~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 23, 2016

**H. 3909**

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

S. Printed 3/23/16--S.

Read the first time May 21, 2015.

**THE COMMITTEE ON TRANSPORTATION**

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 SECTION 2 and inserting:

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

“Section 56‑5‑3520. Bicyclists operating bicycles with helper motors are subject to all statutory provisions applicable to bicyclists, as provided in Section 56‑5‑3420.” /

Amend the bill further, as and if amended, by striking SECTION 5 and inserting:

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

“(A) Notwithstanding other provisions of any local ordinance, ~~every~~ a 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, or a personal mobility device, and must 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 is guilty of a misdemeanor and must be punished by a fine of not more than one hundred dollars or imprisoned for not more than thirty days as provided in Section 56‑5‑6190.” /

Amend the bill further, as and if amended, by striking SECTION 7 and inserting:

/ SECTION 7. Section 56‑1‑10 of the 1976 Code is amended by adding an appropriately numbered subsection to read:

“( ) ‘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, that meet the requirements of the Federal Consumer Product Code provided in 16 C.F.R., Part 1512, and that operate in a manner such that the electric motor disengages or ceases to function when their brakes are applied. Bicycles with helper motors are not mopeds.

( ) ‘Personal mobility device’ means a manually operated or powerdriven device designed primarily for use by an individual with a mobility impairment for the purpose of indoor locomotion, outdoor locomotion, or both.” /

Renumber sections to conform.

Amend title to conform.

LAWRENCE K. GROOMS 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 Dylan Paul Mitchell 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 requirements of the Federal Motor Vehicle Safety Standards as set forth in 49 C.F.R. Part 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.

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