~~Indicates Matter Stricken~~

Indicates New Matter

POLLED OUT OF COMMITTEE

MAJORITY FAVORABLE WITH AMENDMENT

April 9, 2014

**S. 139**

Introduced by Senators Grooms, L. Martin, Campbell and Rankin

S. Printed 4/9/14--S. [SEC 4/10/14 5:11 PM]

Read the first time January 8, 2013.

**THE COMMITTEE ON TRANSPORTATION**

To whom was referred a Bill (S. 139) to amend Section 56‑5‑1535 of the 1976 Code, relating to speeding in work zones and penalties associated with speeding in work zones, to delete this provision, etc., respectfully

**REPORT:**

Has polled the Bill out with amendment, to wit:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. The General Assembly finds:

(1) That roadway work zones are hazardous both for motorists who drive through the complex array of signs, barrels, and lane changes and for workers who build, repair, and maintain our nation’s streets, bridges, and highways.

(2) That the Federal Highway Administration reports that there were thirty‑seven thousand four hundred seventy‑six injuries in work zones in 2010. This equates to one work zone injury every fourteen minutes. Speed is cited as a contributing factor in approximately one‑third of injuries.

(3) That more than tweny thousand workers are injured in road construction work zones each year. The United States Bureau of Labor Statistics reports one hundred thirty worker fatalities at road construction sites in 2012. In sixty‑seven percent of these transportation incidents, a pedestrian worker was stuck by a vehicle.

(4) That Kenneth “Peanut” Long, Jr. was only twenty‑two years old when killed on August 12, 2013 by a driver that did not slow down in the road work zone where Peanut was performing his duties as a flag man for a road construction project in Willisamburg County.

SECTION 2. This act may be referred to and cited as “Peanut’s Law”.

SECTION 3. Section 56‑5‑1535 of the 1976 Code is amended to read:

“Section 56‑5‑1535. (A) ~~It is unlawful for a person to drive a motor vehicle in a highway work zone at a speed in excess of the speed limit set and posted by signs. A person violating this section is guilty of a misdemeanor and, upon conviction, must be fined not less than seventy‑five nor more than two hundred dollars or imprisoned not more than thirty days, or both.~~ For purposes of this section:

(1) ‘Highway work zone’ means an area of a state highway where construction, maintenance, or utility work is being performed. The work zone must be marked by signs, channeling devices, barriers, pavement markings, or work vehicles, and extends from the first warning sign or high‑intensity rotating, flashing, oscillating, or strobe lights on a vehicle to the ‘END ROAD WORK’ sign or the last temporary traffic control device. The signs, channeling devices, barriers, pavement markings, or work vehicles must meet Department of Transportation standards.

(2) ‘Highway worker’ means a person who is required to perform the duties of the person’s job on state bridges, state roads, or in highway work zones, including:

(a) a person who performs maintenance, repair, or construction of state bridges, state roads, shoulders, medians, and associated rights‑of‑way in highway work zones;

(b) a person who operates a truck, loader or other equipment on state bridges, state roads, or in highway work zones;

(c) a person who performs any other related maintenance work, as required, on state bridges, state roads, or in highway work zones;

(d) a state or local public safety officer who enforces work zone‑related transportation management and traffic control;

(e) a state or local law enforcement officer who conducts traffic control or enforcement operations on state bridges, state roads, shoulders, medians, and associated rights‑of‑way; and

(f) a state or local law enforcement officer or firefighter, an emergency medical services provider, or any other authorized person, who removes hazards from state bridges, state roadways, shoulders, medians, and associated rights‑of‑way, or who responds to accidents and other incidents on state bridges, state roads, shoulders, medians, associated rights‑of‑way, or in highway work zones.

(B) ~~A ‘highway work zone’ is the area between the first sign that informs motorists of the existence of the work zone on the highway and the last sign that informs motorists of the end of the work zone.~~ A person commits the offense of endangerment of a highway worker, if the person is operating a motor vehicle within a highway work zone at anytime, and:

(1) exceeds the posted speed limit;

(2) fails to obey traffic control devices erected for purposes of controlling the flow of motor vehicles through the work zone for any reason other than:

(a) an emergency;

(b) the avoidance of an obstacle; or

(c) the protection of the health and safety of another person;

(3) driving through or around a work zone in any lane not clearly designated for use by motor vehicles traveling through or around a work zone; or

(4) physically assaulting, attempting to assault, or threatening to assault a highway worker with a motor vehicle or other instrument.

