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Indicates New Matter

COMMITTEE REPORT

May 13, 2015

Introduced by Senators L. Martin and Hutto

S. Printed 5/13/15--H.

Read the first time April 16, 2015.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 590) to amend Sections 56‑1‑400(B) and 56‑5‑2941(L), Code of Laws of South Carolina, 1976, relating to ignition interlock devices, 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 56‑5‑2941, as contained in SECTION 4, by deleting SECTION 4 in its entirety and inserting:

/SECTION 4. Section 56‑5‑2941 of the 1976 Code as last amended by Act 158 of 2014, is further amended by adding an appropriately numbered subsection at the end to read:

“( ) This section shall apply retroactively to any person currently serving a suspension or denial of the issuance of a license or permit due to a suspension listed in subsection (A).” /

Renumber sections to conform.

Amend title to conform.

F. GREGORY DELLENEY, JR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

This bill would have no expenditure impact on the general fund, federal funds or other funds.

**Explanation of Fiscal Impact**

**State Expenditure**

This bill allows a person required to operate a motor vehicle only with an ignition interlock device who does not own a vehicle, cannot obtain a vehicle owner’s permission to have an ignition interlock device installed on a vehicle, will not be driving a vehicle other that the one owned by the person’s employer and will not own a vehicle during the interlock period, may petition the department, for issuance of an ignition interlock restricted license. This license shall permit the person to operate a vehicle specified by the employer during the days and hours specified in the employer’s statement without having to show that an ignition interlock device has been installed. The South Carolina Department of Motor Vehicles reports that this bill will have no impact on the general fund, federal funds or other funds.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTIONS 56‑1‑400(B) AND 56‑5‑2941(L), CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO IGNITION INTERLOCK DEVICES, SO AS TO PROVIDE THAT THE EMPLOYER’S VEHICLE WAIVER DOES NOT APPLY TO A PERSON CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION OF SECTION 56‑5‑2930, 56‑5‑2933, 56‑5‑2945, OR A LAW OF ANOTHER STATE THAT PROHIBITS A PERSON FROM DRIVING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL OR OTHER DRUGS, UNLESS THE PERSON’S DRIVING PRIVILEGES HAVE BEEN SUSPENDED FOR NOT LESS THAN ONE YEAR OR THE PERSON HAS HAD AN IGNITION INTERLOCK DEVICE INSTALLED FOR NOT LESS THAN ONE YEAR ON EACH OF THE MOTOR VEHICLES OWNED OR OPERATED, OR BOTH, BY THE PERSON; AND TO AMEND SECTION 29‑5‑2990(B), CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SUSPENSION OF A PERSON’S DRIVER’S LICENSE FOR A VIOLATION OF SECTION 56‑5‑2930, 56‑5‑2933, OR A LAW OF ANOTHER STATE THAT PROHIBITS A PERSON FROM DRIVING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL OR OTHER DRUGS, SO AS TO PROVIDE THAT ENTRY INTO AN ALCOHOL AND DRUG SAFETY ACTION PROGRAM’S SERVICES, IF THE SERVICES ARE NECESSARY, IS A MANDATORY REQUIREMENT FOR THE ISSUANCE OF AN IGNITION INTERLOCK RESTRICTED LICENSE.

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

SECTION 1. Section 56‑1‑400(B) of the 1976 Code is amended to read:

“(B)(1) A person who does not own a vehicle, as shown in the Department of Motor Vehicles’ records, and who certifies that the person:

(a) cannot obtain a vehicle owner’s permission to have an ignition interlock device installed on a vehicle;

(b) will not be driving a vehicle other than a vehicle owned by the person’s employer; and

(c) will not own a vehicle during the interlock period, may petition the department, on a form provided by the department, for issuance of an ignition interlock restricted license that permits the person to operate a vehicle specified by the employee according to the employer’s needs as contained in the employer’s statement during the days and hours specified in the employer’s statement without having to show that an ignition interlock device has been installed.

(2) The form must contain:

(a) identifying information about the employer’s noncommercial vehicles that the person will be operating;

(b) a statement that explains the circumstances in which the person will be operating the employer’s vehicles; and

(c) the notarized signature of the person’s employer.

(3) This subsection does not apply to:

(a) a person convicted of a second or subsequent violation of Section 56‑5‑2930, 56‑5‑2933, 56‑5‑2945, or a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs, unless the person’s driving privileges have been suspended for not less than one year or the person has had an ignition interlock device installed for not less than one year on each of the motor vehicles owned or operated, or both, by the person.

(b) a person who is self‑employed or to a person who is employed by a business owned in whole or in part by the person or a member of the person’s household or immediate family unless during the defense of a criminal charge, the court finds that the vehicle’s ownership by the business serves a legitimate business purpose and that titling and registration of the vehicle by the business was not done to circumvent the intent of this section.

(4) Whenever the person operates the employer’s vehicle pursuant to this subsection, the person shall have with the person a copy of the form specified by this subsection.

