~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 13, 2011

**H. 3164**

Introduced by Reps. Young, G.R. Smith, Taylor, Forrester, Patrick, Bowers and Brannon

S. Printed 4/13/11--H.

Read the first time January 11, 2011.

**THE COMMITTEE ON EDUCATION AND PUBLIC WORKS**

To whom was referred a Bill (H. 3164) to amend Section 56‑1‑176, Code of Laws of South Carolina, 1976, relating to school attendance conditions associated with the issuance of conditional and special restricted, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

PHILLIP D. OWENS for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

A Cost to the General Fund (See Below)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

Department of Motor Vehicles (DMV)

The department indicates that enactment of this bill will have an impact on the General Fund of the State of approximately $3,681 in recurring cost for system maintenance and $509,283 in non-recurring costs associated with the development of a business process and rules as well as information technology cost establishing an interface system with the Department of Education along with the Private Schools and the Home School Association.

Administrative Law Court

The court indicates that the bill would require 2.00 new state funded FTE’s, 1.00 FTE for a Hearing Officer and 1.00 for an Administrative Assistant at an annual cost to the general fund of $108,250 for salary/fringe. There would also a non-recurring operating cost of $3,120.

Other Agencies

The Department of Education and the Comptroller General’s Office each estimate this bill will have no fiscal impact on the state general fund or on federal and/or other funds.

**LOCAL GOVERNMENT IMPACT:**

SDE reports an estimated recurring cost to the districts of $465,900 to comply with record keeping and reporting requirements of this bill.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO AMEND SECTION 56‑1‑176, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SCHOOL ATTENDANCE CONDITIONS ASSOCIATED WITH THE ISSUANCE OF CONDITIONAL AND SPECIAL RESTRICTED DRIVER’S LICENSES, SO AS TO PROVIDE THAT THESE AND ADDITIONAL CONDITIONS SHALL APPLY TO THE ISSUANCE OR REINSTATEMENT OF A BEGINNER’S PERMIT, CONDITIONAL DRIVER’S LICENSE, SPECIAL RESTRICTED DRIVER’S LICENSE, AND A REGULAR DRIVER’S LICENSE ISSUED TO A PERSON LESS THAN EIGHTEEN YEARS OF AGE; BY ADDING SECTION 56‑1‑177 SO AS TO PROVIDE THAT A MINOR’S PRIVILEGE TO DRIVE MUST BE SUSPENDED UNDER CERTAIN CIRCUMSTANCES; AND BY ADDING SECTION 56‑1‑46 SO AS TO PROVIDE A PENALTY FOR A PERSON WHO DRIVES A MOTOR VEHICLE WHEN HIS LICENSE TO DRIVE HAS BEEN SUSPENDED, CANCELLED, REVOKED, OR DENIED PURSUANT TO CERTAIN PROVISIONS.

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

SECTION 1. Section 56‑1‑176 of the 1976 Code is amended to read:

“Section 56‑1‑176. (A) School attendance is a condition for the issuance or reinstatement of a beginner’s permit, a conditional driver’s license, ~~and~~ a special restricted driver’s license, and a regular driver’s license for a person who is less than eighteen years of age. The Department of Motor Vehicles may not issue or reinstate a beginner’s permit, conditional driver’s license, ~~or~~ a special restricted driver’s license, or a regular driver’s license to a person less than eighteen years of age pursuant to Section 56‑1‑40, Section 56‑1‑50, Section 56‑1‑175, or Section 56‑1‑180 unless the person:

(1) has a high school diploma awarded by a public, private, or home school or a certificate of attendance issued by a public, private, or home school, or a ~~General Education Development Diploma~~ South Carolina High School Equivalency Diploma (GED); or

(2) is enrolled in a public or private school or is home schooled under the provisions contained in ~~Section~~ Sections 59‑65‑40, 59‑65‑45, or 59‑65‑47, or is enrolled in an adult education program and is making progress toward completion of a program leading to a South Carolina High School Equivalency Diploma (GED) or regular high school diploma; and:

(a) the ~~person~~ student has conformed to the attendance laws, regulations, and policies of the ~~school, school district, and the State Board of Education,~~ student’s public school, private school, or home school as applicable; and

(b) the ~~person~~ student is not ~~suspended or~~ expelled from school.

(B) ~~Documentation~~ At the time of application for a license described in subsection (A), documentation of enrollment status must be presented to the Department of Motor Vehicles by the applicant on a form approved by the Department. The documentation must indicate whether the student is in compliance with the requirements as provided in ~~item (2)~~ subsection (A).