(C) ~~The penalty imposed by this section applies only:~~ A person shall not be cited or convicted for endangerment of a highway worker unless the act or omission constituting the offense occurs when one or more highway workers are in the highway work zone and in proximity to the area where the act or omission occurs.

~~(1)~~ ~~if a sign is posted at the beginning of the active work zone that states ‘WORK ZONE $200 FINE AND 30 DAYS IMPRISONMENT FOR SPEEDING’;~~

~~(2)~~ ~~to the area between the posted sign and the ‘END CONSTRUCTION’ sign. Signs may be posted at the discretion of the Department of Transportation in the highway work zones designed to comply with work zone traffic control standards contained in the Manual on Uniform Traffic Control Devices published by the Federal Highway Administration.~~

(D)(1) A person who commits the offense of endangerment of a highway worker where the highway worker suffers no physical injury is guilty of a misdemeanor, and upon conviction, must be fined not more than one thousand dollars and not less than five hundred dollars, or imprisonment of not more than thirty days, or both.

(2) A person who commits the offense of endangerment of a highway worker where the highway worker suffers physical injury is guilty of a misdemeanor, and, upon conviction, must be fined not more than two thousand dollars and not less than one thousand dollars, or imprisoned for not more than sixty days, or both.

(3) A person who commits the offense of endangerment of a highway worker where the highway worker suffers great bodily injury, as defined in Section 56‑5‑2945(B), is guilty of a misdemeanor, and upon coviction, must be fined not more than five thousand dollars and not less than two thousand dollars, or imprisoned for not more than three years, or both.

(4) A person who committs the offense of endangerment of a highway worker where the death of the highway worker ensues within three years as a proximate result of injury received by the highway worker related to the endangerment of the highway worker is guilty of reckless vehicular homicide pursuant to Section 56‑5‑2910, and, upon conviction, is subject to the penalties contained in that section, including license reinstatement and related conditions.

(E) A person who is convicted pursuant to subsection (D)(1), in addition to any other penalty must have two points assessed against his motor vehicle operating record. A person who is convicted pursuant to subsection (D)(2), in addition to any other penalty must have four points assessed against his motor vehicle operating record. A person who is convicted pursuant to subsection (D)(3), in addition to any other penalty must have six points assessed against his motor vehicle operating record.

(F) Any fine imposed pursuant to this section is mandatory and may not be waived or reduced. One‑half of the fine must be remitted to Treasurer and deposited in a special account, separate and apart from the general fund, designated for use by the Department of Public Safety to be used for work zone enforcement, training, and research programs.

(G) No person shall be cited or convicted for endangerment of a highway worker for any act or omission otherwise constituting an offense under this section if the act or omission results, in whole or in part, from mechanical failure of the person’s motor vehicle or from the negligence of a highway worker, or another person.”

SECTION 4. Section 56‑1‑720 of the 1976 Code is amended to read:

“Section 56‑1‑720. There is established a point system for the evaluation of the operating record of persons to whom a license to operate motor vehicles has been granted and for the determination of the continuing qualifications of these persons for the privileges granted by the license to operate motor vehicles. The system shall have as its basic element a graduated scale of points assigning relative values to the various violations in accordance with the following schedule:

VIOLATION POINTS

Reckless driving 6

Passing stopped school bus 6

Hit‑and‑run, property damages only 6

Driving too fast for conditions, or speeding:

(1) No more than 10 m.p.h. above the posted limits 2

(2) More than 10 m.p.h. but less than 25

m.p.h. above the posted limits 4

(3) 25 m.p.h. or above the posted limits 6

Disobedience of any official traffic control device 4

Disobedience to officer directing traffic 4

Failing to yield right‑of‑way 4

Driving on wrong side of road 4

Passing unlawfully 4

Turning unlawfully 4

Driving through or within safety zone 4

Failing to give signal or giving improper

signal for stopping, turning, or

suddenly decreased speed 4

Shifting lanes without safety precaution 2

Improper dangerous parking 2

Following too closely 4

Failing to dim lights 2

Operating with improper lights 2

Operating with improper brakes 4

Operating a vehicle in unsafe condition 2

Driving in improper lane 2

Improper backing 2

Endangerment of a highway worker, no injury 2

Endangerment of a highway worker, injury results 4

Endangerment of a highway worker, great bodily injury 6”

SECTION 5. Section 56‑5‑1536 of the 1976 Code is repealed.

