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Indicates New Matter

COMMITTEE REPORT

May 14, 2015

**H. 3909**

Introduced by Reps. Herbkersman, Jefferson, Bernstein, G.A. Brown, Funderburk, Hill, W.J. McLeod, J.E. Smith, Whitmire, Gagnon and Dillard

S. Printed 5/14/15--H.

Read the first time March 25, 2015.

**THE COMMITTEE ON EDUCATION AND PUBLIC WORKS**

To whom was referred a Bill (H. 3909) to amend the Code of Laws of South Carolina, 1976, so as to enact “The Bicycle and Pedestrian Safety Act”; by adding Section 56‑5‑3520 so as to provide, 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, by striking all after the enacting words and inserting:

/SECTION 1. This act may be referred to and cited as “The Bicycle and Pedestrian Safety Act”.

SECTION 2. Article 27, Chapter 5, Title 56 of the 1976 Code is amended by adding:

“Section 56‑5‑3520. Bicycles with helper motors shall be subject to all the rights and duties of bicycles, as described in Section 56‑5‑3420.”

SECTION 3. Section 56‑5‑990 of the 1976 Code is amended to read:

“Section 56‑5‑990. (A) Whenever special pedestrian control signals exhibiting the words or symbols for ‘Walk’ or ‘Wait’ are in place such signals shall indicate as follows:

(1) ‘Walk’ indicates that a pedestrian facing such signal may proceed across the roadway in the direction of the signal and shall be given the right of way by the drivers of all vehicles; and

(2) ‘Wait’ indicates that no pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to a sidewalk or safety island while the wait signal is showing.

(B) For pedestrian crosswalks equipped with countdown indicators, a pedestrian may cross if he can complete the crossing during the remaining time shown.”

SECTION 4. Section 56‑5‑3130(a) of the 1976 Code is amended to read:

“(a) When traffic‑control signals are not in place or not in operation the driver of a vehicle shall ~~yield the right‑of‑way, slowing down or stopping if need be~~ stop to yield to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.”

SECTION 5. Section 56‑5‑3230 of the 1976 Code is amended to read:

(A) Notwithstanding other provisions of any local ordinance, every driver of a vehicle shall exercise due care to avoid colliding with ~~any~~ a pedestrian or ~~any~~ a person propelling a human‑powered vehicle, a wheelchair, a farm tractor or a similar vehicle designed primarily for farm use, and shall give an audible signal when necessary ~~and shall exercise proper precaution upon observing any child or any obviously confused, incapacitated or intoxicated person~~.

(B) A driver who fails to exercise due care and causes serious physical injury or death to such person shall be guilty of a misdemeanor.

(C) A person found to have committed an offense under this section shall be required to:

(1) have his or her driving privileges suspended for a period of no less than six months; and one or more of the following:

(2) pay a monetary penalty of not more than two thousand dollars; or

(3) serve a period of incarceration which may not exceed thirty days; or

(4) participate in a motor vehicle accident prevention course; or

(5) perform community service for a number of hours to be determined by the court, which may not exceed two hundred hours.”

SECTION 6. Section 56‑5‑3425(A) of the 1976 Code, as added by Act 317 of 2008, is amended to read:

(A) For purposes of this section, ‘bicycle lane’ means a portion of the roadway or a paved lane separated from the roadway that has been designated ~~by striping, pavement markings, and signage~~ for the preferential or exclusive use ~~of~~ by bicyclists by pavement markings or signs which are used exclusively for the designation of bicycle facilities.”

SECTION 7. Section 56‑1‑10 of the 1976 Code is amended by adding the following appropriately lettered subsection:

“( ) ‘Bicycles with helper motors’ and ‘electric-assist bicycles’ mean low speed electrically ‑assisted bicycles with two or three wheels, each having fully operable pedals and an electric motor of no more than 750 watts, or one horsepower, whose maximum speed on a paved level surface, when powered solely by such motor while ridden by an operator weighing one hundred seventy pounds, is no more than twenty miles per hour. For these vehicles to be considered electrically-assisted bicycles, they must meet the requirement of the Federal Motor Vehicle Safety Standards as set forth in 49 C.F.R. Section 571, et seq., and must operate in a manner that the electric motor disengages or ceases to function when their brakes are applied. Notwithstanding another provision of law, bicycles with helper motors are not mopeds.”

