**South Carolina General Assembly**

121st Session, 2015-2016

**H. 3916**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Long, Norrell, Yow, Erickson, Anthony, Henderson, Herbkersman, Newton and Toole

Document Path: l:\council\bills\swb\5283cm15.docx

Introduced in the House on March 25, 2015

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

Summary: Driver's license surrender and interlock devices;

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/25/2015 House Introduced and read first time ([House Journal‑page 72](file:///h:\HJ%20Archive\2015\03-25-15.docx))

3/25/2015 House Referred to Committee on **Judiciary** ([House Journal‑page 72](file:///h:\HJ%20Archive\2015\03-25-15.docx))

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**VERSIONS OF THIS BILL**

[3/25/2015](file:///p:\pprever\2015-16\3916_20150325.docx)

**A** **BILL**

TO AMEND SECTION 56‑1‑400, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SURRENDER OF A PERSON’S DRIVER’S LICENSE TO THE DEPARTMENT OF MOTOR VEHICLES UPON ITS SUSPENSION OR REVOCATION, THE ISSUANCE OF A NEW DRIVER’S LICENSE, AND THE INSTALLATION OF AN IGNITION INTERLOCK DEVICE ON A VEHICLE FOR A CONVICTION FOR CERTAIN OFFENSES, SO AS TO DELETE THE PROVISION THAT ALLOWS A PERSON WHOSE EMPLOYMENT REQUIRES HIM TO DRIVE A VEHICLE THAT IS NOT REQUIRED TO BE EQUIPPED WITH THE DEVICE TO OBTAIN A WAIVER FROM HAVING THE DEVICE INSTALLED IN THE VEHICLE.

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

SECTION 1. Section 56‑1‑400 of the 1976 Code, as last amended by Act 158 of 2014, is further amended to read:

“Section 56‑1‑400. (A) The Department of Motor Vehicles, upon suspending or revoking a license, shall require that the license be surrendered to the department. At the end of the suspension period, other than a suspension for reckless driving, driving under the influence of intoxicants, driving with an unlawful alcohol concentration, felony driving under the influence of intoxicants, or pursuant to the point system, the department shall issue a new license to the person. If the person has not held a license within the previous nine months, the department shall not issue or restore a license which has been suspended for reckless driving, driving under the influence of intoxicants, driving with an unlawful alcohol concentration, felony driving under the influence of intoxicants, or for violations under the point system, until the person has filed an application for a new license, submitted to an examination as upon an original application, and satisfied the department, after an investigation of the person’s driving ability, that it would be safe to grant the person the privilege of driving a motor vehicle on the public highways. The department, in the department’s discretion, where the suspension is for a violation under the point system, may waive the examination, application, and investigation. A record of the suspension must be endorsed on the license issued to the person, showing the grounds of the suspension. If a person is permitted to operate a motor vehicle only with an ignition interlock device installed pursuant to Section 56‑5‑2941, the restriction on the license issued to the person must conspicuously identify the person as a person who only may drive a motor vehicle with an ignition interlock device installed, and the restriction must be maintained on the license for the duration of the period for which the ignition interlock device must be maintained pursuant to Section 56‑1‑286, 56‑5‑2945, 56‑5‑2947 except if the conviction was for Section 56‑5‑750, 56‑5‑2951, or 56‑5‑2990. For purposes of Title 56, the license must be referred to as an ignition interlock restricted license. The fee for an ignition interlock restricted license is one hundred dollars, which shall be placed into a special restricted account by the Comptroller General to be used by the Department of Motor Vehicles to defray the department’s expenses. Unless the person establishes that the person is entitled to the exemption set forth in subsection (B), no ignition interlock restricted license may be issued by the department without written notification from the authorized ignition interlock service provider that the ignition interlock device has been installed and confirmed to be in working order. If a person chooses to not have an ignition interlock device installed when required by law, the license will remain suspended indefinitely. If the person subsequently decides to have the ignition interlock device installed, the device must be installed for the length of time set forth in Section 56‑1‑286, 56‑5‑2945, 56‑5‑2947 except if the conviction was for Section 56‑5‑750, 56‑5‑2951, or 56‑5‑2990. This provision does not affect nor bar the reckoning of prior offenses for reckless driving and driving under the influence of intoxicating liquor or narcotic drugs, as provided in Article 23, Chapter 5 of this title.

(B)~~(1) A person who does not own a vehicle, as shown in the Department of Motor Vehicles’ records, and who certifies that the person:~~

~~(a) cannot obtain a vehicle owner’s permission to have an ignition interlock device installed on a vehicle;~~

~~(b) will not be driving a vehicle other than a vehicle owned by the person’s employer; and~~

~~(c) will not own a vehicle during the interlock period, may petition the department, on a form provided by the department, for issuance of an ignition interlock restricted license that permits the person to operate a vehicle specified by the employee according to the employer’s needs as contained in the employer’s statement during the days and hours specified in the employer’s statement without having to show that an ignition interlock device has been installed.~~

~~(2) The form must contain:~~

~~(a) identifying information about the employer’s noncommercial vehicles that the person will be operating;~~

~~(b) a statement that explains the circumstances in which the person will be operating the employer’s vehicles; and~~

~~(c) the notarized signature of the person’s employer.~~

~~(3) This subsection does not apply to a person who is self‑employed or to a person who is employed by a business owned in whole or in part by the person or a member of the person’s household or immediate family unless during the defense of a criminal charge, the court finds that the vehicle’s ownership by the business serves a legitimate business purpose and that titling and registration of the vehicle by the business was not done to circumvent the intent of this section.~~

~~(4) Whenever the person operates the employer’s vehicle pursuant to this subsection, the person shall have with the person a copy of the form specified by this subsection.~~

~~(5) The determination of eligibility for the waiver is subject to periodic review at the discretion of the department. The department shall revoke a waiver issued pursuant to this exemption if the department determines that the person has been driving a vehicle other than the vehicle owned by the person’s employer or has been operating the person’s employer’s vehicle outside the locations, days, or hours specified by the employer in the department’s records. The person may seek relief from the department’s determination by filing a request for a contested case hearing with the Office of Motor Vehicle Hearings pursuant to the Administrative Procedures Act and the rules of procedure for the Office of Motor Vehicle Hearings.~~

~~(C)~~ A person whose license has been suspended or revoked for an offense within the jurisdiction of the court of general sessions shall provide the department with proof that the fine owed by the person has been paid before the department may issue the person a license. Proof that the fine has been paid may be a receipt from the clerk of court of the county in which the conviction occurred stating that the fine has been paid in full.”

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

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