SECTION 6. 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 7. This act takes effect upon approval by the Governor.

Renumber sections to conform.

Amend title to conform.

**A** **BILL**

TO AMEND SECTION 56‑5‑1535 OF THE 1976 CODE, RELATING TO SPEEDING IN WORK ZONES AND PENALTIES ASSOCIATED WITH SPEEDING IN WORK ZONES, TO DELETE THIS PROVISION AND PROVIDE A DEFINITION FOR THE TERMS “HIGHWAY WORK ZONE” AND “HIGHWAY WORKER”, TO CREATE THE OFFENSES OF “ENDANGERMENT OF A HIGHWAY WORKER” AND “AGGRAVATED ENDANGERMENT OF A HIGHWAY WORKER”, AND TO PROVIDE PENALTIES FOR BOTH OFFENSES; TO AMEND SECTION 56‑1‑720, RELATING TO THE POINT SYSTEM ESTABLISHED FOR THE EVALUATION OF THE DRIVING RECORD OF PERSONS OPERATING MOTOR VEHICLES, TO PROVIDE THAT “ENDANGERMENT OF A HIGHWAY WORKER” AND “AGGRAVATED ENDANGERMENT OF A HIGHWAY WORKER” ARE TWO POINT VIOLATIONS; AND TO REPEAL SECTION 56‑5‑1536 RELATING TO DRIVING IN TEMPORARY WORK ZONES AND PENALTIES FOR UNLAWFUL DRIVING IN TEMPORARY WORK ZONES.

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

SECTION 1. Section 56‑5‑1535 of the 1976 Code is amended to read:

“Section 56‑5‑1535. (A) ~~It is unlawful for a person to drive a motor vehicle in a highway work zone at a speed in excess of the speed limit set and posted by signs. A person violating this section is guilty of a misdemeanor and, upon conviction, must be fined not less than seventy‑five nor more than two hundred dollars or imprisoned not more than thirty days, or both.~~ For purposes of this section:

(1) ‘Highway work zone’ means an area of a state highway where construction, maintenance or utility work is being performed. The work zone must be marked by signs, channeling devices, barriers, pavement markings or work vehicles, and extends from the first warning sign or high‑intensity rotating, flashing, oscillating or strobe lights on a vehicle to the ‘END ROAD WORK’ sign or the last temporary traffic control device.

(2) ‘Highway worker’ means a person who is required to perform the duties of the person’s job on state bridges, state roads or in highway work zones, including:

(a) a person who performs maintenance, repair or construction of state bridges, state roads, shoulders, medians, and associated rights‑of‑way in highway work zones;

(b) a person who operates a truck, loader or other equipment on state bridges, state roads, or in highway work zones;

(c) a person who performs any other related maintenance work, as required, on state bridges, state roads, or in highway work zones;

(d) a state or local public safety officer who enforces work zone‑related transportation management and traffic control;

(e) a state or local law enforcement officer who conducts traffic control or enforcement operations on state bridges, state roads, shoulders, medians, and associated rights‑of‑way; and

(f) a state or local law enforcement officer or firefighter, an emergency medical services provider, or any other authorized person, who removes hazards from state bridges, state roadways, shoulders, medians and associated rights‑of‑way, or who responds to accidents and other incidents on state bridges, state roads, shoulders, medians, associated rights‑of‑way or in highway work zones.