SECTION 8. 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 9. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

MERITA A. ALLISON for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT “THE BICYCLE AND PEDESTRIAN SAFETY ACT”; BY ADDING SECTION 56‑5‑3520 SO AS TO PROVIDE THAT BICYCLES WITH HELPER MOTORS SHALL BE SUBJECT TO ALL THE RIGHTS AND DUTIES OF BICYCLES; TO AMEND SECTION 56‑1‑1710, RELATING TO THE TERM “MOPED” AND ITS DEFINITION, SO AS TO PROVIDE THAT THIS SECTION DOES NOT APPLY TO MOTORCYCLES OR BICYCLES; TO AMEND SECTION 56‑5‑990, RELATING TO CERTAIN PEDESTRIAN CONTROL SIGNALS, SO AS TO PROVIDE THAT THIS SECTION ALSO APPLIES TO PEDESTRIAN CONTROL SIGNALS THAT EXHIBIT THE SYMBOLS FOR “WALK” OR “WAIT”, AND TO PROVIDE THAT FOR PEDESTRIAN CROSSWALKS EQUIPPED WITH COUNTDOWN INDICATORS, A PEDESTRIAN MAY CROSS IF HE CAN COMPLETE THE CROSSING DURING THE REMAINING TIME; TO AMEND SECTION 56‑5‑3130, RELATING TO A PEDESTRIAN’S RIGHT‑OF‑WAY IN A CROSSWALK, SO AS TO PROVIDE THAT THE DRIVER OF A VEHICLE SHALL STOP TO YIELD TO A PEDESTRIAN CROSSING A ROADWAY UNDER CERTAIN CIRCUMSTANCES; TO AMEND SECTION 56‑5‑3230, RELATING TO A DRIVER’S DUTY TO EXERCISE DUE CARE WHEN OPERATING A VEHICLE, SO AS TO PROVIDE THAT THIS SECTION ALSO APPLIES TO A DRIVER’S DUTY TO AVOID COLLIDING WITH AN ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE, A WHEELCHAIR, A FARM TRACTOR, OR A SIMILAR VEHICLE DESIGNED FOR FARM USE, AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THIS SECTION; TO AMEND SECTION 56‑5‑3425, RELATING TO THE DEFINITION OF THE TERM “BICYCLE LANE” AND OPERATIONS OF MOTOR VEHICLES AND BICYCLES ALONG BICYCLE LANES, SO AS TO REVISE THE DEFINITION OF THE TERM “BICYCLE LANE” AND TO PROVIDE A DEFINITION FOR THE TERM “SUBSTANDARD‑WIDTH LANE”; AND TO AMEND SECTION 56‑16‑10, RELATING TO CERTAIN TERMS AND THEIR DEFINITIONS REGARDING THE REGULATION OF MOTORCYCLE MANUFACTURERS, DISTRIBUTORS, DEALERS, AND WHOLESALERS, SO AS TO PROVIDE A DEFINITION FOR THE TERM “BICYCLES WITH HELPER MOTORS”.

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

SECTION 1. This act may be referred to and cited as “The Bicycle and Pedestrian Safety Act”.

SECTION 2. Article 27, Chapter 5, Title 56 of the 1976 Code is amended by adding:

“Section 56‑5‑3520. Bicycles with helper motors, as defined in Section 56‑16‑10, also known as electric‑assist bicycles, shall be subject to all the rights and duties of bicycles, as described in Section 56‑5‑3420.”

