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Indicates New Matter

RECALLED

April 22, 2010

**H. 3645**

Introduced by Reps. T.R. Young, Merrill, Hardwick, J.R. Smith, D.C. Smith, Haley, Erickson, Stringer, Stewart, G.R. Smith, Harrison, Gullick, Nanney, Cato, Huggins, Crawford, Spires, Allison, Ballentine, Bannister, Bedingfield, Bingham, Clyburn, Cole, Forrester, Hamilton, Harrell, Hearn, Herbkersman, Horne, Hosey, King, Limehouse, Long, Millwood, Parker, E.H. Pitts, Sandifer, Scott, Sellers, Simrill, Sottile, Toole, White, Wylie, A.D. Young and R.L. Brown

S. Printed 4/22/10--H.

Read the first time March 3, 2009.

**A** **BILL**

TO AMEND SECTION 56‑1‑40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PERSONS TO WHOM THE DEPARTMENT OF MOTOR VEHICLES MAY ISSUE A DRIVER’S LICENSE OR PERMIT, SO AS TO PROVIDE THAT A DRIVER’S LICENSE MAY NOT BE ISSUED TO A PERSON WHO IS UNDER EIGHTEEN YEARS OLD OR A PERSON WHO HOLDS A CONDITIONAL DRIVER’S LICENSE; TO AMEND SECTION 56‑1‑176, RELATING TO SCHOOL ATTENDANCE CONDITIONS ASSOCIATED WITH THE ISSUANCE OF CONDITIONAL AND SPECIAL RESTRICTED DRIVER’S LICENSES, TO PROVIDE THAT THESE AND ADDITIONAL CONDITIONS SHALL APPLY TO THE ISSUANCE OR REINSTATEMENT OF A BEGINNER’S PERMIT, CONDITIONAL DRIVER’S LICENSE, SPECIAL RESTRICTED DRIVER’S LICENSE, AND A REGULAR DRIVER’S LICENSE ISSUED TO A PERSON LESS THAN EIGHTEEN YEARS OF AGE, TO PROVIDE FOR THE SUSPENSION OF A PERSON’S PERMIT OR LICENSE IF HE FAILS TO COMPLY WITH THESE CONDITIONS, AND TO REQUIRE THAT THE SUSPENSION REMAIN IN EFFECT UNTIL THE PERSON HAS DEMONSTRATED COMPLIANCE WITH THESE CONDITIONS FOR ONE FULL SEMESTER SUBSEQUENT TO THE SEMESTER DURING WHICH HIS PERMIT OR LICENSE WAS SUSPENDED; BY ADDING SECTION 56‑1‑177 SO AS TO PROVIDE THAT A MINOR’S PRIVILEGE TO DRIVE MUST BE SUSPENDED UNDER CERTAIN CIRCUMSTANCES, AND TO PROVIDE FOR THE REINSTATEMENT OF A DRIVER’S LICENSE THAT HAS BEEN SUSPENDED; TO AMEND SECTION 56‑1‑180, RELATING TO THE ISSUANCE OF A SPECIAL RESTRICTED DRIVER’S LICENSE BY THE DEPARTMENT OF MOTOR VEHICLES, SO AS TO INCREASE THE MAXIMUM AGE OF A PERSON WHO MAY BE ISSUED THIS DRIVER’S LICENSE; TO AMEND SECTION 59‑65‑10, RELATING TO COMPULSORY SCHOOL ATTENDANCE, SO AS TO PROVIDE THAT A CHILD MUST ATTEND SCHOOL UNTIL HE ATTAINS THE AGE OF EIGHTEEN; TO AMEND SECTION 63‑19‑20, RELATING TO DEFINITIONS OF THE CHILDREN’S CODE, SO AS TO DEFINE “CHILD” FOR THE PURPOSE OF TRUANCY AS A PERSON WHO IS LESS THAN EIGHTEEN YEARS OF AGE; TO AMEND SECTION 63‑19‑1030, RELATING TO PREHEARING INQUIRY AND INVESTIGATION IN PROCEEDINGS AGAINST A CHILD, SO AS TO SPECIFY HOW COURT DOCUMENTS FOR TRUANCY PETITIONS MUST BE TITLED; TO AMEND SECTION 63‑19‑1420, RELATING TO SUSPENSION OR RESTRICTION OF A CHILD’S DRIVER’S LICENSE, SO AS TO PROVIDE THAT A COURT MAY RESTRICT THE DRIVER’S LICENSE OF A CHILD WHO IS ADJUDICATED DELINQUENT FOR TRUANCY; AND TO AMEND SECTION 63‑19‑1440, RELATING TO COMMITMENT OF A CHILD, SO AS TO PROVIDE THAT A CHILD MAY BE COMMITTED FOR A VIOLATION OF A COURT ORDER TO ATTEND SCHOOL PRIOR TO THE CHILD’S EIGHTEENTH BIRTHDAY.

