~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 2, 2021

**H. 3505**

Introduced by Rep. Simrill

S. Printed 3/2/21--H.

Read the first time January 12, 2021.

**THE COMMITTEE ON EDUCATION AND PUBLIC WORKS**

To whom was referred a Bill (H. 3505) to amend Section 56‑3‑627, Code of Laws of South Carolina, 1976, relating to the infrastructure maintenance fee assessed against a vehicle or other item upon its, 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 1, by striking Section 56-3-627(C)(2)(a) and inserting:

/ (a) items transferred:

(i) to members of the immediate family;

(ii) to a legal heir, legatee, or distributee;

(iii) from an individual to a partnership upon formation of a partnership, or from a stockholder to a corporation upon formation of a corporation;

(iv) to a licensed motor vehicle or motorcycle dealer for the purpose of resale;

(v) to a financial institution for the purpose of resale;

(vi) as a result of repossession to any other secured party, for the purpose of resale;

(vii) to an insurer for the purpose of applying for a salvage title; /

Renumber sections to conform.

Amend title to conform.

MERITA A. ALLISON for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**State Expenditure**

This bill requires an owner of a vehicle or other item to pay an infrastructure maintenance fee (IMF) upon titling or registering the vehicle or other item. Currently, the fee is collected at the time of registration, but there is no fee or tax due at the time of titling. This bill also clarifies that if a person purchases a vehicle that he or she first leased and there is no change in the registrant, the fee is only owed once.

The infrastructure maintenance fee was created through Act 40 of 2017. DMV believes the intent of that act was to replace the payment of sales tax for vehicle purchases. However, the act only specified the collection of the IMF for vehicle registrations, thus creating a subset of the population who titled their vehicles but had to pay neither sales tax nor the IMF. Because of DMV’s understanding of the intent of Act 40, the department’s computer system, Phoenix, was never programmed to collect the fee at the time of registering, and the department has been using a workaround to collect the fee only at registration of the vehicle. Phoenix was set to collect sales tax at the time of titling.

Therefore, if this bill passes, there will be no expenditure impact to the general fund because Phoenix is already programmed to do what the bill requires. However, if the bill does not pass, the department reports that there will be a cost to bring Phoenix into compliance with current law. This process is estimated to take approximately six months, not including testing of the system. The department indicates that this change will use two external IT engineers working at about 250 hours each for $110 per hour. Therefore, the cost of the bill not passing is approximately $55,000.

**State Revenue**

The infrastructure maintenance fee (IMF) collected on a vehicle first registered in the state is distributed as follows:

 twenty percent (up to $60) to the Education Improvement Act (EIA) of 1984 Fund,

 eighty percent (up to $240) to the state-funded resurfacing program, which are other funds of DOT, and

 any remaining amount to the Infrastructure Maintenance Trust Fund, which are other funds of DOT.

The fee collected on a vehicle first registered in another state and subsequently registered in this state is $250 and is distributed to the Safety Maintenance Account until December 31, 2022.

DMV reports that it collected the IMF on 67,586 and 67,325 title-only transactions in FY 2019 and 2020, respectively, and that the average amount paid in IMF per transaction was about $72. Based on these numbers, the department anticipates an average annual revenue increase of $4,729,415 from the collection of fees from vehicles that are titled but not registered. However, because the amount charged in IMF varies based on the purchase price, from whom the vehicle was bought or leased, and whether the vehicle is first titled or registered in another state, and because a member of the United States Armed Forces located in the state but who bought a vehicle in another state is exempt, the distribution of the total revenue is undetermined.

In regards to commercial motor vehicles (CMVs), current law requires the IMF to be paid upon each registration of a CMV. This means that the owner of a CMV is not required to pay the IMF upon titling, but if he/she leases the vehicle through a trucking company, the trucking company is required to pay the IMF upon registering the vehicle. This is true for every subsequent owner-operator relationship, meaning the IMF may be paid multiple times on a vehicle that has never changed owners. Because of the nuances of Act 40, which created the IMF, DMV operationalized the act by collecting the IMF only once per owner. Therefore, the passage of this bill will not decrease any revenue collected in IMF on commercial motor vehicles.

