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Indicates New Matter

RECALLED

April 5, 2017

**H. 4033**

Introduced by Reps. Hixon, Taylor, Blackwell, Clyburn, Allison, Daning, Yow, Erickson, B. Newton, Bennett, Arrington, Murphy, Crawford and Clemmons

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Read the first time April 5, 2017.

**A** **BILL**

TO AMEND SECTION 56‑5‑1535, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SPEEDING IN WORK ZONES AND PENALTIES ASSOCIATED WITH SPEEDING IN WORK ZONES, SO AS TO DELETE THIS PROVISION AND PROVIDE A DEFINITION FOR THE TERMS “HIGHWAY WORK ZONE” AND "HIGHWAY WORKER", TO CREATE THE OFFENSE OF “ENDANGERMENT OF A HIGHWAY WORKER”, AND TO PROVIDE A PENALTY FOR THIS OFFENSE; TO AMEND SECTION 56‑1‑720, RELATING TO THE POINT SYSTEM ESTABLISHED FOR THE EVALUATION OF THE DRIVING RECORD OF PERSONS OPERATING MOTOR VEHICLES, SO AS TO PROVIDE THAT THE OFFENSE OF ENDANGERMENT OF A HIGHWAY WORKER RESULTING IN NO INJURY IS A TWO POINT VIOLATION, THE OFFENSE OF ENDANGERMENT OF A HIGHWAY WORKER IN WHICH INJURY OCCURS IS A FOUR POINT VIOLATION, AND THE OFFENSE OF ENDANGERMENT OF A HIGHWAY WORKER IN WHICH GREAT BODILY INJURY OCCURS IS A SIX POINT VIOLATION; 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.~~ A person commits endangerment of a highway worker if the person is operating a motor vehicle within a highway work zone at anytime one or more highway workers are in the highway work zone and in proximity to the area where the act or omission occurs and the person:

(1) drives 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

(2) fails to obey traffic control devices erected for the purpose 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.

(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.~~ (1) A person who violates the endangerment of a highway worker provision where the highway worker suffers no physical injury must be fined not more than one thousand dollars and not less than five hundred dollars.

(2) A person who violates the endangerment of a highway worker provision where the highway worker suffers physical injury and the violation was the sole proximate cause of the injury must be fined not more than two thousand dollars and not less than one thousand dollars.

(3) A person who violates the endangerment of a highway worker provision where the highway worker suffers great bodily injury, as defined in Section 56‑5‑2945(B), and the violation was the sole proximate cause of the injury must be fined not more than five thousand dollars and not less than two thousand dollars.

(C) ~~The penalty imposed by this section applies only:~~

~~(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.~~

A person who violates Section 56‑5‑1535(A) must have two points assessed against his motor vehicle operating record or four points assessed against his motor vehicle operating record if an injury to the highway worker occurred at the time of the incident and the violation is the sole proximate cause of the injury.

(D) Any fine imposed pursuant to this section is mandatory and may not be waived or reduced below the minimum as provided in subsection (B). Sixty‑five percent of the fine must be remitted to the 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. Twenty‑five percent of the fine must be deposited in the State Highway Fund and designated for use by the Department of Transportation to hire off‑duty state, county, or municipal police officers to monitor construction or maintenance zones. Ten percent of the fine must be remitted to the county governing body in which the charge was disposed, or the municipality if the charge was disposed in municipal court.

(E) No person shall be cited for endangerment of a highway worker for any act or omission otherwise constituting a violation 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.

(F) For purposes of this section:

(1) ‘Highway work zone’ means an area of a roadway, bridge, shoulder, median, or associated right of way, where construction, maintenance, utility work, accident response, or other incident response is being performed. The work zone must be marked by signs, channeling devices, barriers, pavement markings, or work vehicles, and extends from the first traffic control device erected for purposes of controlling the flow of motor vehicles through the work zone, including signs reducing the normal speed limit, 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 state Department of Transportation standards, the provisions of Section 56‑5‑4700, or National Fire Protection (NFPA) standards, and must be installed properly.

(2) ‘Highway worker’ means a person who is required to perform work in highway work zones, including:

(a) a person who performs maintenance, repair, or construction;

(b) a person who operates a truck, loader, or other equipment;

(c) a person who performs any other related maintenance work, as required;

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

(e) a law enforcement officer who conducts traffic control or enforcement operations; and

(f) an officer or firefighter, an emergency medical services provider, or any other authorized person who removes hazards or who responds to accidents and other incidents.

(G) Magistrates and municipal court judges have exclusive jurisdiction pursuant to this section.”

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:

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”

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. A. 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”

B. Section 56‑5‑2150 of the 1976 Code is amended to read:

“Section 56‑5‑2150. ~~(a)~~(A) No person shall turn a vehicle or move right or left upon a roadway unless and until such movement can be made with reasonable safety nor without giving an appropriate signal as provided for in this section.

~~(b)~~(B) A signal of intention to turn or move right or left when required shall be given continuously during not less than the last one hundred feet traveled by the vehicle before turning.

~~(c)~~(C) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

~~(d)~~(D) The signals required on vehicles by subsection ~~(b)~~(B) of Section 56‑5‑2180, shall not be flashed on one side only on a disabled vehicle, flashed as a courtesy or ‘do pass’ signal to operators of other vehicles approaching from the rear, nor be flashed on one side only of a parked vehicle except as may be necessary for compliance with this section.

(E) A person who violates the provisions of this section must be fined twenty‑five dollars, all or part of which may not be suspended. In addition no court costs, assessments, surcharges, or points may be assessed against the person or his driving record.”

C. The repeal or amendment by this SECTION 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 SECTION, all laws repealed or amended by this SECTION 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 SECTION, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

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

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