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

SECTION 1. Section 56‑1‑40 of the 1976 Code is amended to read:

“Section 56‑1‑40. The Department of Motor Vehicles may not issue a motor vehicle driver’s license to or renew the driver’s license of a person:

(1) who is under ~~seventeen~~ eighteen years of age~~, except that the department may issue a license to a sixteen‑year‑old who is licensed to drive pursuant to Section 56‑1‑175 after one year from the date of the issuance of the conditional license, if the driver has not been convicted of a traffic offense or has not been involved in an accident in which he was at fault during that period~~. However, the department may issue a beginner’s permit as provided in Section 56‑1‑50 to a person who is at least fifteen years of age and meets the requirements of that section. The department also may issue a conditional driver’s license to a person who is at least fifteen years of age and less than sixteen years of age, and a special restricted driver’s license to a person who is at least sixteen years of age and less than ~~seventeen~~ eighteen years of age as provided in Section 56‑1‑180 and meets the requirements of that section;

(2) whose driver’s license or privilege to operate a motor vehicle currently is suspended or revoked in this State or another jurisdiction, except as otherwise provided for in this title;

(3) who is an habitual user of alcohol or any other drug to a degree which prevents him from safely operating a motor vehicle;

(4) who has a mental or physical condition which prevents him from safely operating a motor vehicle;

(5) who is required by this article to take an examination, unless the person successfully has passed the examination;

(6) who is required under the laws of this State to provide proof of financial responsibility and has not provided the proof;

(7) who is not a resident of South Carolina. For purposes of determining eligibility to obtain or renew a South Carolina driver’s license, the term ‘resident of South Carolina’ shall expressly include all persons authorized by the United States Department of Justice, the United States Immigration and Naturalization Service, or the United States Department of State to live, work, or study in the United States on a temporary or permanent basis who present documents indicating their intent to live, work, or study in South Carolina. These persons and their dependents are eligible to obtain a motor vehicle driver’s license or have one renewed pursuant to this provision. A driver’s license issued pursuant to this item to a person who is not a lawful permanent resident of the United States shall expire on the later of: (1) the expiration date of the driver’s license applicant’s authorized period of stay in the United States; or (2) the expiration date of the driver’s license applicant’s employment authorization document. However, in no event shall a driver’s license issued pursuant to this item expire less than one year or more than five years from the date of its issue. In addition, a person pending adjustment of status who presents appropriate documentation to the Department of Motor Vehicles shall be granted a one‑year extension of his driver’s license which is renewable annually~~.~~;and

(8) who must not be issued a license as otherwise provided by the laws of this State.”

SECTION 2. Section 56‑1‑176 of the 1976 Code is amended to read:

“Section 56‑1‑176. (A) School attendance is a condition for the issuance or reinstatement of a beginner’s permit, a conditional driver’s license, ~~and~~ a special restricted driver’s license, and a regular driver’s license for a person who is less than eighteen years of age. By applying for a beginner’s permit, a conditional driver’s license, a special restricted driver’s license, or a regular driver’s license, a person less than eighteen years of age consents to the release of his high school attendance records by the school district to the Department of Motor Vehicles for purposes of this section. The Department of Motor Vehicles may not issue or reinstate a beginner’s permit, conditional driver’s license, ~~or~~ a special restricted driver’s license, or a regular driver’s license to a person less than eighteen years of age pursuant to Section 56‑1‑40, Section 56‑1‑50, Section 56‑1‑175, or Section 56‑1‑180 unless the person:

(1) has a high school diploma or a certificate of attendance, or a General ~~Education~~ Educational Development Diploma; or

(2) is enrolled in a public or private school or is home schooled under the provisions contained in Section 59‑65‑40, 59‑65‑45, or 59‑65‑47, or is enrolled in and is making progress toward completion of a program leading to a General Educational Development Diploma; and:

(a) the ~~person~~ student has conformed to the attendance laws, regulations, and policies of the school, school district, and the State Board of Education, as applicable; and

(b) the ~~person~~ student is not suspended or expelled from school.

(B) Documentation of enrollment status must be presented to the Department of Motor Vehicles by the applicant on a form developed in consultation with the State Department of Education, the Department of Motor Vehicles, and individuals to represent the private and home school entities and approved by the ~~department~~ Department of Motor Vehicles. The documentation must indicate whether the student is in compliance with the requirements as provided in ~~item (2)~~ subsection (A). The appropriate public or private school official or home school association shall provide the form to the applicant upon request.

