AMENDED

April 18, 2013

**H. 3609**

Introduced by Reps. Barfield, Clemmons and Sandifer

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Read the first time February 26, 2013.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 77 TO TITLE 39 SO AS TO PROHIBIT THE SALE, POSSESSION, AND USE OF CERTAIN LASER POINTING DEVICES UNDER CERTAIN CIRCUMSTANCES, AND TO PROVIDE DEFINITIONS, EXEMPTIONS, AND REMEDIES.

Amend Title To Conform

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

Whereas, laser pointers are small, handheld devices, usually battery operated, equipped with a laser diode emitting a very narrow laser beam of visible light, intended to be used to highlight something of interest by illuminating it with a small bright spot of colored light; and

Whereas, laser pointers are often used in educational and business presentations for visual demonstrations as a pointing device, are useful in the construction setting, and for certain gun sights; however, if they are aimed at a person’s eyes, they can cause temporary disturbances to vision, and in some cases permanent retinal damage; and

Whereas, when pointed at aircraft at night, laser pointers may dazzle and distract pilots at critical times, and have been used maliciously to distract or annoy individuals on the ground as well as in the air; and

Whereas, due to their appeal as a recreational device and low cost to manufacture, there has been a recent proliferation of lasers in the marketplace, particularly higher powered lasers of greater than one milliwatt output which feature brighter colors; and

Whereas, especially because of these higher powered lasers, with the resulting increase in their intensity and range, and extra potential hazard when pointed at objects and people, there also has been a dramatic escalation in the number of incidents in which damaging laser beams are being directed at people and aircraft; and

Whereas,the United States Coast Guard, Charleston Sector, has reported several recent cases where pilots were forced to land their aircraft and abort missions during search and rescue operations after being hit with laser beams that are particularly debilitating when the pilot is wearing night vision equipment; and

Whereas, during the summer of 2012, there were more than seventy reported incidents of aircraft being hit by lasers in and around the Myrtle Beach International Airport alone; and

Whereas,it is the will of the General Assembly to provide for the public’s health, safety, and welfare through the regulation of the sale, possession, and use of laser pointing devices. Now, therefore,

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

SECTION 1. Chapter 1, Title 39 of the 1976 Code is amended by adding:

“Section 39‑1‑100. (A) It is unlawful for an individual to sell a laser device to a minor under the age of eighteen years.

(B) It is unlawful to sell a laser device to an individual who does not present upon demand proper proof of age. Failure to demand identification to verify an individual’s age is not a defense to an action initiated pursuant to this subsection. Proof that is demanded, presented, and reasonably relied upon for the individual’s proof of age is a defense to an action initiated pursuant to this subsection.

(C) An individual who knowingly violates the provisions of subsection (A) or (B) in person, by agent, or in any other way is guilty of a misdemeanor and, upon conviction, must be:

(1) for a first offense, fined not less than one hundred dollars nor more than two hundred dollars;

(2) for a second offense, which occurs within three years of the first offense, fined not less than two hundred dollars nor more than three hundred dollars; and

(3) for a third or subsequent offense, which occurs within three years of the first offense, fined not less than three hundred dollars nor more than four hundred dollars.

(D)(1) A minor under the age of eighteen years may not purchase, attempt to purchase, possess, or attempt to possess a laser device, or present or offer proof of age that is false or fraudulent for the purpose of purchasing or possessing a laser device. A minor under the age of eighteen may possess a laser device if it is:

(a) used by an individual as an emergency signaling device to send an emergency distress signal;

(b) used for legitimate educational purposes so long as it is used solely for that purpose;

(c) used for legitimate business purposes and during the normal course of that business;

(d) necessary for the individual’s employment, education, trade or occupation, so long as it is used solely for that purpose; or

(e) used as part of a gun sight, so long as it is used in a lawful manner.

(2) A minor who knowingly violates a provision of this subsection in person, by agent, or in any other way commits a noncriminal offense and is subject to a civil fine of twenty‑five dollars. The civil fine is subject to all applicable court costs, assessments, and surcharges.

(3) A violation of this subsection is not a criminal or delinquent offense and no criminal or delinquent record may be maintained. A minor may not be detained, taken into custody, arrested, placed in jail or in any other secure facility, committed to the custody of the Department of Juvenile Justice, or found to be in contempt of court for a violation of this subsection.

(4) A violation of this subsection is not grounds for denying, suspending, or revoking an individual’s participation in a state college or university financial assistance program including, but not limited to, a Life Scholarship, a Palmetto Fellows Scholarship, or a need‑based grant.

(5) Any laser device possessed by a minor in violation of this subsection must be confiscated.

(E) As used in this section, ‘laser’ means a device that utilizes the natural oscillations of atoms or molecules between energy levels for generating coherent electromagnetic radiation in the ultraviolet, visible, or infrared region of the spectrum, and when discharged exceeds one milliwatt continuous wave.

(F) This section does not apply to an individual selling, purchasing, or possessing a laser device that is used in connection with any firearm or implement of archery.”

SECTION 2. 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 on the repealed or amended act or law, 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 3. If a section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, that holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. This act takes effect upon approval by the Governor.

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