(5) The determination of eligibility for the waiver is subject to periodic review at the discretion of the department. The department shall revoke a waiver issued pursuant to this exemption if the department determines that the person has been driving a vehicle other than the vehicle owned by the person’s employer or has been operating the person’s employer’s vehicle outside the locations, days, or hours specified by the employer in the department’s records. The person may seek relief from the department’s determination by filing a request for a contested case hearing with the Office of Motor Vehicle Hearings pursuant to the Administrative Procedures Act and the rules of procedure for the Office of Motor Vehicle Hearings.”

SECTION 2. Section 56‑5‑2941(L) of the 1976 Code is amended to read:

“(L)(1) A person who is required in the course and scope of the person’s employment to drive a motor vehicle owned by the person’s employer may drive the employer’s motor vehicle without installation of an ignition interlock device, provided that the person’s use of the employer’s motor vehicle is solely for the employer’s business purposes.

(2) This subsection does not apply to:

(a) a person convicted of a second or subsequent violation of Section 56‑5‑2930, 56‑5‑2933, 56‑5‑2945, or a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs, unless the person’s driving privileges have been suspended for not less than one year or the person has had an ignition interlock device installed for not less than one year on each of the motor vehicles owned or operated, or both, by the person.

(b) a person who is self employed or to a person who is employed by a business owned in whole or in part by the person or a member of the person’s household or immediate family unless during the defense of a criminal charge, the court finds that the vehicle’s ownership by the business serves a legitimate business purpose and that titling and registration of the vehicle by the business was not done to circumvent the intent of this section.

~~(2)~~(3) Whenever the person operates the employer’s vehicle pursuant to this subsection, the person shall have with the person a copy of the Department of Motor Vehicles’ form specified by Section 56‑1‑400(B).

~~(3)~~(4) This subsection will be construed in parallel with the requirements of Section 56‑1‑400(B). A waiver issued pursuant to this subsection will be subject to the same review and revocation as described in Section 56‑1‑400(B).”

SECTION 3. Section 56‑5‑2990(B) of the 1976 Code is amended to read:

“(B) A person whose license is suspended pursuant to this section, Section 56‑1‑286, 56‑5‑2945, or 56‑5‑2951 must be notified by the department of the suspension and of the requirement to enroll in and successfully complete an Alcohol and Drug Safety Action Program certified by the Department of Alcohol and Other Drug Abuse Services. A person who must complete an Alcohol and Drug Safety Action Program as a condition of reinstatement of his driving privileges or a court‑ordered drug program may use the route restricted or special restricted driver’s license to attend the Alcohol and Drug Safety Action Program classes or court‑ordered drug program in addition to the other permitted uses of a route restricted driver’s license or a special restricted driver’s license. An assessment of the extent and nature of the alcohol and drug abuse problem, if any, of the person must be prepared and a plan of education or treatment, or both, must be developed for the person. Entry into ~~and successful completion of~~ the services, if the services are necessary, recommended in the plan of education or treatment, or both, developed for the person is a mandatory requirement of the issuance of an ignition interlock restricted license ~~and restoration of driving privileges~~ to the person whose license is suspended pursuant to this section. Successful completion of the services, if the services are necessary, recommended in the plan of education or treatment, or both, developed for the person is a mandatory requirement of the full restoration of driving privileges to the person whose license is suspended pursuant to this section. The Alcohol and Drug Safety Action Program shall determine if the person has successfully completed the services. Alcohol and Drug Safety Action Programs shall meet at least once a month. The person whose license is suspended shall attend the first Alcohol and Drug Safety Action Program available after the date of enrollment.”

SECTION 4. Section 56‑5‑2941 of the 1976 Code is amended by adding an appropriately numbered subsection at the end to read:

“( ) This section shall apply retroactively to:

(1) any person currently serving a suspension or denial of the issuance of a license or permit due to an alcohol‑related violation; and

(2) any person declared an habitual offender pursuant to Section 56‑1‑110, if any one or more of the three accumulated violations resulting in the declaration of the person as an habitual offender is either driving under the influence pursuant to Section 56‑5‑2930 or driving with an unlawful alcohol concentration pursuant to Section 56‑5‑2933. In lieu of serving the remainder of their suspension or denial of the issuance of a license or permit, a person may enroll in the Ignition Interlock Device Program, end the suspension or denial of the issuance of a license or permit, and obtain an ignition interlock restricted license pursuant to Section 56‑1‑400. The ignition interlock device is required to be affixed to the motor vehicle equal to the length of time remaining on the person’s suspension or denial of the issuance of a license or permit. If the length of time remaining is less than the three months, the ignition interlock device is required to be affixed to the motor vehicle for three months. Once a person has enrolled in the Ignition Interlock Device Program and obtained an ignition interlock restricted license, the person is subject to Section 56‑5‑2941 and can not subsequently choose to serve the suspension.”

SECTION 5. This act takes effect upon approval by the Governor.

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