**Introduced on January 12, 2021**

**State Expenditure**

This bill requires an owner of a vehicle or other item to pay an infrastructure maintenance fee (IMF) upon titling or registering the vehicle or other item. Currently, the fee is collected at the time of registration, but there is no fee or tax due at the time of titling. This bill also clarifies that if a person purchases a vehicle that he or she first leased and there is no change in the registrant, the fee is only owed once.

The infrastructure maintenance fee was created through Act 40 of 2017. DMV believes the intent of that act was to replace the payment of sales tax for vehicle purchases. However, the act only specified the collection of the IMF for vehicle registrations, thus creating a subset of the population who titled their vehicles but had to pay neither sales tax nor the IMF. Because of DMV’s understanding of the intent of Act 40, the department’s computer system, Phoenix, was never programmed to collect the fee at the time of registering, and the department has been using a workaround to collect the fee only at registration of the vehicle. Phoenix was set to collect sales tax at the time of titling.

Therefore, if this bill passes, there will be no expenditure impact to the General Fund because Phoenix is already programmed to do what the bill requires. However, if the bill does not pass, the department reports that there will be a cost to bring Phoenix into compliance with current law. This process is estimated to take approximately six months, not including testing of the system. The department indicates that this change will use two external IT engineers working at about 250 hours each for $110 per hour. Therefore, the cost of the bill not passing is approximately $55,000.

**State Revenue**

The infrastructure maintenance fee (IMF) collected on a vehicle first registered in the state is distributed as follows:

 twenty percent (up to $60) to the Education Improvement Act (EIA) of 1984 Fund,

 eighty percent (up to $240) to the state-funded resurfacing program, which are other funds of DOT, and

 any remaining amount to the Infrastructure Maintenance Trust Fund, which are other funds of DOT.

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DMV reports that it collected the IMF on 67,586 and 67,325 title-only transactions in FY 2019 and 2020, respectively, and that the average amount paid in IMF per transaction was about $72. Based on these numbers, the department anticipates an average annual revenue increase of $4,729,415 from the collection of fees from vehicles that are titled but not registered. However, because the amount charged in IMF varies based on the purchase price, from whom the vehicle was bought or leased, and whether the vehicle is first titled or registered in another state, and because a member of the United States Armed Forces located in the state but who bought a vehicle in another state is exempt, the distribution of the total revenue is undetermined.

In regards to commercial motor vehicles (CMVs), current law requires the IMF to be paid upon each registration of a CMV. This means that the owner of a CMV is not required to pay the IMF upon titling, but if he/she leases the vehicle through a trucking company, the trucking company is required to pay the IMF upon registering the vehicle. This is true for every subsequent owner-operator relationship, meaning the IMF may be paid multiple times on a vehicle that has never changed owners. Because of the nuances of Act 40, which created the IMF, DMV operationalized the act by collecting the IMF only once per owner. Therefore, the passage of this bill will not decrease any revenue collected in IMF on commercial motor vehicles.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 56‑3‑627, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE INFRASTRUCTURE MAINTENANCE FEE ASSESSED AGAINST A VEHICLE OR OTHER ITEM UPON ITS FIRST REGISTRATION, SO AS TO PROVIDE THAT THIS FEE ALSO APPLIES TO THE FIRST TITLING OF A VEHICLE OR OTHER ITEM, TO PROVIDE THE DEPARTMENT OF MOTOR VEHICLES MAY NOT ISSUE A TITLE UNTIL THE FEE HAS BEEN COLLECTED, TO PROVIDE IF A DEALER DOES NOT LICENSE, TITLE, OR REGISTER AN ITEM, THE CUSTOMER MUST PAY THE FEE TO THE DEPARTMENT OF MOTOR VEHICLES WHEN TITLING OR REGISTERING THE VEHICLE, TO PROVIDE IF THE LESSEE PURCHASES A VEHICLE HE ORIGINALLY LEASED AND THE REGISTRANT OF THE VEHICLE REMAINS THE SAME, THE PERSON DOES NOT OWE AN ADDITIONAL FEE, AND TO PROVIDE A FEE MUST BE ASSESSED AGAINST AN OWNER OR LESSEE WHO FIRST TITLES AN ITEM IN ANOTHER STATE AND SUBSEQUENTLY REGISTERS THE ITEM IN THIS STATE; AND TO AMEND SECTION 56‑3‑645, RELATING TO THE ROAD USE FEE IMPOSED UPON OWNERS OF VEHICLES NOT POWERED EXCLUSIVELY BY MOTOR FUEL, SO AS TO PROVIDE THIS FEE MUST BE COLLECTED AT THE TIME THE VEHICLE IS TITLED OR REGISTERED.