(C) The board of trustees of the school district or its designee, the governing body of a private school, and an official of a home school association shall notify a student and the parent or guardian of the student who is at least fifteen but less than eighteen years of age when the student has accumulated three consecutive unlawful absences or five total unlawful absences. This notification must include information regarding the requirements of this section.

(D) When a student who is at least fifteen but less than eighteen years of age is habitually truant from school, the appropriate school official shall notify the student’s parent or guardian not later than five school days from the date in which the person is considered truant. For the purposes of this section, ‘habitually truant’ means having more than three consecutive days of unlawful absences or five days’ unlawful absences during one semester or more than ten total days’ unlawful absences during a school year. The parent or guardian shall have ten days from the date the notice was sent to petition the appropriate school official for a waiver pursuant to subsection (E). For a student not granted a waiver pursuant to subsection (E), the appropriate school official shall notify the Department of Motor Vehicles of the truancy in a manner agreed to by the Department of Motor Vehicles and the Department of Education. Within five days of receipt of the notice, the Department of Motor Vehicles shall send notice to the licensee’s parent or guardian that the beginner’s permit, a conditional driver’s license, a special restricted driver’s license, or a regular driver’s license will be suspended pursuant to this section on the twentieth day following the date the notice was sent.

(E) A student’s parent or guardian may petition for a waiver of the requirements of this section if the student has a personal or family hardship that requires that the student have a driver’s license. For purposes of this section, a personal or family hardship means a medical condition of the student or a member of his immediate family that requires that he maintain a driver’s license to receive or transport an immediate family member for treatments, or employment requiring the student to maintain a driver’s license to support himself or his immediate family. The student’s parent or guardian has the burden of demonstrating the need for a waiver. In considering a petition for a waiver, the board or governing body or association or their designees shall consider the recommendations of physicians, teachers, other school officials, guidance counselors, or academic advisors before granting a waiver to the requirements of this section. A person denied a waiver may appeal the decision of the public school principal, the designee of the governing body of a private school, or the designee of a home school association to the board of trustees of the public school district, the governing body of a private school, or the home school association. Once a waiver is granted, the student’s license may not be revoked under this section again.

(F) A student whose permit or license has been suspended pursuant to this section may not have his permit or license reinstated until that student successfully has complied with the requirements of subsection (A)(2) of this section for a full school semester subsequent to the semester during which the student’s permit or license was suspended. If a student has complied with the requirements of subsection (A)(2) for a full semester, he may petition, in writing, for reinstatement of his permit or license to the board of trustees of the school district or its designee, the governing body of the private school, or the home school association. Upon determining that the student is in compliance with this subsection, the board or governing body or association shall notify the Department of Motor Vehicles, in the manner agreed to by the Department of Motor Vehicles and the Department of Education, and the Department of Motor Vehicles shall reinstate the student’s permit or license. The student is exempt from paying the department’s standard reinstatement fee.

(G) If a student between the ages of sixteen and seventeen years, who has been through the school intervention process, has been referred to family court, and has been placed on an order to attend school, continues to accumulate unlawful absences, a family court judge having jurisdiction over the case may issue a court order suspending the student’s license in accordance with this section.

(H) At the beginning of each school year, the board of trustees of the school district or its designee, the governing body of a private school, or an official of a home school association shall notify students and parents or guardians of the requirements of this section.”

SECTION 3. Article 1, Chapter 1, Title 56 of the 1976 Code is amended by adding:

“Section 56‑1‑177. (A) A minor’s privilege to operate a motor vehicle must be suspended if the minor has been:

(1) expelled from school;

(2) suspended from school for more than ten consecutive days;

(3) assigned to an alternative educational setting for more than ten consecutive days;

(4) disciplined for:

(a) the possession or sale of an alcoholic beverage or an illegal controlled substance on school property;

(b) the bringing, possession, or use of a weapon or firearm on school property; or

(c) physically assaulting a teacher or other school personnel on school property.

(B) A student whose privilege to operate a motor vehicle has been suspended pursuant to this section may be reinstated if, after six months from the date of the suspension, the student petitions, in writing, for reinstatement of his permit or license to the board of trustees of the school district or its designee, the governing body of the private school, or the home school association, and that governing authority determines that:

(1) the student has returned to school, or has been placed in an alternative setting, and has displayed exemplary behavior; or

(2) the discipline action was for possession or sale of an alcoholic beverage or an illegal controlled substance on school property, and the student subsequently attended and successfully completed a drug or alcohol treatment counseling program.”