(C) Within fourteen days of learning that an enrolled student who is at least fifteen but less than eighteen years of age has accumulated seven or more total unexcused absences, been expelled, or dropped out of school as provided for in Section 56‑1‑177, the board of trustees of the school district or its designee, the governing body of a private school, or an official of a home school association shall notify the Department of Motor Vehicles. This notification must be by an electronic method as determined by the Department of Motor Vehicles. Nothing in this subsection should be construed to change the way or the frequency with which home school students or parents of home school students report a home school student’s attendance in an academic year.

(D) Upon receipt of notice of a student whose attendance to school falls in either subsection (1) or subsection (2) of Section 56‑1‑177, the department of motor vehicles must within ten days notify the minor of the suspension of the minor’s license and driving privileges. The notice must be in the manner used by the department for similar driving suspensions.

(E) Upon receipt of notice of suspension of the minor’s license and driving privileges, the minor student’s parent or guardian or in a case where the parent or guardian is unavailable an advocate for the student may appeal the decision. The notice must provide that a person aggrieved by the department’s determination may file a request for a contested case hearing with the Office of Motor Vehicle Hearings in accordance with its rules of procedure. The Office of Motor Vehicle Hearings has exclusive jurisdiction to conduct these hearings. In such appeal, the student’s parent or guardian has the burden of demonstrating with clear and convincing evidence the need for a waiver as provided in this section. A waiver of the requirements of this section may be granted by the Office of Motor Vehicle Hearings if the student has a personal or family hardship that requires that the student have a driver’s license. For purposes of this section, a personal or family hardship means a medical condition of the student or a member of his immediate family that requires that he maintain a driver’s license to receive or transport an immediate family member for treatments, or employment requiring the student to maintain a driver’s license to support himself or his immediate family. The filing of an appeal does not stay the suspension until a final decision is issued on appeal. The Office of Motor Vehicle Hearings shall notify the appropriate school district, governing body of a private school, or official of a home school association when an appeal decision results in the granting of a waiver of the provisions of Section 56‑1‑177. Any appeal from the determination of the Office of Motor Vehicle Hearings shall be to the Administrative Law Court.

(F) A person who has appealed a suspension of his privilege to operate a motor vehicle under this section may obtain a special route‑restricted driver’s license that is valid until the final disposition of his appeal. The special route‑restricted driver’s license allows the person to only operate a motor vehicle as transportation between his home and work, or as a part of his work duties, or relating to a medical emergency.

If the Department of Motor Vehicles issues a special route‑restricted driver’s license, it shall designate reasonable restrictions on the times during which and routes on which the person may operate a motor vehicle. A change in the employment hours, place of employment, status as a student, or residence must be reported immediately to the Department of Motor Vehicles by the person.

The fee for a special route‑restricted driver’s license is one hundred dollars. No additional fee is due because of changes in the place and hours of employment or residence. Twenty dollars of this fee must be deposited in the state general fund and eighty dollars must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of the Department of Motor Vehicles.

The operation of a motor vehicle outside the time limits and route imposed by a special route‑restricted driver’s license by the person issued that license is a violation of Section 56‑1‑460.

(G) The suspension of driving privileges as provided in this section shall end upon the date of such minor’s eighteenth birthday unless such minor can show that the minor complies with the requirements of subitems (A)(1) and (A)(2) of this section.”

SECTION 2. Article 1, Chapter 1, Title 56 of the 1976 Code is amended by adding:

“Section 56‑1‑177. A person’s, who is less than eighteen years of age, privilege to operate a motor vehicle must be suspended if the person has:

(1) been expelled from or dropped out of school for seven consecutive school days; or

(2) accumulated seven or more unexcused absences in the current academic year or seven or more unexcused absences in the previous academic semester.”

SECTION 3. Article 1, Chapter 1, Title 56 of the 1976 Code is amended by adding:

“Section 56‑1‑46. A person who drives a motor vehicle on a public highway of this State when his license to drive has been suspended, cancelled, revoked, or denied pursuant to Section 56‑1‑176 or 56‑1‑177 may be penalized pursuant to the provisions contained in Section 56‑1‑440, but may not be penalized pursuant to the provisions contained in Section 56‑1‑460.”

SECTION 4. 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 5. The Department of Education and the Department of Motor Vehicles may promulgate regulations to implement the provisions of this act.

SECTION 6. This act takes effect on August 1, 2012.

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