~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 30, 2017

**H. 3615**

Introduced by Reps. Herbkersman, W. Newton, Duckworth, G.R. Smith, Williams, Jefferson, Bernstein, Thayer and Elliott

S. Printed 3/30/17--H.

Read the first time January 31, 2017.

**THE COMMITTEE ON EDUCATION AND PUBLIC WORKS**

To whom was referred a Bill (H. 3615) to amend the Code of Laws of South Carolina, 1976, so as to enact the “Dylan Paul Mitchell Bicycle and Pedestrian Safety Act”; by adding Section, 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, Section 56-5-3230(C), as contained in SECTION 5, by deleting lines 25 through 31 on page 3, and inserting:

/(C) If a motor vehicle driver fails to yield to a vulnerable road user who has the right of way as defined in Section 56‑5‑580, the driver is guilty of a misdemeanor and shall be required to complete successfully the National Safety Council’s Defensive Driving Course or its equivalent within six months after the conviction. The course must be taught by an instructor accredited by the National Safety Council whose procedures for accreditation are set forth in “Manual of Rules and Procedures” published by the National Safety Council or equivalent accreditation procedures. /

Renumber sections to conform.

Amend title to conform.

MERITA A. ALLISON for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Amended by House Education and Public Works Motor Vehicle Subcommittee on February 22, 2017**

**Updated for Additional Agency Response**

**State Expenditure**

The bill amends various code sections related to pedestrian and bicyclist safety. It provides definitions and requirements for drivers. The bill adds that a driver who fails to yield to a vulnerable road user is guilty of a misdemeanor and must be required to successfully complete the National Safety Council’s Defensive Driving Course or its equivalent within six months after the conviction.

**Department of Motor Vehicles.** The agency indicates that this bill will increase non-recurring expenses by $2,200 for programming and coding associated with the potential driver’s license suspension for not completing the National Safety Council’s Defensive Driving Course or equivalent within six months after conviction of the misdemeanor. This section was updated based upon a response from the agency.

**State Revenue**

The amended bill makes it a misdemeanor for a driver to fail to yield to a vulnerable road user who has the right-of-way. The misdemeanor is in addition to any other finding of a violation of any other provision of law. Existing law distributes revenue generated from fines, assessments, and surcharges imposed for such convictions among the general fund, specified state agencies and programs, and local governments. Although data is not available to project the number of convictions or amount of fine that may be assessed, the Revenue and Fiscal Affairs Office does not expect the state share of any additional revenue generated as a result of this bill to be significant.

**Local Expenditure**

The amended bill makes it a misdemeanor for a driver to fail to yield to a vulnerable road user who has the right-of-way. The misdemeanor is in addition to any other finding of a violation of any other provision of law. The Revenue and Fiscal Affairs Office does not anticipate the number of offenses, judicial proceedings, or convictions will have an expenditure impact on local governments.

**Local Revenue**

The amended bill makes it a misdemeanor for a driver to fail to yield to a vulnerable road user who has the right-of-way. The misdemeanor is in addition to any other finding of a violation of any other provision of law. Existing law distributes revenue generated from fines, assessments, and surcharges imposed for such convictions among the general fund, specified state agencies and programs, and local governments. Although data is not available to project the number of convictions or amount of fine that may be assessed, the Revenue and Fiscal Affairs Office does not anticipate the local share of any additional revenue generated as a result of this bill to be significant.

**Amended by House Education and Public Works Motor Vehicle Subcommittee on February 22, 2017**

**State Expenditure**

The bill amends various code sections related to pedestrian and bicyclist safety. It provides definitions and requirements for drivers. The bill adds that a driver who fails to yield to a vulnerable road user is guilty of a misdemeanor and must be required to successfully complete the National Safety Council’s Defensive Driving Course or its equivalent within six months after the conviction.

**Department of Motor Vehicles.** This bill does not operationally impact the department. Therefore, we do not expect this bill will have an expenditure impact on the general fund, other funds, or federal funds.