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

SECTION 1. Section 56‑3‑627 (A)(B)(C) and (D) of the 1976 Code is amended to read:

“(A) In order to account for the necessary road maintenance caused by each item traversing the roads of this State, in addition to the registration fees imposed by this chapter, the owner or lessee of each vehicle or other item that is required to be registered pursuant to this chapter must pay an infrastructure maintenance fee upon first titling or registering the vehicle or other item. Also, the owner or lessee of each trailer or semitrailer must pay the fee upon first titling or registering the trailer or semitrailer. The Department of Motor Vehicles may not issue a title or registration until the infrastructure maintenance fee has been collected. The infrastructure maintenance fee must be credited to the Infrastructure Maintenance Trust Fund.

(B) If upon purchasing or leasing the item from a dealer, the owner or lessee first registers the item in this State, then the fee equals five percent, not to exceed five hundred dollars, of the gross proceeds of sales, or sales price, as those terms are defined in Chapter 36, Title 12. If the dealer holds a South Carolina retail license or offers to license ~~and~~, title, or register the item, then the dealer must collect the fee and remit it to the Department of Motor Vehicles. If the dealer does not license, title, or register the item, the customer must pay the infrastructure maintenance fee to the department when titling or registering the vehicle.

(C)(1) If upon purchasing or leasing the item from a person other than a dealer, the owner or lessee first registers the item in this State, then the fee equals five percent, not to exceed five hundred dollars, of the fair market value of the item. If the lessee purchases the vehicle he originally leased and the registrant of the vehicle remains the same, the person does not owe an additional infrastructure maintenance fee.

(2) Excluded from the fee imposed pursuant to this subsection are:

(a) items transferred:

(i) to members of the immediate family;

(ii) to a legal heir, legatee, or distributee;

(iii) from an individual to a partnership upon formation of a partnership, or from a stockholder to a corporation upon formation of a corporation;

(iv) to a licensed motor vehicle or motorcycle dealer for the purpose of resale;

(v) to a financial institution for the purpose of resale;

(vi) as a result of repossession to any other secured party, for the purpose of resale;

(b) the fair market value of an item transferred to the seller or secured party in partial payment;

(c) gross proceeds of transfers of items specifically exempted by Section 12‑36‑2120 from the sales or use tax;

(d) items where a sales or use tax has been paid on the transaction necessitating the transfer.

(3) The Department of Motor Vehicles shall require every applicant for a certificate of title to supply information it considers necessary as to the time of purchase, the purchase price, and other information relative to the determination of fair market value. If the fee is based upon total purchase price as defined in this subsection, the department shall require a submission of a bill of sale and the signature of the owner subject to the perjury statutes of this State.

(4) For purposes of this subsection:

(a) ‘Fair market value’ means the total purchase price less any trade‑in, or the valuation shown in a national publication of used values adopted by the department, less any trade‑in.

(b) ‘Immediate family’ means spouse, parents, children, sisters, brothers, grandparents, and grandchildren.

(c) ‘Total purchase price’ means the price of an item agreed upon by the buyer and seller with an allowance for a trade‑in, if applicable.

(D)(1) If upon purchasing or leasing the item, the owner or lessee first titles or registers the item in another state, and subsequently registers the item in this State, then the fee equals two hundred fifty dollars.

(2) This subsection does not apply if the owner or lessee of the item is serving on active duty in the armed forces of the United States. The exclusion allowed by this item also extends to items owned by the spouse or dependent of a person serving on active duty in the armed forces of the United States.

(3) Notwithstanding any other provision of this section, until after December 31, 2022, the revenue collected pursuant to this subsection must be credited to the Safety Maintenance Account established pursuant to Section 11‑11‑240. After December 31, 2022, the revenue collected pursuant to this subsection must be credited to the Infrastructure Maintenance Trust Fund.”

SECTION 2. Section 56‑3‑645(C) of the 1976 Code is amended to read:

“(C) The Department of Motor Vehicles shall collect this fee at the same time as the vehicle subject to the fee is titled or registered.”

SECTION 3. This act takes effect upon approval by the Governor.

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