrests, where an arrest has been made and the video recording equipment has not been activated by blue lights, the failure by the arresting officer to produce the video recordings required by this section is not alone a ground for dismissal. However, as soon as video recording is practicable in these circumstances, video recording must begin and conform with the provisions of this section. Nothing in this section prohibits the court from considering any other valid reason for the failure to produce the video recording based upon the totality of the circumstances; nor do the provisions of this section prohibit the person from offering evidence relating to the arresting law enforcement officer’s failure to produce the video recording.

(C) A video recording must not be disposed of in any manner except for its transfer to a master recording for consolidation purposes until the results of any legal proceeding in which it may be involved are finally determined.

(D) SLED is responsible for purchasing, maintaining, and supplying all necessary video recording equipment for use at the breath test sites. SLED also is responsible for monitoring all breath test sites to ensure the proper maintenance of video recording equipment. The Department of Public Safety is responsible for purchasing, maintaining, and supplying all videotaping equipment for use in all law enforcement vehicles used for traffic enforcement. ~~The Department of Public Safety also is responsible for monitoring all law enforcement vehicles used for traffic enforcement to ensure proper maintenance of video recording equipment.~~

(E) ~~Beginning one month from the effective date of this section, all of the funds received in accordance with Section 14‑1‑208(C)(9) must be expended by SLED to equip all breath test sites with video recording devices and supplies. Once all breath test sites have been equipped fully with video recording devices and supplies, eighty‑seven and one‑half percent of the funds received in accordance with Section 14‑1‑208(C)(9) must be expended by the Department of Public Safety to purchase, maintain, and supply video recording equipment for vehicles used for traffic enforcement. The remaining twelve and one‑half percent of the funds received in accordance with Section 14‑1‑208(C)(9) must be expended by SLED to purchase, maintain, and supply video recording equipment for the breath test sites. Funds must be distributed by the State Treasurer to the Department of Public Safety and SLED on a monthly basis. The Department of Public Safety and SLED are authorized to carry forward any unexpended funds received in accordance with Section 14‑1‑208(C)(9) as of June thirtieth of each year and to expend these carried forward funds for the purchase, maintenance, and supply of video recording equipment. The Department of Public Safety and SLED must report the revenue received under this section and the expenditures for which the revenue was used as required in the department’s and SLED’s annual appropriation request to the General Assembly.~~ An ‘In‑Car Video Cameras Fund’ is established within the Department of Public Safety for the purpose of assisting state and local law enforcement agencies in purchasing, maintaining, and replacing in‑car video cameras and ongoing costs related to the maintenance and storage of data recorded by in‑car video cameras. The Public Safety Coordinating Council shall oversee the fund, and shall, within one hundred eighty days of the effective date of this act, establish a process for the application for and disbursement of monies to state and local law enforcement agencies. The Public Safety Coordinating Council shall disburse the funds in a fair and equitable manner, taking into consideration the driving under the influence of alcohol, drugs, or another substance enforcement activity of the law enforcement agencies with priority given to those law enforcement agencies who prioritize driving under the influence of alcohol, drugs, or another substance enforcement activity. The Public Safety Coordinating Council must recommend to individual law enforcement agencies that officers assigned to driving under the influence of alcohol, drugs, or another substance enforcement efforts be given priority for receipt of the videotaping equipment. The Public Safety Coordinating Council also shall develop a process for tracking and monitoring the expenditure of disbursed monies to ensure that the monies are being utilized for their designated purpose.

(F) Once all breath test sites have been equipped fully with video recording devices and supplies by SLED, eighty‑seven and one‑half percent of the funds received in accordance with Section 14‑1‑208(C)(9) must be distributed toward the In‑Car Video Cameras Fund by the State Treasurer on a monthly basis. The Department of Public Safety is authorized to carry forward any unexpended funds received in accordance with Section 14‑1‑208(C)(9) as of June thirtieth of each year and to expend these carried forward funds for the purchase, maintenance, and supply of video recording equipment. The Department of Public Safety must report the revenue received under this section and the expenditures for which the revenue was used as required in its annual appropriation request to the General Assembly.

(G) The Department of Public Safety and SLED must promulgate regulations necessary to implement the provisions of this section.

~~(G)~~(H) The provisions contained in Section 56‑5‑2953(A), (B), and (C) take effect for each law enforcement vehicle used for traffic enforcement once the law enforcement vehicle is equipped with a video recording device. The provisions contained in Section 56‑5‑2953(A), (B), and (C) take effect for a breath test site once the breath test site is equipped with a video recording device.”

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

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