**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56‑7‑37 SO AS TO PROVIDE THAT A DRIVER OF A MOTOR VEHICLE MAY BE FOUND LIABLE OF A CIVIL PENALTY FOR VIOLATIONS REGARDING PASSING OR OVERTAKING A SCHOOL BUS IF THE VIOLATION IS CAPTURED ON A VIDEO RECORDING DEVICE MOUNTED ON THE SCHOOL BUS, TO PROVIDE PENALTIES, AND TO PROVIDE THE EVIDENTIARY PROCESS AND THE PROCESS BY WHICH A PERSON RECEIVES SERVICE OF PROCESS.

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

SECTION 1. Chapter 7, Title 56 of the 1976 Code is amended by adding:

“Section 56‑7‑37. (A) For purposes of this section:

(1) ‘Owner’ means the registrant of a motor vehicle, except that ‘owner’ does not include a motor vehicle rental company when a motor vehicle registered by the company is being operated by another person under a rental agreement with the company.

(2) ‘Recorded images’ means images recorded by a video recording device mounted on a school bus with a clear view of vehicles passing the bus on either side and showing the date and time the recording was made and an electronic symbol showing the activation of amber lights, flashing red lights, stop arms, and brakes.

(3) ‘Video recording device’ means a camera capable of recording digital images showing the date and time of the images so recorded.

(B)(1) The driver of a motor vehicle is liable for a civil monetary penalty if the vehicle is found, as evidenced by recorded images, to have been operated in violation of Section 56‑5‑2770. The amount of the fine must be one hundred dollars for a first offense, two hundred dollars for a second offense, and one thousand dollars for each subsequent offense in a five‑year period. No part of the fine may be suspended. No court costs, assessments, or surcharges may be assessed against a person who violates a provision of this section. A violation of this article does not constitute a criminal offense. Notwithstanding Section 6‑1‑640, a violation of this article must not be:

(a) included in the offender’s motor vehicle records maintained by the Department of Motor Vehicles or in the criminal records maintained by SLED; or

(b) reported to the offender’s motor vehicle insurer.

(2) Notwithstanding Section 56‑7‑735 or any other provision of law, the provisions of item (1) may be enforced by using recorded images. The law enforcement agency authorized to enforce the provisions of this section shall send by regular mail addressed to the owner of the motor vehicle postmarked no later than ten days after the date of the alleged violation:

(a) a citation for the alleged violation, which must include the date and time of the violation, the location of the infraction, the amount of the civil monetary penalty imposed, and the date by which the civil monetary penalty must be paid;

(b) an image taken from the recorded image showing the vehicle involved in the infraction;

(c) a copy of a certificate sworn to or affirmed by a law enforcement officer authorized to enforce this section and stating that, based upon inspection of recorded images, the owner’s motor vehicle was operated in disregard or disobedience of Section 56‑5‑2770 and that such disregard or disobedience was not otherwise authorized by law;

(d) a statement of the inference provided by subsection (D) and of the means specified therein by which such inference may be rebutted;

(e) information advising the owner of the motor vehicle of the manner and time in which liability as alleged in the citation may be contested in court; and

(f) a warning that failure to pay the civil monetary penalty or to contest liability in a timely manner shall waive any right to contest liability and result in a civil monetary penalty.

(C) Proof that a motor vehicle was operated in disregard or disobedience of Section 56‑5‑2770 may be evidenced by recorded images. A copy of a certificate sworn to or affirmed by a law enforcement officer and stating that, based upon inspection of recorded images, a motor vehicle was operated in disregard or disobedience of Section 56‑5‑2770 and that such disregard or disobedience was not otherwise authorized by law is prima facie evidence of the facts contained therein.

(D) Liability pursuant to this section must be determined based upon preponderance of the evidence. Prima facie evidence that the vehicle described in the citation issued pursuant to this section was operated in violation of Section 56‑5‑2770, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, shall permit the trier of fact in its discretion to infer that such owner of the vehicle was the driver of the vehicle at the time of the alleged violation. The inference may be rebutted if the owner of the vehicle:

(1) testifies under oath in open court or submits to the court a sworn notarized statement that he or she was not the operator of the vehicle at the time of the alleged violation and identifies the name of the operator of the vehicle at the time of the alleged violation; or

(2) presents to the court a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation.

(E) If a person summoned by regular mail fails to appear on the date of return set out in the citation and has not paid the penalty for the violation or filed a police report or notarized statement pursuant to subsection (D)(2), the person must be summoned a second time by certified mail with a return receipt requested. The second summons must include all information required in subsection (B)(2) and shall include a new date of return. If a person summoned by certified mail again fails to appear on the date of return set out in the second citation and has failed to pay the penalty or file an appropriate document for rebuttal, the person summoned shall have waived the right to contest the violation and is liable for the civil monetary penalty provided in subsection (B)(1).

(F) Recorded images made for purposes of this subsection shall not be a public record for purposes of Chapter 4, Title 30.

(G) A court must not impose a civil penalty pursuant to this section on the owner of a motor vehicle if the operator of the vehicle was arrested or issued a citation and notice to appear by a law enforcement officer for the same violation of Section 56‑5‑2770.

(H) A school system may enter into an intergovernmental agreement with a political subdivision of this State to offset expenses regarding the implementation and ongoing operation of video recording devices serving the purpose of capturing recorded images of motor vehicles violating Section 56‑5‑2770.”

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

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