SECTION 3. Section 56‑1‑1710 of the 1976 Code is amended to read:

“Section 56‑1‑1710. For purposes of this article, ‘moped’ means a cycle with pedals to permit propulsion by human power or without pedals and with a motor of not more than fifty cubic centimeters which produces not to exceed two brake horsepower and which is not capable of propelling the vehicle at a speed in excess of thirty miles an hour on level ground. If an internal combustion engine is used, the moped must have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged. This section shall not apply to motorcycles or bicycles with helper motors as defined in Section 56‑16‑10.”

SECTION 4. Section 56‑5‑990 of the 1976 Code is amended to read:

“Section 56‑5‑990. (A) Whenever special pedestrian control signals exhibiting the words or symbols for ‘Walk’ or ‘Wait’ are in place such signals shall indicate as follows:

(1) ‘Walk’ indicates that a pedestrian facing such signal may proceed across the roadway in the direction of the signal and shall be given the right of way by the drivers of all vehicles; and

(2) ‘Wait’ indicates that no pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to a sidewalk or safety island while the wait signal is showing.

(B) For pedestrian crosswalks equipped with countdown indicators, a pedestrian may cross if he can complete the crossing during the remaining time shown.”

SECTION 5. Section 56‑5‑3130(a) of the 1976 Code is amended to read:

“(a) When traffic‑control signals are not in place or not in operation the driver of a vehicle shall ~~yield the right‑of‑way, slowing down or stopping if need be~~ stop to yield to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.”

SECTION 6. Section 56‑5‑3230 of the 1976 Code is amended to read:

(A) Notwithstanding other provisions of any local ordinance, every driver of a vehicle shall exercise due care to avoid colliding with ~~any~~ a pedestrian or ~~any~~ a person propelling a human‑powered vehicle, or a person operating an electric personal assistive mobility device, a wheelchair, a farm tractor or a similar vehicle designed primarily for farm use, and shall give an audible signal when necessary ~~and shall exercise proper precaution upon observing any child or any obviously confused, incapacitated or intoxicated person~~.

(B) A driver who fails to exercise due care and causes serious physical injury or death to such person shall be guilty of infliction of serious physical injury or death.

(C) A person issued a citation under this section shall be required to attend a hearing before a court of appropriate jurisdiction.

(D) A person found to have committed an offense under this section shall be required to:

(1) have his or her driving privileges suspended for a period of no less than six months; and one or more of the following:

(2) pay a monetary penalty of not more than two thousand dollars; or

(3) serve a period of incarceration which may not exceed thirty days; or

(4) participate in a motor vehicle accident prevention course; or

(5) perform community service for a number of hours to be determined by the court, which may not exceed two hundred hours.”

SECTION 7. Section 56‑5‑3425(A) of the 1976 Code, as added by Act 317 of 2008, is amended to read:

(A) For purposes of this section, ‘bicycle lane’ means a portion of the roadway or a paved lane separated from the roadway ~~that has been~~, which is at least four feet in width with uninterrupted pavement excluding curbs, gutters, and sidewalks, and designated by striping, pavement markings, and signage, or otherwise constructed according to locally adopted state or national design guidelines and intended for the preferential or exclusive use of bicyclists. A substandard‑width lane, which makes it unsafe to continue along the right‑hand curb or edge of a road or within a bicycle lane, is not a bicycle lane. For the purposes of this subsection, a ‘substandard‑width lane’ is a lane, or section of a lane, that is too narrow for a bicycle and another vehicle to travel safely side by side within the lane.”

SECTION 8. Section 56‑16‑10 of the 1976 Code is amended by adding the following appropriately lettered subsection:

“( ) ‘Bicycles with helper motors’ means low speed electric‑assist bicycles with two or three wheels, each having fully operable pedals and an electric motor of no more than 750 watts, or one horsepower, whose maximum speed on a paved level surface, when powered solely by such motor while ridden by an operator weighing one hundred seventy pounds, is no more than twenty miles per hour.”

SECTION 9. 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 10. This act takes effect upon approval by the Governor.

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