**State Revenue**

The amended bill makes it a misdemeanor for a driver to fail to yield to a vulnerable road user who has the right-of-way. The misdemeanor is in addition to any other finding of a violation of any other provision of law. Existing law distributes revenue generated from fines, assessments, and surcharges imposed for such convictions among the general fund, specified state agencies and programs, and local governments. Although data is not available to project the number of convictions or amount of fine that may be assessed, the Revenue and Fiscal Affairs Office does not expect the state share of any additional revenue generated as a result of this bill to be significant.

**Local Expenditure**

The amended bill makes it a misdemeanor for a driver to fail to yield to a vulnerable road user who has the right-of-way. The misdemeanor is in addition to any other finding of a violation of any other provision of law. The Revenue and Fiscal Affairs Office does not anticipate the number of offenses, judicial proceedings, or convictions will have an expenditure impact on local governments.

**Local Revenue**

The amended bill makes it a misdemeanor for a driver to fail to yield to a vulnerable road user who has the right-of-way. The misdemeanor is in addition to any other finding of a violation of any other provision of law. Existing law distributes revenue generated from fines, assessments, and surcharges imposed for such convictions among the general fund, specified state agencies and programs, and local governments. Although data is not available to project the number of convictions or amount of fine that may be assessed, the Revenue and Fiscal Affairs Office does not anticipate the local share of any additional revenue generated as a result of this bill to be significant.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “DYLAN PAUL MITCHELL BICYCLE AND PEDESTRIAN SAFETY ACT”; BY ADDING SECTION 56‑5‑3520 SO AS TO PROVIDE THAT BICYCLISTS OPERATING BICYCLES WITH HELPER MOTORS SHALL BE SUBJECT TO ALL STATUTORY PROVISIONS APPLICABLE TO BICYCLISTS; 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 APPLIES TO A DRIVER’S DUTY TO AVOID COLLIDING WITH A VULNERABLE ROAD USER, TO DEFINE THE TERM “VULNERABLE ROAD USER”, TO PROVIDE THAT IT IS UNLAWFUL FOR A MOTOR VEHICLE DRIVER TO FAIL TO YIELD TO A VULNERABLE ROAD USER UNDER CERTAIN CIRCUMSTANCES AND PROVIDE A PENALTY, AND TO PROVIDE THAT NOTHING IN THIS SECTION SHALL PREVENT A PERSON FROM BEING CHARGED WITH ANOTHER OFFENSE; 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 AMEND SECTION 56‑1‑10, AS AMENDED, RELATING TO CERTAIN TERMS AND THEIR DEFINITIONS REGARDING THE REGULATION OF MOTORCYCLE MANUFACTURERS, DISTRIBUTORS, DEALERS, AND WHOLESALERS, SO AS TO PROVIDE DEFINITIONS FOR THE TERMS “BICYCLES WITH HELPER MOTORS”, “ELECTRIC‑ASSIST BICYCLES”, AND “PERSONAL MOBILITY DEVICE”.

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. Bicyclists operating bicycles with helper motors are subject to all statutory provisions applicable to bicyclists, as provided 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:

“Section 56‑5‑3230. (A) Notwithstanding other provisions of any local ordinance, ~~every~~ a driver of a vehicle shall exercise due care to avoid colliding with ~~any pedestrian or any person propelling a human‑powered vehicle~~ a vulnerable road user 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) The term ‘vulnerable road user’ includes a pedestrian, a person propelling a human‑powered vehicle, a bicycle, a wheelchair, or a personal mobility device.

(C) If a motor vehicle driver fails to yield to a vulnerable road user who has the right of way as defined in Section 56‑5‑580, the driver is guilty of a misdemeanor and shall be required to complete successfully the National Safety Council’s Defensive Driving Course or its equivalent within three months after the conviction. The course must be taught by an instructor approved by the department.

(D) Nothing in this section shall be construed to prevent the application of any other finding of a violation of any other provision of the law, including a conviction of a felony offense.”

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, as last amended by Act 216 of 2010, is further amended by adding the following appropriately numbered items 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 power‑driven device designed primarily for use by an individual with a mobility impairment for the purpose of indoor locomotion, outdoor locomotion, or both.”

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.

‑‑‑‑XX‑‑‑‑