SECTION 4. Section 56‑1‑180(A) of the 1976 Code is amended to read:

“(A) The Department of Motor Vehicles may issue a special restricted driver’s license to a person who is at least sixteen years of age and less than ~~seventeen~~ eighteen years of age, who has:

(1) held a beginner’s permit for at least one hundred eighty days;

(2) passed a driver’s education course as defined in subsection (F);

(3) completed at least forty hours of driving practice, including at least ten hours of driving practice during darkness, supervised by the person’s licensed parent or guardian;

(4) passed successfully the road test or other requirements the department may prescribe; and

(5) satisfied the school attendance requirement contained in Section 56‑1‑176.”

SECTION 5. Section 59‑65‑10 of the 1976 Code is amended to read:

“Section 59‑65‑10. (A) ~~All parents~~ A parent or ~~guardians~~ guardian shall cause ~~their children~~ his child or ~~wards~~ ward to attend regularly a public or private school ~~or~~, kindergarten, or other program ~~of this State~~ which has been approved by the State Board of Education or a member school of the South Carolina Independent Schools’ Association or some similar organization, or a parochial, denominational, or church‑related school~~, or other programs which have been approved by the State Board of Education~~ from the school year in which the child or ward is five years of age before September first until the child or ward attains his ~~seventeenth~~ eighteenth birthday or graduates from high school.

(B) A parent or guardian whose child or ward is not six years of age on or before the first day of September of a particular school year may elect for ~~their~~ his child or ward not to attend kindergarten. For this purpose, the parent or guardian shall sign a written document making the election with the governing body of the school district in which the parent or guardian resides. The form of this written document must be prescribed by regulation of the Department of Education. Upon the written election being executed, that child or ward ~~may not be~~ is not required to attend kindergarten.

~~(B)~~(C) Each school district shall provide transportation to and from public school for all pupils enrolled in public kindergarten classes who request the transportation. Regulations of the State Board of Education governing the operation of school buses shall apply.”

SECTION 6. Section 63‑19‑20(1) of the 1976 Code, as added by Act 361 of 2008, is amended to read:

“(1) ‘Child’ or ‘juvenile’ means a person less than seventeen years of age, except for the purpose of truancy. For the purpose of truancy, ‘child’ or ‘juvenile’ means a person who is less than eighteen years of age. ‘Child’ or ‘juvenile’ does not mean a person sixteen years of age or older who is charged with a Class A, B, C, or D felony as defined in Section 16‑1‑20 or a felony which provides for a maximum term of imprisonment of fifteen years or more. However, a person sixteen years of age who is charged with a Class A, B, C, or D felony as defined in Section 16‑1‑20 or a felony which provides for a maximum term of imprisonment of fifteen years or more may be remanded to the family court for disposition of the charge at the discretion of the solicitor. An additional or accompanying charge associated with the charges contained in this item must be heard by the court with jurisdiction over the offenses contained in this item.”

SECTION 7. Section 63‑19‑1030(B) of the 1976 Code, as added by Act 361 of 2008, is amended to read:

“(B) The petition and all subsequent court documents must be entitled:

‘In the Family Court of ‑‑‑ County.

In the Interest of ‑‑‑, a child under seventeen years of age.’

For truancy petitions:

‘In the Family Court of ‑‑‑County.

In the Interest of ‑‑‑, a child under eighteen years of age.’

The petition must be verified and may be upon information and belief. It shall set forth plainly:

(1) the facts which bring the child within the purview of this article;

(2) the name, age, and residence of the child;

(3) the names and residences of the child’s parents; and

(4) the name and residence of a legal guardian, if there is one, of the person or persons having custody of or control of the child, or of the nearest known relative if no parent or guardian can be found. If any of these facts are not known by the petitioner, the petition shall state that.”

SECTION 8. Section 63‑19‑1420(A) of the 1976 Code, as added by Act 361 of 2008, is amended to read:

“(A) If a child is adjudicated delinquent for a status offense or is found in violation of a court order relating to a status offense, the court ~~may~~ shall suspend or restrict the child’s driver’s license until the child’s ~~seventeenth~~ eighteenth birthday. ”

SECTION 9. Section 63‑19‑1440(A) of the 1976 Code, as added by Act 361 of 2008, is amended to read:

“(A) A child, after the child’s twelfth birthday and before the seventeenth birthday or while under the jurisdiction of the family court for disposition of an offense that occurred prior to the child’s seventeenth birthday or for a violation of a court order to attend school that occurred prior to the child’s eighteenth birthday, may be committed to the custody of the Department of Juvenile Justice which shall arrange for placement in a suitable corrective environment. ~~Children~~ A child under the age of twelve years may be committed only to the custody of the department, which shall arrange for placement in a suitable corrective environment other than institutional confinement. No child under the age of seventeen years may be committed or sentenced to any other penal or correctional institution of this State.”

SECTION 10. 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 11. This act takes effect thirty days after approval by the Governor, or on August 1, 2009, whichever date is sooner.

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