(B) ~~A ‘highway work zone’ is the area between the first sign that informs motorists of the existence of the work zone on the highway and the last sign that informs motorists of the end of the work zone.~~ A person commits the offense of ‘endangerment of a highway worker’, a misdemeanor, if the person is operating a motor vehicle within a highway work zone at anytime, and:

(1) exceeds the posted speed limit;

(2) fails to obey traffic control devices erected for purposes of controlling the flow of motor vehicles through the work zone for any reason other than:

(a) an emergency;

(b) the avoidance of an obstacle; or

(c) the protection of the health and safety of another person;

(3) driving through or around a work zone in any lane not clearly designated for use by motor vehicles traveling through or around a work zone; or

(4) physically assaulting, attempting to assault, or threatening to assault a highway worker with a motor vehicle or other instrument.

(C) ~~The penalty imposed by this section applies only:~~ A person shall not be cited or convicted for endangerment of a highway worker unless the act or omission constituting the offense occurs when one or more highway workers are in the highway work zone and in proximity to the area where the act or omission occurs.

~~(1)~~ ~~if a sign is posted at the beginning of the active work zone that states ‘WORK ZONE $200 FINE AND 30 DAYS IMPRISONMENT FOR SPEEDING’;~~

~~(2)~~ ~~to the area between the posted sign and the ‘END CONSTRUCTION’ sign. Signs may be posted at the discretion of the Department of Transportation in the highway work zones designed to comply with work zone traffic control standards contained in the Manual on Uniform Traffic Control Devices published by the Federal Highway Administration.~~

(D) Upon conviction for committing the offense of ‘endangerment of a highway worker’, a misdemeanor, a person is subject to a fine of not less than two hundred fifty dollars nor more than four hundred dollars if no physical injury occurs and is subject to a fine of not more than one thousand dollars or imprisonment of not more than sixty days, or both if physical injury occurs.

(E) A person is guilty of the offense of ‘aggravated endangerment of a highway worker’, a misdemeanor, for any offense contained in this section while the person is operating a motor vehicle within a highway work zone, and which results in the serious physical injury, or death of a highway worker.

(F) Upon conviction for committing the offense of aggravated endangerment of a highway worker, a person shall be subject to a fine of not more than five thousand dollars, or imprisonment for not more than two years, or both, if the offense results in serious physical injury to a highway worker, or ten thousand dollars, or imprisonment for not more than three years, or both, if the offense results in the death of a highway worker.

(G) A person who violates a provision contained in this section, in addition to any other penalty must have two points assessed against his motor vehicle operating record.

(H) Any fine imposed pursuant to this section is mandatory and may not be waived or reduced. One‑half of the fine must be remitted to the Department of Public Safety and used for work zone enforcement, training, and research programs.

(I) No person shall be cited or convicted for endangerment of a highway worker or aggravated endangerment of a highway worker for any act or omission otherwise constituting an offense under this section if the act or omission results, in whole or in part, from mechanical failure of the person’s motor vehicle or from the negligence of a highway worker, or another person.”

SECTION 2. Section 56‑1‑720 of the 1976 Code is amended to read:

“Section 56‑1‑720. There is established a point system for the evaluation of the operating record of persons to whom a license to operate motor vehicles has been granted and for the determination of the continuing qualifications of these persons for the privileges granted by the license to operate motor vehicles. The system shall have as its basic element a graduated scale of points assigning relative values to the various violations in accordance with the following schedule:

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m.p.h. above the posted limits 4

(3) 25 m.p.h. or above the posted limits 6

Disobedience of any official traffic control device 4

Disobedience to officer directing traffic 4

Failing to yield right of way 4

Driving on wrong side of road 4

Passing unlawfully 4

Turning unlawfully 4

Driving through or within safety zone 4

Failing to give signal or giving improper

signal for stopping, turning, or

suddenly decreased speed 4

Shifting lanes without safety precaution 2

Improper dangerous parking 2

Following too closely 4

Failing to dim lights 2

Operating with improper lights 2

Operating with improper brakes 4

Operating a vehicle in unsafe condition 2

Driving in improper lane 2

Improper backing 2

Endangerment of a highway worker 2

Aggravated endangerment of a highway worker 2”

SECTION 3. Section 56‑5‑1536 of the 1976 Code is repealed.

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. This act takes effect upon approval by the Governor.

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